Australian Capital Territory

Dangerous Substances Act 2004

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About this republication

The republished law

This is a republication of the *Dangerous Substances Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 16 December 2025. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 16 December 2025.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $160 for an individual and $810 for a corporation (see *Legislation Act 2001*, s 133).

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Australian Capital Territory

Dangerous Substances Act 2004

An Act about dangerous substances, and for other purposes

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Chapter 1 Preliminary

1 Name of Act

This Act is the *Dangerous Substances Act 2004*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain terms used in this Act, and includes references (***signpost definitions***) to other terms defined elsewhere.

For example, the signpost definition '***infringement notice***—see the *Magistrates Court Act 1930*, section 117.' means that the term 'infringement notice' is defined in that section and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

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5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

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Chapter 2 Important concepts

Part 2.1 Operation of Act

6 Purpose of Act

(1) The purpose of this Act is to protect the health and safety of people, and to protect property and the environment from damage, from the hazards associated with dangerous substances.

(2) The purpose of this Act includes the following:

(a) to eliminate the hazards associated with dangerous substances;

(b) if it is not reasonably practicable to eliminate the hazards—to minimise as far as reasonably practicable the risks resulting from the hazards by, for example—

(i) ensuring that the hazards are identified and the risks are assessed and controlled; and

(ii) requiring information and training about the hazards and the safe handling of the substances to be made available to people handling the substances;

(c) to allocate responsibilities to people in relation to dangerous substances;

(d) to regulate dangerous substances, including by providing for authorisation, licensing, notification and registration schemes for dangerous substances.

7 Exclusions from Act

(1) This Act does not apply to the following:

(a) the transmission, distribution and use of natural gas to which the *Gas Safety Act 2000* or *Utilities Act 2000* applies;

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(b) the transmission, distribution and use of LPG to which the *Gas Safety Act 2000* applies;

(c) ammunition under the *Firearms Act 1996*, other than the manufacture or transport of ammunition;

(d) an infectious substance under the *Clinical Waste Act 1990*;

(e) radioactive material under the *Radiation Protection Act 2006*;

(f) anything else prescribed by regulation.

(2) In this section:

LPG—see the *Gas Safety Act 2000*, dictionary, definition of ***gas***, paragraph (b).

8 Relationship of Act to other laws

(1) The duties under this Act in relation to dangerous substances are in addition to duties in relation to them under any other law in force in the ACT.

Note 1 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

Note 2 Other legislation in force in the ACT relating to dangerous substances includes the following:

- *Dangerous Goods (Road Transport) Act 2009*
- *Emergencies Act 2004*
- *Environment Protection Act 1997*
- *Medicines, Poisons and Therapeutic Goods Act 2008*
- *Work Health and Safety Act 2011*.

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Note 3 See the *Emergencies Act 2004* for provisions relating to hazardous materials incidents (which may include dangerous occurrences).

Note 4 See the *Dangerous Goods (Road Transport) Act 2009* for the transport by road of certain dangerous substances that are classified as dangerous goods under that Act.

(2) A duty or power under another territory law, other than the WHS Act, in relation to a dangerous substance has no effect to the extent that it is inconsistent with a duty under this Act in relation to the substance.

(3) However, a duty or power under another territory law, other than the WHS Act, in relation to a dangerous substance must not be taken to be inconsistent with a duty under this Act to the extent that they can operate concurrently.

8A Relationship of Act to WHS Act

(1) A person is taken to have complied with a duty under this Act in relation to a substance, thing or circumstance if the person—

(a) has a corresponding duty under the WHS Act in relation to the substance, thing or circumstance; and

(b) has complied with the duty under the WHS Act.

(2) A duty or power under this Act in relation to a dangerous substance has no effect to the extent that it is inconsistent with a duty under the WHS Act in relation to the substance.

(3) However, a duty or power under this Act in relation to a dangerous substance must not be taken to be inconsistent with a duty under the WHS Act to the extent that they can operate concurrently.

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9 Relationship of regulations to approved codes of practice and incorporated documents

(1) An approved code of practice or incorporated document has no effect to the extent that it is inconsistent with a regulation.

(2) However, an approved code of practice or incorporated document must not be taken to be inconsistent with a regulation to the extent that it can operate concurrently.

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Part 2.2 Important terms

10 Meaning of *dangerous substance*

(1) In this Act:

dangerous substance means a substance that is—

(a) classified—

(i) as an explosive under the Australian Explosives Code; or

(ii) in class 1 (Explosives) under the ADG Code; or

(b) asbestos; or

(c) a security sensitive substance; or

(d) prescribed by regulation to be a dangerous substance; or

(e) declared under subsection (2) to be a dangerous substance.

Note Asbestos is also dealt with under the *Work Health and Safety Act 2011*. See s 8 and s 8A for how these Acts interact.

(2) The Minister may declare a substance to be a dangerous substance.

(3) A declaration under subsection (2) is a disallowable instrument.

10A Meaning of *security sensitive substance*

(1) In this Act:

security sensitive substance means a substance that is—

(a) prescribed by regulation to be a security sensitive substance; or

(b) declared under subsection (2) to be a security sensitive substance.

(2) The Minister may declare a substance (other than an explosive) to be a security sensitive substance.

(3) A declaration under subsection (2) is a disallowable instrument.

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11 *Handle* a dangerous substance

For this Act, ***handle*** a dangerous substance includes the following:

(a) import or export the substance;

(b) manufacture, process or treat the substance;

(c) supply, receive or dispense the substance;

(d) mark or label an article, container or package of the substance, or placard or put up signs in relation to the substance;

(e) pack, consign or carry the substance;

(f) store the substance;

(g) possess, or otherwise have custody or control of, the substance;

(h) use the substance;

(i) dispose of the substance or render it harmless.

Examples for par (d)

1 label a container of a dangerous substance in accordance with the ADG Code

2 put up warning signs around a factory about hazards associated with a dangerous substance used at the factory

3 attach a placard to a building that includes the hazchem code under the ADG Code for a dangerous substance stored at the building

12 *Non-commercial* handling of a dangerous substance

For this Act, the handling of a dangerous substance is ***non-commercial*** if the handling does not take place in the course of trade or commerce.

13 *Correctly* classified for a dangerous substance

(1) For this Act, a dangerous substance is ***correctly*** classified if—

(a) if a regulation applies to the classification of the substance—the substance is classified in accordance with the regulation; or

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(b) if a declaration under subsection (2) applies to the classification of the substance—the substance is classified in accordance with the declaration; or

(c) in any other case—the substance is classified in accordance with an incorporated document applying to the classification of the substance.

Note An incorporated document has no effect to the extent that it is inconsistent with a regulation (see s 9 (1)).

(2) The Minister may declare—

(a) that a dangerous substance belongs, or does not belong, to a stated classification (however described) of dangerous substances; or

(b) a method for classifying a stated dangerous substance.

(3) A declaration under subsection (2) has no effect to the extent that it is inconsistent with a regulation.

(4) A declaration under subsection (2) is a disallowable instrument.

14 *Correctly* for packed, stored, labelled and placarded

(1) For this Act, a dangerous substance is ***correctly*** packed or stored if—

(a) if a regulation applies to the packing or storage of the substance—the substance is packed or stored in accordance with the regulation; or

(b) if an incorporated document applies to the packing or storage of the substance—the substance is packed or stored in accordance with the incorporated document; or

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(c) in any other case—the substance is packed or stored in a way that eliminates the hazards associated with the substance or, if this is not reasonably practicable, minimises the risks resulting from the hazards as far as is reasonably practicable.

Note An incorporated document has no effect to the extent that it is inconsistent with a regulation (see s 9 (1)).

(2) For this Act, a dangerous substance is ***correctly*** labelled or placarded if—

(a) if a regulation applies to the labelling or placarding of the substance—the substance is labelled or placarded in accordance with the regulation; or

(b) in any other case—the substance is labelled or placarded in accordance with an incorporated document (if any) applying to the labelling or placarding of the substance.

(3) In this section:

dangerous substance includes a container or package containing a dangerous substance.

15 Meaning of *hazard* and *risk*

(1) For this Act, a ***hazard*** is a thing (including an intrinsic property of a thing), or a situation, with potential to—

(a) cause the death of or harm to a person; or

(b) damage property or the environment.

(2) For this Act, a ***risk*** is the likelihood of death or harm to a person, or damage to property or the environment, from a hazard.

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16 *Reasonable steps* for a risk

(1) A regulation may prescribe what are, or are not, ***reasonable steps*** in relation to a risk.

(2) However, if a regulation does not prescribe what are, or are not reasonable steps in relation to a risk, all of the following must be considered in working out whether ***reasonable steps*** have been taken to minimise the risk:

(a) the seriousness of the risk;

(b) the current state of knowledge about—

(i) the hazard giving rise to the risk and the risk itself; and

(ii) any ways of eliminating the hazard or minimising the risk;

(c) the availability and suitability of ways to eliminate the hazard or minimise the risk;

(d) the cost of eliminating the hazard or minimising the risk;

(e) anything else prescribed by regulation.

17 *Person in control* for premises, plant etc

(1) For this Act, a ***person in control*** is—

(a) for the handling of a dangerous substance—anyone who has control of the handling of the substance (including anyone with authority to make decisions about the handling of the substance); or

(b) for premises—anyone who has control of the premises (including anyone with authority to make decisions about the management of the premises); or

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(c) for plant or a system for handling a dangerous substance—anyone who has control of the plant or system or the operation of the plant or system (including anyone with authority to make decisions about the plant or system or the operation of the plant or system); or

(d) for the design, manufacture, import or supply of plant or a system for handling a dangerous substance—anyone who has control of the design, manufacture, import or supply of the plant or system (including anyone with authority to make decisions about the design, manufacture, import or supply); or

(e) anyone else prescribed by regulation.

Note ***Plant*** includes a building or other structure (see dict).

(2) To remove any doubt, more than 1 person may be a person in control for a duty under this Act.

18 *Responsible person* for a dangerous substance

(1) For this Act, a person is a ***responsible person*** for a dangerous substance if the person is—

(a) a person in control of the handling of the substance; or

(b) a person in control of premises where the substance is handled; or

(c) a person in control of plant or a system for handling the substance.

(2) To remove any doubt, more than 1 person may be a responsible person for a duty under this Act.

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19 What is a *safety management system*

(1) A ***safety management system*** for handling a dangerous substance is a system that does each of the following:

(a) identifies the hazards associated with the substance, having regard to the current state of knowledge about the hazards;

(b) identifies and assesses the risks resulting from the identified hazards, having regard to the current state of knowledge about the risks;

(c) controls the risks by eliminating the hazards or, if this is not reasonably practicable, minimising the risks as far as reasonably practicable;

(d) provides for how compliance with the system is to be documented;

(e) complies with any requirement prescribed by regulation (either in addition to or instead of a requirement mentioned in paragraphs (a) to (d)).

Example for par (e)

A regulation may provide that a supplier of a stated dangerous substance may identify the hazards associated with the substance, and identify and assess the risks resulting from the hazards, by reviewing the safety information supplied by the substance's manufacturer under section 26 (1) (e) instead of complying with subsections (2) and (3).

(2) For subsection (1) (a), the matters that must be considered in identifying the hazards include, for example—

(a) the chemical and physical properties of the dangerous substance; and

(b) any chemical and physical reactions that may happen if the substance comes into contact with other substances; and

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(c) the premises, plant and systems for handling the substance; and

(d) anything else prescribed by regulation for this subsection.

Examples for par (c)

1 access to the premises or plant at the premises, including access by members of the public

2 the design, physical location and arrangement of areas and plant

3 the characteristics of the materials used in plant

4 activities, systems of work and non-dangerous substances that could interact with the substance

Note ***Plant*** includes a building or other structure (see dict).

(3) For subsection (1) (b), the matters that must be considered in identifying and assessing the risks include, for example—

(a) the matters mentioned in subsection (2); and

(b) the consequences, at premises where the dangerous substance is to be handled and elsewhere, of incidents that may happen because of the handling of the substance at the premises; and

(c) anything else prescribed by regulation for this subsection.

(4) For subsection (1) (c), the matters that must be considered in controlling the risks include, for example—

(a) implementing, operating, maintaining and repairing systems to ensure the dangerous substance is handled safely; and

(b) allocating responsibilities to people involved in the handling of the substance to ensure the substance is handled safely; and

(c) appropriately inducting or supervising people handling the substance; and

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(d) giving appropriate information, education and training to people handling the substance about the hazards associated with the substance, and the risks resulting from them; and

(e) anything else prescribed by regulation.

Examples of systems for par (a)

1 safe systems of work and safe handling systems

2 security systems for premises where the substance is manufactured or stored

3 a system to identify and rectify any incidents of noncompliance (including minimising any risks resulting from the noncompliance) with the safety management system

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Part 2.3 Complying with Act

20 Person may have more than 1 duty under Act

To remove any doubt, a person may be subject to more than 1 duty under this Act.

Example

A supplier of a dangerous substance must comply with the general safety duty applying to everyone handling a dangerous substance (see s 23) and with the supplier's particular duties under section (2).

If the supplier is a person in control of premises, the supplier must also comply with the safety duties of a person in control of premises (see s 31).

Note A reference to an Act includes a reference to statutory instruments made or in force under the Act, any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

21 Person not relieved of duty because someone else also has same duty

(1) This section applies if 2 or more people have the same duty under this Act.

(2) To remove any doubt, each person must comply with the duty whether or not someone else may also be required to comply with the duty.

(3) However, if this Act requires or allows them to do something, it is sufficient if 1 of them does the thing.

Example

If 2 people are in control of premises where a dangerous substance is handled, it is sufficient if 1 of them prepares the safety management system required under section 31 (1). However, if the safety management system is not prepared, each of them is responsible for the failure to comply with the duty to ensure that the safety management system is prepared.

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22 Incorporated documents and approved codes of practice may be considered

An incorporated document or approved code of practice applying to a duty under this Act may be considered in deciding whether a person has complied with the duty.

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Chapter 3 Safety duties for dangerous substances

Part 3.1A Application—ch 3

22A Application

This chapter does not apply to asbestos or security sensitive substances.

Note Other duties may apply under the *Work Health and Safety Act 2011*.

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Part 3.1 Safety duties

Division 3.1.1 General safety duty of everyone

23 General safety duty of everyone involved in handling dangerous substances anywhere

(1) Everyone involved in handling a dangerous substance must take all reasonable steps to minimise the risks resulting from handling the substance.

Note 1 A failure to comply with this section may be an offence (see pt 3.2).

Note 2 ***Handling*** a dangerous substance includes importing, manufacturing, storing, supplying, possessing, receiving or using the substance (see s 11).

(2) To remove any doubt, this section applies to the handling of a dangerous substance whether or not the handling is a non-commercial handling of the substance.

Note For the meaning of ***non-commercial***, see s 12.

Division 3.1.2 Handling of dangerous substances in trade or commerce

24 Application of div 3.1.2

This division does not apply in relation to the non-commercial handling of a dangerous substance.

Note For the meaning of ***non-commercial***, see s 12.

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25 Safety management system required for certain people in control of handling dangerous substances

(1) This section applies to a person in control of—

(a) the manufacture, import or supply of a dangerous substance; or

(b) any other handling of a dangerous substance prescribed by regulation.

(2) The person must—

(a) ensure that a safety management system for handling the dangerous substance is prepared and documented; and

(b) take all reasonable steps to ensure that—

(i) the safety management system is implemented and kept up to date; and

(ii) everyone to whom the safety management system applies complies with their duties under the system; and

(iii) people's compliance with their duties under the safety management system is documented under the system.

Note 1 A failure to comply with this section may be an offence (see pt 3.2).

Note 2 A person in control of premises is also required to have a safety management system for the handling of dangerous substances at the premises (see s 31).

26 Particular safety duties of manufacturers

(1) A person in control of the manufacture of a dangerous substance must—

(a) ensure that the substance is correctly classified as soon as practicable after its manufacture, but before it is supplied to anyone after its manufacture; and

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(b) take all reasonable steps to ensure that the substance is in a condition that is safe for handling by anyone after its manufacture; and

(c) if the substance is packed by the manufacturer—ensure that the substance is correctly packed and labelled before the manufacturer supplies it to anyone; and

(d) if the substance is stored by the manufacturer—ensure that the manufacturer correctly stores and placards the substance; and

(e) ensure that the safety information prescribed by regulation for the substance is prepared, kept up to date and supplied in accordance with the regulations.

Note A failure to comply with this section may be an offence (see pt 3.2).

(2) Subsection (1) (c) does not require the dangerous substance to be labelled if the substance is not required to be labelled by regulation or an incorporated document.

(3) Subsection (1) (d) does not require the dangerous substance to be placarded if the substance is not required to be placarded by regulation or an incorporated document.

27 Particular safety duties of importers

(1) A person in control of the import of a dangerous substance must—

(a) ensure that the substance is correctly classified before it is imported; and

(b) take all reasonable steps to ensure that the substance is in a condition that is safe for handling by anyone after its import; and

(c) if the substance is packed by the importer—ensure that the substance is correctly packed and labelled before the importer supplies it to anyone; and

(d) if the substance is stored by the importer—ensure that the importer correctly stores and placards the substance; and

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(e) ensure that the safety information prescribed by regulation for the substance is prepared, kept up to date and supplied in accordance with the regulations.

Note 1 A failure to comply with this section may be an offence (see pt 3.2).

Note 2 ***Import*** means import into the ACT (see dict).

(2) Subsection (1) (c) does not require the dangerous substance to be labelled if the substance is not required to be labelled by regulation or an incorporated document.

(3) Subsection (1) (d) does not require the dangerous substance to be placarded if the substance is not required to be placarded by regulation or an incorporated document.

28 Particular safety duties of suppliers

(1) A person in control of the supply of a dangerous substance must—

(a) ensure that the substance is correctly classified before the supplier supplies it to anyone; and

(b) take all reasonable steps to ensure that the substance is in a condition that is safe for handling by anyone after the supplier supplies it; and

(c) ensure that the substance is correctly packed and labelled before the supplier supplies it to anyone; and

(d) if the substance is stored by the supplier—ensure that the supplier correctly stores and placards the substance; and

(e) ensure that the safety information prescribed by regulation for the substance is prepared, kept up to date, supplied and made available in accordance with the regulations.

Note A failure to comply with this section may be an offence (see pt 3.2).

(2) Subsection (1) (c) does not require the dangerous substance to be labelled if the substance is not required to be labelled by regulation or an incorporated document.

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(3) Subsection (1) (d) does not require the dangerous substance to be placarded if the substance is not required to be placarded by regulation or an incorporated document.

Division 3.1.3 Premises where dangerous substances are handled in trade or commerce

29 Application of div 3.1.3

(1) This division does not apply in relation to the non-commercial handling of a dangerous substance at premises.

Note 1 ***At*** premises includes in or on the premises (see dict).

Note 2 For the meaning of ***non-commercial***, see s 12.

(2) If the premises are residential premises, this division does not apply to the part of the premises used for the non-commercial handling of the substance.

Note ***Premises*** includes any part of an area of land or a structure or vehicle (see dict).

30 Safety duties of everyone at premises

(1) Everyone at premises where a dangerous substance is handled must take all reasonable steps to minimise the risks resulting from the handling of the substance at the premises.

Note 1 A failure to comply with this section may be an offence (see pt 3.2).

Note 2 ***At*** premises includes in or on the premises (see dict).

(2) A person at premises where a dangerous substance is handled must—

(a) comply with any requirement applying to the person under any safety management system for the handling of the substance at the premises; and

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(b) comply with any instructions relating to the safe handling of the substance at the premises given to the person by a responsible person for the substance; and

(c) comply with, or otherwise act in accordance with, notices and signs (including placards and warning signs) at the premises relating to safety or the substance; and

(d) not remove, alter, damage, deface or cover any current label, notice, sign or placard at the premises relating to safety or the substance; and

(e) tell a responsible person for the substance about anything at the premises that the person believes is likely to cause a dangerous occurrence.

Examples of things that might be reported for par (e)

1 the misuse of the dangerous substance by someone
2 an accident in relation to the handling of the dangerous substance
3 faulty equipment used for handling the dangerous substance
4 someone not following the requirements of a safety management system

Note For the meaning of ***responsible person***, see s 18.

31 Safety duties of people in control of premises

(1) A person in control of premises where a dangerous substance is handled must—

(a) ensure that a safety management system for handling the substance at the premises is prepared and documented; and

(b) take all reasonable steps to ensure that—

(i) the safety management system is implemented and kept up to date; and

(ii) everyone to whom the safety management system applies complies with their duties under the system; and

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(iii) people's compliance with their duties under the safety management system is documented under the system.

Note A failure to comply with this section may be an offence (see pt 3.2).

(2) A person in control of premises where a dangerous substance is handled must take all reasonable steps to ensure that—

(a) the premises (including any plant or systems at the premises for handling the substance) are safe to handle the substance; and

(b) if the premises, or anything (including plant or equipment) at the premises, is to be disposed of—the premises or thing is, before its disposal, thoroughly cleaned so that it is free from the substance or is otherwise made safe; and

(c) if the premises, or anything (including plant or equipment) at the premises, is no longer to be used for handling the substance—the premises or thing is thoroughly cleaned so that it is free from the substance or is otherwise made safe.

Note 1 ***Premises*** includes land or a structure or vehicle and any part of an area of land or a structure or vehicle and ***at*** premises includes in or on the premises (see dict).

Note 2 For other provisions relevant to the decontamination of land, see the *Environment Protection Act 1997*.

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Division 3.1.4 Plant and systems for handling dangerous substances for trade or commerce

32 Application of div 3.1.4

This division (other than section 33) does not apply in relation to plant or a system for the non-commercial handling of a dangerous substance.

Note For the meaning of ***non-commercial***, see s 12.

33 General safety duties for plant and systems

(1) Everyone involved in the design, manufacture, import, supply, installation, commissioning, operation, maintenance, repair, decommissioning, dismantling or disposal of plant or a system for handling a dangerous substance must take all reasonable steps to minimise the risks resulting from the handling of the substance by the plant or system.

Note 1 ***Plant*** includes a building or other structure (see dict).

Note 2 A failure to comply with this section may be an offence (see pt 3.2).

(2) A person operating, maintaining or repairing the plant or system must tell a relevant person about—

(a) anything in relation to the plant or system that the person believes is likely to cause a dangerous occurrence; and

(b) anything else that the person believes is a defect in the plant or system.

(3) To remove any doubt, this section applies to all plant and systems for handling a dangerous substance, whether or not the handling is a non-commercial handling of the substance.

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(4) In this section:

relevant person, for plant or a system, means—

(a) a person in control of the plant or system; or

(b) a person in control of the premises where the plant or system is located.

Note For the meaning of ***person in control***, see s 17.

34 Safety duties of people in control of plant and systems

(1) A person in control of plant or a system for handling a dangerous substance must—

(a) ensure that a safety management system for the handling of the substance by the plant or system is prepared and documented; and

(b) take all reasonable steps to ensure that—

(i) the safety management system is implemented and kept up to date; and

(ii) everyone to whom the safety management system applies complies with their duties under the system; and

(iii) people's compliance with their duties under the safety management system is documented under the system.

Note A failure to comply with this section may be an offence (see pt 3.2).

(2) A person in control of plant or a system for handling a dangerous substance must—

(a) take all reasonable steps to ensure that the plant or system is safe to handle the substance; and

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(b) take all reasonable steps to ensure that the plant or system is installed and operated safely, and appropriately maintained, repaired and tested; and

Note For requirements to provide information about the operation, maintenance and repair of plant or a system, see s 35 (1) (b) and s 36 (b).

(c) if the person becomes aware of a hazard or defect in relation to the plant or system—

(i) take all reasonable steps to ensure that the plant or system is operated, modified, maintained or repaired to eliminate the hazard, correct the defect or minimise the risks resulting from the hazard or defect; and

(ii) ensure that the supplier or manufacturer of the plant or system is told about the hazard or defect; and

(iii) if the person is not the owner of the plant or system—ensure that the owner of the plant or system is told about the hazard or defect and its significance; and

(d) if the plant or system, or a part of the plant or system, is to be disposed of—take all reasonable steps to ensure that the plant or system (or part) is, before its disposal, thoroughly cleaned so that it is free from the dangerous substance or is otherwise made safe; and

(e) if the plant or system, or a part of the plant or system, is no longer to be used to handle the dangerous substance—take all reasonable steps to ensure that the plant or system (or part) is thoroughly cleaned so that it is free from the substance or is otherwise made safe.

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35 Safety duties of people in control of design, manufacture, import and supply of plant and systems

(1) A person in control of the design, manufacture, import or supply of plant or a system for handling a dangerous substance must—

(a) take all reasonable steps to ensure that the plant or a system is safe to handle the substance; and

(b) if the person is a person in control of the supply of the plant or system—take all reasonable steps to ensure that appropriate information about the safe installation, operation, maintenance and repair of the plant or system is given to—

(i) a person in control of the plant or system; and

(ii) if the person mentioned in subparagraph (i) is not the owner—the owner of the plant or system; and

(c) if the person (the ***appropriate person***) becomes aware of a hazard or defect in relation to the plant or system—ensure that the designated person is told—

(i) about the hazard or defect and its significance; and

(ii) how the plant or system may be operated, modified, maintained or repaired to eliminate the hazard, correct the defect or minimise the risks resulting from the hazard or defect.

Note A failure to comply with this section may be an offence (see pt 3.2).

(2) In this section:

designated person means—

(a) if the appropriate person is a person in control of the design or import of the plant or system—a person in control of the manufacture of the plant or system; or

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(b) if the appropriate person is a person in control of the manufacture of the plant or system—a person in control of the design or import (if any) of the plant or system; or

(c) if the appropriate person is a person in control of the supply of the plant or system—

(i) a person in control of the manufacture or import (if any) of the plant or system; and

(ii) the person to whom the plant or system was supplied.

36 Safety duties of people in control of installation of plant and systems

A person in control of the installation of plant or a system to handle a dangerous substance must—

(a) take all reasonable steps to ensure that the plant or system is safe to handle the substance; and

(b) take all reasonable steps to ensure that appropriate information about the safe operation, maintenance and repair of the plant or system is given to—

(i) a person in control of the plant or system; and

(ii) if the person mentioned in subparagraph (i) is not the owner—the owner of the plant or system; and

(c) if the person becomes aware of a hazard or defect in relation to the plant or system—ensure that a person in control of the plant or system is told—

(i) about the hazard or defect and its significance; and

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(ii) how the plant or system may be operated, modified, maintained or repaired to eliminate the hazard, correct the defect or minimise the risks resulting from the hazard or defect.

Note A failure to comply with this section may be an offence (see pt 3.2).

Division 3.1.5 Reporting of dangerous occurrences

37 Application of div 3.1.5

(1) This division does not apply in relation to the non-commercial handling of a dangerous substance at premises.

Note 1 ***At*** premises includes in or on the premises (see dict).

Note 2 For the meaning of ***non-commercial***, see s 12.

(2) If the premises are residential premises, this division does not apply to the part of the premises used for the non-commercial handling of the substance.

Note ***Premises*** includes any part of an area of land or a structure or vehicle (see dict).

38 Meaning of *dangerous occurrence*

In this Act:

dangerous occurrence means any of the following at premises used to handle a dangerous substance:

(a) an incident causing or creating a substantial risk of—

(i) death or serious harm to a person, whether at the premises or elsewhere; or

(ii) substantial damage to property or the environment, whether at the premises or elsewhere;

(b) anything declared by regulation to be a dangerous occurrence;

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(c) any other incident involving a serious and immediate risk of anything mentioned in paragraph (a) or (b).

Examples of incidents

1 a spill or other loss of containment of a dangerous substance

2 an uncontrolled emission of a dangerous substance

3 a fire, explosion or release of energy

39 Person in control of premises—safety duty to report actual or likely dangerous occurrences

(1) If a person in control of premises believes there is a substantial likelihood of a dangerous occurrence happening at the premises, the person must—

(a) if the occurrence is likely to cause death or serious harm to a person or substantial damage to property or the environment—tell the work health and safety commissioner about the person's belief immediately after the person forms the belief; and

(b) in any other case—tell the work health and safety commissioner about the person's belief as soon as possible after the person forms the belief or, if a period is prescribed by regulation, within the prescribed period.

(2) A person in control of premises where a dangerous occurrence has happened must tell the work health and safety commissioner about the occurrence—

(a) if the occurrence causes death or serious harm to a person or substantial damage to property or the environment—immediately after the occurrence happens; and

(b) in any other case—as soon as possible after the occurrence happens or, if a period is prescribed by regulation, within the prescribed period.

Note A failure to comply with this section may be an offence (see pt 3.2).

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Division 3.1.6 Miscellaneous

40 Safety duties do not limit each other

To remove any doubt, a duty under a provision of this part does not limit the duties under another provision of this part.

Note A person may be subject to more than 1 duty under this Act (see s 20).

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Part 3.2 Failure to comply with safety duties

41 Meaning of *safety duty* for pt 3.2

In this part:

safety duty means a duty under any of the following provisions:

- section 23 (General safety duty of everyone handling dangerous substances anywhere)
- section 25 (Safety management system required for certain people in control of handling dangerous substances)
- section 26 (Particular safety duties of manufacturers)
- section 27 (Particular safety duties of importers)
- section 28 (Particular safety duties of suppliers)
- section 30 (Safety duties of everyone at premises)
- section 31 (Safety duties of people in control of premises)
- section 33 (General safety duties for plant and systems)
- section 34 (Safety duties of people in control of plant and systems)
- section 35 (Safety duties of people in control of design, manufacture, import and supply of plant and systems)
- section 36 (Safety duties of people in control of installation of plant and systems)
- section 39 (Person in control of premises—safety duty to report actual or likely dangerous occurrences).

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42 Failure to comply with safety duty—general offence

(1) A person commits an offence if—

(a) the person is required to comply with a safety duty; and

(b) the person fails to comply with the safety duty.

Maximum penalty: 100 penalty units.

(2) Absolute liability applies to subsection (1) (a).

(3) Strict liability applies to subsection (1) (b).

43 Failure to comply with safety duty—exposing people to substantial risk of death or serious harm

(1) A person commits an offence if—

(a) the person is required to comply with a safety duty; and

(b) the person fails to comply with the safety duty; and

(c) the failure exposes anyone to a substantial risk of death or serious harm; and

(d) the person either—

(i) was reckless about whether the failure would expose anyone to a substantial risk of death or serious harm; or

(ii) was negligent about whether the failure would expose anyone to a substantial risk of death or serious harm.

Maximum penalty: 1 500 penalty units, imprisonment for 5 years or both.

(2) Absolute liability applies to subsection (1) (a).

(3) Strict liability applies to subsection (1) (b).

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44 Failure to comply with safety duty—causing death or serious harm to people

(1) A person commits an offence if—

(a) the person is required to comply with a safety duty; and

(b) the person fails to comply with the safety duty; and

(c) the failure causes the death of or serious harm to anyone; and

(d) the person either—

(i) was reckless about whether the failure would cause the death of or serious harm to anyone; or

(ii) was negligent about whether the failure would cause the death of or serious harm to anyone.

Maximum penalty: 2 000 penalty units, imprisonment for 7 years or both.

(2) Absolute liability applies to subsection (1) (a).

(3) Strict liability applies to subsection (1) (b).

45 Failure to comply with safety duty—exposing property or environment to substantial risk of substantial damage

(1) A person commits an offence if—

(a) the person is required to comply with a safety duty; and

(b) the person fails to comply with the safety duty; and

(c) the failure exposes property or the environment to a substantial risk of substantial damage; and

(d) the person either—

(i) was reckless about whether the failure would expose property or the environment to a substantial risk of substantial damage; or

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(ii) was negligent about whether the failure would expose property or the environment to a substantial risk of substantial damage.

Maximum penalty: 1 000 penalty units, imprisonment for 3 years or both.

Example

Sarah dumps arsenic in a stormwater drain. She is reckless about whether she is exposing the environment to a substantial risk of contamination. Sarah commits an offence against this section because arsenic is a dangerous substance and, under the general safety duty of everyone involved in handling a dangerous substance, she must take all reasonable steps to minimise the risks resulting from handling the substance (see s 23 and s 41). Handling a dangerous substance includes disposing of the substance (see s 11). Sarah has exposed the ACT's waterways to a substantial risk of contamination.

(2) Absolute liability applies to subsection (1) (a).

(3) Strict liability applies to subsection (1) (b).

46 Failure to comply with safety duty—causing substantial damage to property or environment

(1) A person commits an offence if—

(a) the person is required to comply with a safety duty; and

(b) the person fails to comply with the safety duty; and

(c) the failure causes substantial damage to property or the environment; and

(d) the person either—

(i) was reckless about whether the failure would cause substantial damage to property or the environment; or

(ii) was negligent about whether the failure would cause substantial damage to property or the environment.

Maximum penalty: 1 500 penalty units, imprisonment for 5 years or both.

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(2) Absolute liability applies to subsection (1) (a).

(3) Strict liability applies to subsection (1) (b).

47 Alternative verdicts for failure to comply with safety duties

(1) This section applies if, in a prosecution for an offence for a failure to comply with a safety duty, the trier of fact—

(a) is not satisfied beyond reasonable doubt that the defendant is guilty of the offence; but

(b) is satisfied beyond reasonable doubt that the defendant is guilty of an alternative offence.

(2) The trier of fact may find the defendant guilty of the alternative offence, but only if the defendant has been given procedural fairness in relation to the finding of guilt.

(3) In this section:

alternative offence, for an offence mentioned in table 47, column 2, means an offence mentioned in column 3 for the offence.

Table 47 Alternative verdicts

column 1 item	column 2 prosecuted offence	column 3 alternative offence
1	section 42 (which is about failing to comply with a safety duty)	section 63 (Failure to comply with conditions of licence)
2	section 43 (which is about exposing a person to substantial risk of death or serious harm)	section 42 section 63
3	section 44 (which is about causing death or serious harm to a person)	section 42 section 43 section 63

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column 1 item	column 2 prosecuted offence	column 3 alternative offence
4	section 45 (which is about exposing property or the environment to substantial risk of substantial damage)	section 42 section 63
5	section 46 (which is about causing substantial damage to property or the environment)	section 42 section 45 section 63

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Chapter 3A Asbestos

Note Chapter 6 provides compliance measures for contraventions of the Act.

Part 3A.1 Preliminary

47I Definitions—ch 3A

In this chapter:

affected building means a building that contains or has contained loose-fill asbestos insulation.

affected residential premises—

(a) means residential premises on which there is or was an affected building; but

(b) does not include premises if the premises have been—

(i) removed from the affected residential premises register; or

(ii) acquired by the Territory under the buyback scheme or the *Lands Acquisition Act 1994*.

affected residential premises register—see section 47P.

approved occupant—see section 47T (1).

asbestos assessment report—see section 47K.

asbestos contamination means loose-fill asbestos contaminated dust or debris.

asbestos contamination report—see section 47J.

building work—see the *Building Act 2004*, section 6.

buyback scheme means the scheme involving the acquisition by the Territory of residential premises that contain or have contained loose-fill asbestos insulation.

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class, of building—see the *Building Act 2004*, dictionary.

current asbestos contamination report—see section 47J.

licensed asbestos removalist—see the *Work Health and Safety Regulation 2011*, dictionary.

loose-fill asbestos insulation means loose-fill amosite or crocidolite asbestos used as ceiling insulation.

owner, of affected residential premises—

(a) means the person who is registered under the *Land Titles Act 1925* as the proprietor of the lease for the residential premises; and

(b) includes any person registered as a joint tenant or tenant in common in relation to the lease.

regulator means the director-general of the administrative unit responsible for the *Work Health and Safety Act 2011*.

residential premises—

(a) means a parcel of land on which there is or was a class 1 or class 2 building; and

(b) includes any buildings on the land.

47J Meaning of *asbestos contamination report* and *current asbestos contamination report*

(1) For this chapter, an ***asbestos contamination report*** is a report prepared by a licensed asbestos assessor about asbestos contamination at affected residential premises that—

(a) expires after—

(i) a defined period stated by the assessor in the report; or

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(ii) any building work at, or structural damage to, an affected building at the premises that may have disturbed asbestos contamination in the roof space, wall cavity or sub-floor area of the building; and

Examples—structural damage

1 fire damage
2 dislodged fixture or fitting
3 hole in ceiling, wall or floor

(b) complies with any requirements prescribed by regulation.

(2) For this chapter, a ***current asbestos contamination report*** is an asbestos contamination report for affected residential premises that has not expired.

(3) In this section:

defined period means a period of not less than 6 months and not more than 2 years.

47K Meaning of *asbestos assessment report*

For this chapter, an ***asbestos assessment report*** is a report prepared by a licensed asbestos assessor about residential premises that—

(a) identifies the location, type and condition of asbestos in relation to the premises; and

(b) assesses the risk resulting from the identified asbestos; and

(c) advises how the asbestos should be managed; and

(d) includes anything required by regulation to be included in the report.

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Part 3A.2 Asbestos—assessments and register etc

47L Duty to publish educational material

The Minister must publish educational material to increase public awareness about risks associated with asbestos.

47M Asbestos advice

(1) The Minister must prepare an advice about the likely location of asbestos in buildings built, or the building of which started, before 1990.

(2) An advice is a notifiable instrument.

47N Requirement to give asbestos assessment report

(1) This section applies if—

(a) there is an asbestos assessment report for residential premises; and

(b) a person (the ***engager***) engages someone (the ***worker***) to undertake work involving asbestos at the premises.

(2) The engager must—

(a) tell the worker about the asbestos at the premises; and

(b) give the worker a copy of the asbestos assessment report for the premises.

(3) However, the engager need not give the worker a copy of the asbestos assessment report for the premises—

(a) if the engager cannot obtain a copy of the report after taking reasonable steps; or

(b) if the work is a response to an emergency situation.

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(4) In this section:

asbestos containing material means any material or thing that, as part of its design, contains asbestos.

involves—work ***involves*** asbestos if the work involves supplying, transporting, storing, removing, using, installing, handling, treating, disposing of or disturbing asbestos or asbestos containing material.

47O Requirements—affected residential premises

(1) The owner of affected residential premises must have a current asbestos contamination report for the premises.

(2) A person (the ***engager***) who engages someone (the ***worker***) to undertake work at affected residential premises must—

(a) tell the worker about the asbestos at the premises; and

(b) give the worker a copy of the current asbestos contamination report for the premises.

(3) A person who undertakes, or engages a person to undertake, work that may disturb asbestos contamination in the defined areas of an affected building at affected residential premises, must tell the regulator about the work at least 5 business days before the day the work begins.

(4) A regulation may prescribe requirements for the following in relation to the management of asbestos contamination at affected residential premises:

(a) the regulator;

(b) the owner of affected residential premises;

(c) a property manager of, or real estate agent for, affected residential premises;

(d) the occupier of affected residential premises;

(e) a licensed asbestos assessor;

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(f) a licensed asbestos removalist;

(g) a worker or other person at affected residential premises.

Examples—requirements

1 undertaking work required under an asbestos contamination report

2 complying with any other requirements under an asbestos contamination report including installing warning signs at affected residential premises

3 displaying a copy of an asbestos contamination report at affected residential premises

4 giving a copy of an asbestos contamination report and any related documents to the people mentioned in pars (a) to (g)

(5) In this section:

defined areas, in relation to an affected building, means the roof space, wall cavity or sub-floor area of the building.

47P Affected residential premises register

(1) The Minister must keep a register of affected residential premises (the ***affected residential premises register***).

(2) The Minister must include the following details in relation to affected residential premises in the register:

(a) the address where the premises are located;

(b) the block and section;

(c) the date the premises were included in the register;

(d) whether the premises have been acquired by the Territory under the buyback scheme or the *Lands Acquisition Act 1994*;

(e) whether the premises require a current asbestos contamination report;

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(f) whether—

(i) the premises have a current asbestos contamination report; and

(ii) any work mentioned in the report to manage the asbestos contamination has been completed;

(g) whether the premises are subject to an occupancy prohibition, and, if so—

(i) whether an approved occupant is occupying the premises; and

(ii) if an approved occupant is occupying the premises—the name of the approved occupant.

Note An approved occupant may occupy affected residential premises that are subject to an occupancy prohibition (see s 47U).

(3) The Minister must remove all details about affected residential premises from the register if—

(a) each affected building at the premises has been demolished; and

(b) the Minister is satisfied that the premises have been remediated.

(4) The register may be kept in any form, including electronically, that the Minister decides.

(5) The Minister may make the register, or part of the register, publicly available (other than matters mentioned in subsection (2) (g)).

Example—publicly available

published on an ACT Government website

(6) In this section:

affected residential premises means residential premises on which there is or was an affected building.

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47Q Notice of affected residential premises to registrar-general

The Minister must, as soon as possible after including or removing details of residential premises in or from the affected residential premises register, tell the registrar-general about the inclusion or removal.

Note An administrative interest may be placed on the title for affected residential premises that includes noting that the premises will be subject to an occupancy prohibition following the transfer or transmission of the premises (see *Land Titles Act 1925*, s 69A (c)).

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Part 3A.3 Occupancy prohibition

47R Definitions—pt 3A.3

In this part:

occupy—a person ***occupies*** affected residential premises if the person has the premises as their principal place of residence.

transfer—see the *Land Titles Act 1925*, dictionary.

transmission—see the *Land Titles Act 1925*, dictionary.

47S Meaning of *occupancy prohibition*

The occupation of affected residential premises is prohibited (an ***occupancy prohibition***) if—

(a) there has been a transfer or transmission of the premises on or after 1 July 2020; and

(b) the premises were included in the affected residential premises register before the transfer or transmission of the premises.

Note An approved occupant may occupy affected residential premises that are subject to an occupancy prohibition (see s 47U).

47T Meaning of *approved occupant*

(1) In this chapter:

approved occupant, of affected residential premises, means—

(a) an individual (a ***resident***) who has occupied the premises continuously on and after the day it was added to the affected residential premises register; or

(b) an individual (a ***support person***) who, upon application, is approved by the Minister to occupy the premises to provide support to a resident.

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(2) Before making a decision under subsection (1), definition of ***approved occupant***, paragraph (b), the Minister must consider whether—

(a) the support is reasonably necessary for the ongoing physical or emotional care of the resident; and

(b) it is reasonably necessary for the support person to occupy the premises to provide the support.

(3) The Minister must give a written copy of the approval or refusal of the support person's occupancy of the premises to the applicant within 28 days after receiving the application.

(4) If the Minister has not given a written copy of the approval or refusal to the applicant within 28 days after receiving the application, the Minister is taken to have refused the application.

47U Occupancy prohibition—affected residential premises

(1) The owner of affected residential premises that are subject to an occupancy prohibition must ensure that the premises are not occupied by a person other than an approved occupant of the premises.

Note A residential tenancy agreement for affected residential premises may be terminated under the *Residential Tenancies Act 1997*, s 64AA.

(2) The owner of affected residential premises commits an offence if—

(a) the premises are subject to an occupancy prohibition; and

(b) there was an administrative interest under the *Land Titles Act 1925*, section 69A (c) (i) or (iii) on the title for the premises when the premises were transferred or transmitted to the owner; and

(c) the owner fails to comply with subsection (1) in relation to the premises.

Maximum penalty: 50 penalty units.

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47V Owner must notify regulator of approved occupants

The owner of affected residential premises that are subject to an occupancy prohibition following a transfer or transmission of the premises must tell the regulator in writing—

(a) that an approved occupant occupies the premises within 10 business days after—

(i) for an approved occupant who occupied the premises on the day of the transfer or transmission—the day of the transfer or transmission; or

(ii) for an approved occupant who occupied the premises after the day of the transfer or transmission—the day the occupation began; or

(b) that an approved occupant has stopped occupying the premises within 10 business days after the day the occupation ends.

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Chapter 4 Licences for dangerous substances

Part 4.1 General—licences

Note 1 A regulation may prescribe when a person is required to hold a licence (or some other form of authority) to handle a dangerous substance (see s 214 (for explosives), s 215 (1) (a) and s 217).

Note 2 If a person handles a dangerous substance without a licence it may be an offence under ch 5.

48 Meaning of *close associate* for ch 4

(1) In this chapter:

close associate—a person is a ***close associate*** of someone (the ***related person***) if—

(a) the person holds or will hold an executive position (however described) in the related person's business; or

(b) the work health and safety commissioner is satisfied that the person is or will be able to exercise a significant influence in relation to the conduct of the related person's business because the person holds or will hold a financial interest, or is entitled to exercise a relevant power, in the business.

(2) In this section:

executive position—a position (however described) in the related person's business is an ***executive position*** if the holder of the position is concerned with, or takes part in, the management of the business.

exercise a power includes exercise the power on behalf of someone else.

financial interest, in a business, means—

(a) a share in the capital of the business; or

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(b) an entitlement to receive income derived from the business, however the entitlement arises.

hold a position includes hold the position on behalf of someone else.

power means a power exercisable—

(a) by voting or otherwise; and

(b) alone or with others.

relevant power, in a business, means a power—

(a) to take part in a directorial, managerial or executive decision for the business; or

(b) to elect or appoint a person to an executive office in the business.

49 Working out whether person is a *suitable person*

(1) The work health and safety commissioner must have regard to the following matters in deciding whether a person is a ***suitable person*** to be issued with, or continue to hold, a licence:

(a) the knowledge, experience and training of the person in relation to the kinds of dangerous substances to which the application relates;

(b) whether the person or a close associate of the person, or a corporation of which the person was at the relevant time an executive officer, has supplied information or a document that is false or misleading in a material particular in relation to this Act;

(c) whether the person or a close associate of the person, or a corporation of which the person was an executive officer, is disqualified under the Act or a corresponding law from holding a licence;

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(d) whether the person or a close associate of the person, or a corporation of which the person was at the relevant time an executive officer—

(i) has contravened this Act or a corresponding law, whether or not the person, associate or corporation has been convicted or found guilty of an offence for the contravention; or

(ii) has failed to comply with a condition of a licence under this Act or a licence or other authority (however described) under a corresponding law, whether or not the person, associate or corporation has been convicted or found guilty of an offence for the failure;

(e) any action being taken against the person or a close associate of the person under part 4.4 (Disciplinary action);

(f) whether the person or a close associate of the person, or a corporation of which the person was at the relevant time an executive officer, has been convicted or found guilty in the ACT or elsewhere, within the 5-year period before the day the application is made, of an offence involving a dangerous substance;

(g) whether the person or a close associate of the person has been convicted or found guilty in the ACT or elsewhere, within the 5-year period before the day the application is made, of an offence involving—

(i) a firearm; or

(ii) actual or threatened violence; or

(iii) fraud or dishonesty;

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(h) whether the person or a close associate of the person has, within the 5-year period before the day the application is made, been subject to a protection order or corresponding protection order (other than an order that has been revoked or for which an appeal against the making of the order has been upheld);

(i) anything prescribed by regulation.

Note 1 For the meaning of ***found guilty***, see the Legislation Act, dict, pt 1.

Note 2 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

(2) In this section:

corresponding protection order means an order (however described) under a law of the Commonwealth, a State, another Territory or New Zealand that has the same effect or substantially the same effect as a protection order.

protection order means a final order under—

(a) the *Family Violence Act 2016*; or

(b) the *Personal Violence Act 2016*.

50 Applications for licences etc to comply with Act

(1) This section applies to—

(a) an application for a licence; or

(b) an application by a licensee to amend the licence; or

(c) any other application prescribed by regulation in relation to a licence.

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(2) The application must include any information or documents (including information or documents verified in a particular way) required by regulation or by a form approved under section 222 for the application.

(3) The work health and safety commissioner need not decide the application if it does not include the required information and documents.

51 Power to ask for information from applicants, licensees and others

(1) In this section:

designated matter means—

(a) an application for a licence; or

(b) an application by a licensee to amend the licence; or

(c) a change of the kind to which section 57 (2) (Licensee to keep work health and safety commissioner informed) applies; or

(d) anything else prescribed by regulation.

third party, for an applicant for a licence or a licensee—a person is a ***third party*** if the work health and safety commissioner believes on reasonable grounds that the person has an association or connection with the applicant or licensee that is relevant to the consideration of a designated matter.

(2) The work health and safety commissioner may, by written notice given to an applicant for a licence or a licensee, ask the person to do 1 or more of the following:

(a) give, in accordance with any directions in the notice, stated information (including information in the possession of or under the control of a third party), verified as stated in the notice, that is relevant to the consideration of the designated matter in relation to the person;

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(b) produce, in accordance with any directions in the notice, stated documents (including documents in the possession of or under the control of a third party) relevant to the consideration of the designated matter in relation to the person and allow examination of the documents, the taking of extracts from them and the making of copies of them;

(c) authorise a third party stated in the notice to comply with a stated request of a kind mentioned in paragraph (a) or (b);

(d) give the work health and safety commissioner the authorities and consents that the work health and safety commissioner asks for to allow the work health and safety commissioner to obtain from other people information (including financial and other confidential information) that is—

(i) about the person or a close associate of the person; and

(ii) relevant to the consideration of the designated matter in relation to the person.

Examples for par (a)

1 the notice may ask the person to give information by preparing a document in a stated way or by completing a document provided by the work health and safety commissioner

2 the notice may ask the person to give the work health and safety commissioner information about a close associate and that the information be verified by a signed statement

Example for par (b)

a statement supplied by a police officer about the applicant's criminal history (if any)

Example for par (c)

The notice may ask the applicant to authorise the applicant's accountant, or a former close associate, to give the work health and safety commissioner stated information or documents about the applicant.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

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(3) If the work health and safety commissioner asks for something under this section in relation to an application, the work health and safety commissioner need not decide the application until the request is complied with.

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Part 4.2 Issue, amendment, replacement and surrender of licences

52 Licence application and decision

(1) A person may apply to the work health and safety commissioner for a licence.

(2) The work health and safety commissioner must issue the licence to the person if satisfied that—

(a) the person is a suitable person to hold the licence; and

(b) the person can comply with this Act in relation to the activities to be authorised by the licence.

(3) The work health and safety commissioner must refuse to issue the licence if the work health and safety commissioner is not satisfied about the matters mentioned in subsection (2).

Note Section 50 (3) and s 51 (3) contain exceptions to this section.

53 Licence conditions

(1) The work health and safety commissioner may include conditions in a licence to protect the health and safety of people, and property and the environment from damage, from hazards associated with, or risks resulting from, the dangerous substances to which the licence applies.

(2) A licence is subject to—

(a) any conditions included in the licence by the work health and safety commissioner; and

(b) any conditions prescribed by regulation.

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54 Term of licence

(1) A licence is issued for the period stated in the licence.

(2) A licence may not be issued for longer than 3 years, or any shorter period prescribed by regulation.

55 Licence not transferable

A licence is not transferable.

56 Form of licence

(1) A licence must show the following information:

(a) the full name of the licensee;

(b) if appropriate—

(i) details of the premises where the licensee is authorised to carry out activities under the licence; and

(ii) the address of the premises or, if the premises are a vehicle, any information prescribed by regulation for the vehicle;

(c) the dangerous substances to which the licence relates;

(d) the kinds of handling of dangerous substances authorised under the licence (each of which is a ***handling authority***);

(e) any conditions included in the licence by the work health and safety commissioner;

(f) any exemption given by the Minister or work health and safety commissioner under this Act that is relevant to the licence;

(g) a unique identifying number;

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(h) when the term of the licence ends.

Example for par (d)

A licence may authorise a person to manufacture a dangerous substance and to import other dangerous substances (the other dangerous substances are necessary to manufacture the dangerous substance). The licence also authorises the person to store the imported and manufactured dangerous substances and to supply the manufactured dangerous substance.

(2) A licence may also include any other information the work health and safety commissioner considers appropriate.

57 Licensee to keep work health and safety commissioner informed

(1) This section applies if a person believes that there will be a change to anything stated in—

(a) a licence held by the person; or

(b) the application for the licence made by the person; or

(c) an application to amend the licence made by the person.

Note If a person fails to comply with this section the work health and safety commissioner may take disciplinary action under pt 4.4 (see s 67).

(2) The person must—

(a) give the work health and safety commissioner written notice of the change no later than 7 days before the day the change happens; and

(b) if the change affects a particular shown on the licence—return the licence to the work health and safety commissioner with the notice.

Examples of changes

1 a change in a licensee's close associates

2 a structural change in premises relevant to handling a dangerous substance

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(3) If the change affects a particular shown on a licence, the work health and safety commissioner must amend the licence or issue another licence for the remainder of the period of the licence it replaces.

(4) However, subsection (3) does not apply if the work health and safety commissioner is taking, or considering whether to take, action under part 4.4 (Disciplinary action) in relation to the licensee because of the change.

58 Licence—application to amend by licensee

(1) A licensee may apply to the work health and safety commissioner to amend the licence.

Examples of amendments

1 to amend or revoke a condition included in the licence by the work health and safety commissioner

2 to change the premises where activities may be carried out under the licence

(2) The work health and safety commissioner must amend the licence if, assuming that the application to amend were an application under section 52 (Licence application and decision) for a licence that included the proposed amendment, the work health and safety commissioner would be required to issue a licence.

Note 1 For the return of the licence to the work health and safety commissioner, see s 64.

Note 2 Pt 4.1 applies to the consideration of the application.

(3) If subsection (2) does not apply, the work health and safety commissioner must refuse the application to amend the licence.

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59 Licence—imposition etc of conditions on work health and safety commissioner's initiative

(1) This section applies to a licensee if the work health and safety commissioner proposes, on the work health and safety commissioner's own initiative, to amend the licence to impose a condition, or to amend or revoke a condition included in the licence by the work health and safety commissioner (the ***proposed action***).

(2) The work health and safety commissioner must give the licensee a written notice stating—

(a) the proposed action; and

(b) if the proposed action is to impose a condition—the proposed condition; and

(c) if the proposed action is to amend a condition—the condition as proposed to be amended; and

(d) an explanation for the proposed action; and

(e) that the licensee may, within 14 days after the day the licensee receives the notice, give a written response to the work health and safety commissioner about the notice.

(3) In deciding whether to take the proposed action, the work health and safety commissioner must consider any response given to the work health and safety commissioner in accordance with the notice.

(4) The work health and safety commissioner must give the licensee written notice of the work health and safety commissioner's decision.

(5) If the work health and safety commissioner decides to take the proposed action, the work health and safety commissioner's decision takes effect 14 days after the day when notice of the decision is given to the licensee or, if the notice states a later date of effect, that date.

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(6) If the licence is amended, the work health and safety commissioner must, as soon as practicable after the licence has been returned to the work health and safety commissioner, amend the licence or give the licensee a replacement licence showing the amendment.

Note The licensee must return the licence to the work health and safety commissioner for amendment (see s 64).

(7) This section does not affect the taking of action under part 4.4 (Disciplinary action).

60 Replacement of licence

(1) The work health and safety commissioner may issue a replacement licence to a licensee if satisfied that the licence has been lost, stolen or destroyed.

(2) For subsection (1), the work health and safety commissioner may require the licensee to give the work health and safety commissioner a statement signed by the licensee, verifying that the licence has been lost, stolen or destroyed.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

(3) A licence issued under this section must be issued for the remainder of the period of the licence it replaces.

61 Surrender of licence

(1) A licensee may apply to the work health and safety commissioner to surrender the licensee's licence.

(2) The licensee must, with the application—

(a) return the licence to the work health and safety commissioner; or

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(b) if the licence has been lost, stolen or destroyed—give the work health and safety commissioner a statement signed by the licensee, verifying that the licence has been lost, stolen or destroyed.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see Criminal Code, pt 3.4).

62 Work health and safety commissioner may ask for information etc from licensee

(1) This section applies if a change mentioned in section 57 (1) (Licensee to keep work health and safety commissioner informed) happens in relation to a licence, whether or not the licensee gives notice of the change to the work health and safety commissioner under section 57.

(2) To decide whether, because of the change, the licensee has ceased to be a suitable person to hold the licence or has failed, or is failing, to comply with this Act, the work health and safety commissioner may give the licensee a notice under section 51 (Power to ask for information from applicants, licensees and others).

(3) The licensee must comply with a notice given to the licensee under section 51.

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Part 4.3 Offences relating to licences

63 Failure to comply with conditions of licence

(1) A licensee commits an offence if—

(a) the licensee's licence is subject to a condition; and

(b) the licensee fails to comply with a requirement of the condition.

Maximum penalty: 100 penalty units.

(2) An offence against this section is a strict liability offence.

64 Return of amended, suspended or cancelled licences

(1) A licensee commits an offence if—

(a) the licensee's licence is—

(i) amended under section 58 (Licence—application to amend by licensee); or

(ii) amended under section 59 (Licence—imposition etc of conditions on work health and safety commissioner's initiative); or

(iii) amended, suspended or cancelled under part 4.4 (Disciplinary action); and

(b) the licensee fails to return the licence to the work health and safety commissioner as soon as practicable (but within 7 days) after the day the licensee is told about the work health and safety commissioner's action.

Maximum penalty: 100 penalty units.

(2) An offence against this section is a strict liability offence.

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65 Pretending to hold licence

(1) A person commits an offence if the person pretends to be the holder of a licence.

Maximum penalty: 100 penalty units.

(2) A person commits an offence if the person pretends to be authorised to do something under a licence.

Maximum penalty: 100 penalty units.

66 Offence to allow someone else to use licence

A licensee commits an offence if the licensee lets someone else use the licensee's licence.

Maximum penalty: 100 penalty units.

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Part 4.4 Disciplinary action

67 Grounds for disciplinary action

The work health and safety commissioner may take disciplinary action against—

(a) a licensee, if the work health and safety commissioner believes, on reasonable grounds, that the licensee—

(i) is not, or is no longer, a suitable person to hold a licence; or

(ii) has contravened, or is contravening, this Act; or

Note 1 For the meaning of ***suitable person***, see s 49.

Note 2 For the meaning of ***disciplinary action***, see s 68 (3) and (4).

(b) a former licensee, if the work health and safety commissioner believes, on reasonable grounds, that the former licensee contravened this Act while holding a licence, whether or not the former licensee has been convicted or found guilty of an offence for the contravention.

68 Taking disciplinary action

(1) If the work health and safety commissioner proposes to take disciplinary action in relation to a licensee, or a former licensee, the work health and safety commissioner must give the person a written notice (a ***disciplinary notice***) that—

(a) states the proposed action (including any proposed disqualification period, suspension period or amendment of a licence); and

(b) states the grounds for the proposed action; and

(c) tells the person that the person may, within 14 days after the day the person receives the notice, give a written response to the work health and safety commissioner about the notice.

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(2) In deciding whether to take disciplinary action, the work health and safety commissioner must consider any response given to the work health and safety commissioner in accordance with the notice under subsection (1) (c).

(3) If the work health and safety commissioner is satisfied that a ground for taking action under this section has been established in relation to a licensee, the work health and safety commissioner may do 1 or more of the following (each of which is ***disciplinary action***):

(a) reprimand the licensee;

(b) require the licensee to complete a stated course of training to the satisfaction of the work health and safety commissioner or another stated person;

(c) amend the licence, including by imposing a condition on the licence or amending an existing condition;

(d) suspend the licence, or a particular handling authority under the licence, for a stated period or until a stated event happens;

(e) cancel the licence, or a particular handling authority under the licence;

(f) cancel the licence and disqualify the licensee from applying for a licence, or a particular kind of licence for a stated period or until a stated event happens.

(4) If the work health and safety commissioner is satisfied that a ground for taking action under this section has been established in relation to a former licensee, the work health and safety commissioner may do 1 or more of the following (each of which is ***disciplinary action***):

(a) reprimand the former licensee;

(b) disqualify the former licensee from applying for a licence, or a particular kind of licence—

(i) for a stated period; or

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(ii) until the former licensee completes a stated course of training to the satisfaction of the work health and safety commissioner or someone else; or

(iii) until a stated event happens.

(5) The work health and safety commissioner must give the person written notice of the work health and safety commissioner's decision.

(6) A decision to take action under subsection (3) or (4) takes effect 14 days after the day when notice of the decision is given to the person or, if the notice states a later date of effect, that date.

Note For the requirement to return of an amended, suspended or cancelled licence to the work health and safety commissioner, see s 64.

69 Immediate suspension of licence

(1) This section applies if the work health and safety commissioner has given, or is considering whether to give, a disciplinary notice to a licensee.

(2) The work health and safety commissioner may give the licensee a written notice (an ***immediate suspension notice***) suspending the licence or a particular handling authority under the licence.

Note For the meaning of ***handling authority***, see s 56 (1) (d).

(3) However, the work health and safety commissioner may suspend the licence or handling authority under subsection (2) only if—

(a) the work health and safety commissioner has taken into account the circumstances leading to the decision to give or consider giving the disciplinary notice and the grounds stated, or that may be stated, in the disciplinary notice; and

(b) the work health and safety commissioner believes, on reasonable grounds, that it is in the public interest that the licence or handling authority be suspended as soon as practicable before a decision is made whether or not to take action against the licensee under section 68.

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(4) If an immediate suspension notice is given to the licensee, the licensee's licence, or the handling authority, is suspended when the notice is given to the licensee.

Note For the return of the licence to the work health and safety commissioner, see s 64.

(5) If the licensee is given an immediate suspension notice because the work health and safety commissioner is considering whether to give a disciplinary notice to the licensee, the work health and safety commissioner must, as soon as practicable, give a disciplinary notice to the licensee or tell the licensee in writing that a disciplinary notice will not be given to the licensee.

(6) An immediate suspension notice ends—

(a) if the licence is cancelled or suspended under section 68 (3)—when the cancellation or suspension takes effect; or

(b) if a condition is imposed on the licence to which the notice relates, or a condition of the licence is amended—when the condition or amended condition takes effect; or

(c) in any other case—when the person is given written notice under section 68 (5) of the decision made on the disciplinary notice or the work health and safety commissioner tells the licensee that a disciplinary notice will not be given to the licensee.

70 Effect of suspension of licence

(1) A suspended licence or handling authority does not authorise the licensee to carry on an activity authorised by the licence or handling authority during the suspension.

(2) If the work health and safety commissioner suspends a licence or handling authority, the licensee is, during the suspension—

(a) taken not to hold the licence or handling authority; and

(b) disqualified from applying for a licence or handling authority of that kind.

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(3) If the work health and safety commissioner suspends a handling authority under a licence, the licence is taken to be amended under this part to give effect to the suspension.

71 Action by work health and safety commissioner in relation to amended, suspended or cancelled licence

(1) If a licence is amended under this part, the work health and safety commissioner must, as soon as practicable after the licence has been returned to the work health and safety commissioner, amend the licence or give the licensee a replacement licence showing the amendment.

Note For the requirement to return an amended or suspended licence to the work health and safety commissioner, see s 64.

(2) If a licence is suspended under this part and the suspension ends before the end of the term of the licence, the work health and safety commissioner must return the licence to the licensee.

(3) If a handling authority under a licence is suspended under this part and the suspension ends before the end of the term of the licence, the work health and safety commissioner must, as soon as practicable after the licence has been returned to the work health and safety commissioner, amend the licence or give the licensee a replacement licence that includes the handling authority.

72 Publication of disciplinary decision by work health and safety commissioner

(1) If the work health and safety commissioner takes disciplinary action against a licensee or former licensee, the work health and safety commissioner may publish the following information in a way that the work health and safety commissioner considers appropriate:

(a) particulars that allow the public to identify the licensee or former licensee;

(b) details of the disciplinary action;

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(c) an outline of why the disciplinary action was taken;

(d) any other information in relation to the disciplinary action and the safety of the dangerous substance concerned that the work health and safety commissioner considers appropriate.

Examples of publication

1 a press release
2 an article in a document published by the Territory or a territory authority
3 an advertisement in a newspaper circulating in the ACT
4 a public notice

Examples for par (a)

1 the licensee's name and ACN (if any)
2 any name (and, if relevant, ACN) used in the past by the licensee
3 the licensee's current and previous business addresses

Note ***Public notice*** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see Legislation Act, dict, pt 1).

(2) However, the information may be published only if—

(a) the time for any review or appeal in relation to the disciplinary action has ended and no application for review or appeal has been made; or

(b) an application for review or appeal has been made and—

(i) the application is withdrawn, struck out or discontinued or lapses; or

(ii) the disciplinary action is confirmed on review and the time for appeal has ended without an application for an appeal being made.

(3) If the disciplinary action is set aside on review or appeal, the information must not be published.

(4) If the disciplinary action is changed on review or appeal (for example, different disciplinary action is substituted), this section applies in relation to the action as changed.

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(5) For the *Civil Law (Wrongs) Act 2002*, section 139 (Defences of fair report of proceedings of public concern), the information published by the work health and safety commissioner under this section about disciplinary action is taken to be a fair report of proceedings of public concern.

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Chapter 5 Other serious offences

Part 5.1 Prohibited and controlled dangerous substances

73 Definitions for ch 5

In this Act:

controlled dangerous substance means an explosive or other dangerous substance declared by regulation to be a controlled dangerous substance.

explosive means a dangerous substance declared by regulation to be an explosive.

prohibited dangerous substance means—

(a) an explosive declared by regulation to be a prohibited explosive; or

(b) any other dangerous substance declared by regulation to be a prohibited dangerous substance.

74 Unauthorised manufacture of certain dangerous substances

(1) A person commits an offence if—

(a) the person manufactures a prohibited dangerous substance; and

(b) the person is not authorised under a licence, or by regulation, to manufacture the substance.

Maximum penalty: 2 000 penalty units, imprisonment for 7 years or both.

(2) A person commits an offence if—

(a) the person manufactures a controlled dangerous substance; and

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(b) the person is not authorised under a licence, or by regulation, to manufacture the substance.

Maximum penalty: 1 000 penalty units, imprisonment for 4 years or both.

75 Unauthorised import of certain dangerous substances

(1) A person commits an offence if—

(a) the person imports a prohibited dangerous substance; and

(b) the person is not authorised under a licence, or by regulation, to import the substance.

Maximum penalty: 2 000 penalty units, imprisonment for 7 years or both.

Note ***Import*** means import into the ACT (see dict).

(2) A person commits an offence if—

(a) the person imports a controlled dangerous substance; and

(b) the person is not authorised under a licence, or by regulation, to import the substance.

Maximum penalty: 1 000 penalty units, imprisonment for 4 years or both.

76 Unauthorised supply of certain dangerous substances

(1) A person commits an offence if—

(a) the person supplies a prohibited dangerous substance to someone else (the ***recipient***); and

(b) the person is not authorised under a licence, or by regulation, to supply the substance to the recipient.

Maximum penalty: 2 000 penalty units, imprisonment for 7 years or both.

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(2) A person commits an offence if—

(a) the person supplies a controlled dangerous substance to someone else (the ***recipient***); and

(b) the person is not authorised under a licence, or by regulation, to supply the substance to the recipient.

Maximum penalty: 1 000 penalty units, imprisonment for 4 years or both.

(3) A person commits an offence if—

(a) the person supplies a prohibited dangerous substance to someone else (the ***recipient***); and

(b) the recipient is not authorised under a licence, or by regulation, to receive the substance; and

(c) the person is reckless about whether the recipient is authorised under the licence, or by regulation, to receive the substance.

Maximum penalty: 2 000 penalty units, imprisonment for 7 years or both.

(4) A person commits an offence if—

(a) the person supplies a controlled dangerous substance to someone else (the ***recipient***); and

(b) the recipient is not authorised under a licence, or by regulation, to receive the substance; and

(c) the person is reckless about whether the recipient is authorised under the licence, or by regulation, to receive the substance.

Maximum penalty: 1 000 penalty units, imprisonment for 4 years or both.

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77 Unauthorised possession of certain dangerous substances

(1) A person commits an offence if—

(a) the person possesses a prohibited dangerous substance; and

(b) the person is not authorised under a licence, or by regulation, to possess the substance.

Maximum penalty: 2 000 penalty units, imprisonment for 7 years or both.

(2) A person commits an offence if—

(a) the person possesses a controlled dangerous substance; and

(b) the person is not authorised under a licence, or by regulation, to possess the substance.

Maximum penalty: 500 penalty units, imprisonment for 2 years or both.

(3) In this section:

possession, of a dangerous substance by a person, includes—

(a) the person receiving or obtaining possession of the substance; and

(b) the person having control over the substance; and

(c) the person having joint possession of the substance with someone else.

78 Unauthorised storage of certain dangerous substances

(1) A person commits an offence if—

(a) a regulation requires a dangerous substance to be stored in a particular way; and

(b) the person stores the substance; and

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(c) the person fails to store the substance in accordance with the regulation.

Maximum penalty: 100 penalty units.

(2) An offence against this section is a strict liability offence.

79 Unauthorised use of certain dangerous substances

(1) A person commits an offence if—

(a) the person uses a prohibited dangerous substance; and

(b) the person is not authorised under a licence, or by regulation, to use the substance.

Maximum penalty: 2 500 penalty units, imprisonment for 10 years or both.

(2) A person commits an offence if—

(a) the person uses a controlled dangerous substance; and

(b) the person is not authorised under a licence, or by regulation, to use the substance.

Maximum penalty: 750 penalty units, imprisonment for 3 years or both.

80 Unauthorised carrying of certain dangerous substances

(1) A person commits an offence if—

(a) a regulation requires a dangerous substance to be carried in a particular way; and

(b) the person carries the substance; and

(c) the person fails to carry the substance in accordance with the regulation.

Maximum penalty: 100 penalty units.

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(2) An offence against this section is a strict liability offence.

81 Unauthorised disposal of dangerous substances, plant and systems

(1) A person commits an offence if—

(a) a regulation requires a dangerous substance to be disposed of in a particular way; and

(b) the person disposes of the substance; and

(c) the person fails to dispose of the substance in accordance with the regulation.

Maximum penalty: 100 penalty units.

(2) A person commits an offence if—

(a) a regulation requires plant or a system used for handling a dangerous substance to be disposed of in a particular way; and

(b) the person disposes of the plant or system; and

(c) the person fails to dispose of the plant or system in accordance with the regulation.

Maximum penalty: 100 penalty units.

(3) An offence against this section is a strict liability offence.

82 Unauthorised handling of dangerous substances generally

(1) A person commits an offence if—

(a) a regulation requires a handling of a dangerous substance to be authorised under a licence; and

(b) the person handles the substance; and

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(c) the person is not authorised under a licence to handle the substance.

Maximum penalty: 100 penalty units.

Note 1 ***Handling*** a dangerous substance includes importing, manufacturing, storing, supplying, possessing, receiving or using the substance (see s 11).

Note 2 See the *Dangerous Goods (Road Transport) Act 2009* for the transport by road of certain dangerous substances that are classified as dangerous goods under that Act.

(2) An offence against this section is a strict liability offence.

83 Handling of certain dangerous substances to be notified

(1) A person in control of the handling of a dangerous substance commits an offence if—

(a) a regulation requires the handling of the substance to be notified to the work health and safety commissioner; and

(b) the person fails to ensure that the work health and safety commissioner is notified of the handling of the substance in accordance with the regulation.

Maximum penalty: 100 penalty units.

Note ***Handling*** a dangerous substance includes importing, manufacturing, storing, supplying, possessing, receiving or using the substance (see s 11).

(2) An offence against this section is a strict liability offence.

84 Certain premises, plant or systems to be registered etc

(1) A person in control of premises where a dangerous substance is handled commits an offence if—

(a) a regulation requires the premises to be registered or notified under a regulation; and

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(b) the person fails to ensure that the premises are registered or notified in accordance with the regulation.

Maximum penalty: 100 penalty units.

(2) A person in control of plant or a system for handling a dangerous substance commits an offence if—

(a) a regulation requires the plant or system to be registered or notified under a regulation; and

(b) the person fails to ensure that the plant or system is registered or notified in accordance with the regulation.

Maximum penalty: 100 penalty units.

(3) An offence against this section is a strict liability offence.

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Part 5.2 Preservation of site of dangerous occurrence

85 Definitions for pt 5.2

In this part:

authorised person means—

(a) an inspector; or

Note An ***inspector*** includes a police officer (see s 207 (1)).

(b) a person acting in accordance with an inspector's directions; or

(c) a person giving emergency medical assistance to an injured person; or

(d) a member of the ambulance service, the fire and rescue service, the rural fire service or the SES.

site, of a dangerous occurrence at premises, means the part of the premises where the occurrence happened.

site preservation period means the reasonable period notified by the work health and safety commissioner to a person in control of the premises where a dangerous occurrence has happened or is happening.

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86 Person in control of premises to preserve site of dangerous occurrence

(1) A person in control of premises where a dangerous occurrence has happened or is happening commits an offence if the person fails to take all reasonable steps to ensure that the site of the occurrence is not disturbed or interfered with until after the end of the site preservation period.

Maximum penalty: 100 penalty units.

Note 1 An inspector may issue a prohibition notice in relation to the site of a dangerous occurrence (see s 109 (2) (b) (ii)).

Note 2 For the power of a coroner to exercise functions in relation to the site of a dangerous occurrence, see the *Coroners Act 1997*.

(2) This section does not apply to anything done by an authorised person.

(3) An offence against this section is a strict liability offence.

87 Unauthorised disturbance or interference with site of dangerous occurrence

(1) A person commits an offence if—

(a) a dangerous occurrence has happened or is happening at premises; and

(b) the person disturbs or interferes with the site of the occurrence; and

(c) the site preservation period for the site has not ended.

Maximum penalty: 100 penalty units.

(2) This section does not apply to anything done by an authorised person.

(3) An offence against this section is a strict liability offence.

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Chapter 6 Compliance measures

Part 6.1 Information and documents

88 Work health and safety commissioner may require answers to questions and production of documents

(1) This section applies if the work health and safety commissioner believes, on reasonable grounds, that a person (the ***relevant person***) may have contravened, or may be contravening, a provision of this Act.

Note A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

(2) The work health and safety commissioner may, by written notice given to a person (including the relevant person), require the person to attend before the work health and safety commissioner at a stated reasonable time and place to do either or both of the following:

(a) answer questions that the work health and safety commissioner considers necessary to decide whether the relevant person has contravened or is contravening this Act;

(b) produce the documents stated in the notice.

Note For how the notice may be served, see the Legislation Act, pt 19.5.

(3) The work health and safety commissioner may require a person to produce a document under subsection (2) (b) only if the work health and safety commissioner considers the production necessary to decide whether the relevant person has contravened or is contravening this Act.

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(4) The notice must—

(a) state that the requirement is made under this section; and

(b) contain a statement to the effect that failure to comply with the notice is an offence; and

(c) if the notice requires the person to answer questions—

(i) contain a statement about the effect of section 92 (Privileges against self-incrimination and exposure to civil penalty); and

(ii) state that the person may attend with a lawyer.

(5) To remove any doubt, for this section, a person answers a question if the person explains why the person or an entity did or did not do something.

89 Compliance with notice to produce

(1) This section applies if a person is required by a notice under section 88 to produce a document but not to answer questions.

(2) The person is taken to have complied with the requirement to produce the document if the person—

(a) does not attend before the work health and safety commissioner; but

(b) gives the document to the work health and safety commissioner before the time stated for attendance in the notice.

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90 Failure to attend before work health and safety commissioner or produce documents

(1) A person commits an offence if—

(a) the person is required by a notice under section 88 to attend and answer questions before the work health and safety commissioner; and

(b) the person fails to attend before the work health and safety commissioner in accordance with the notice.

Maximum penalty: 50 penalty units.

(2) A person commits an offence if—

(a) the person is required by a notice under section 88 to produce a stated document; and

(b) the person fails to produce the document.

Maximum penalty: 50 penalty units.

(3) An offence against this section is a strict liability offence.

91 Attendance before work health and safety commissioner—offences

(1) A person commits an offence if—

(a) the person is required under section 88 to attend and answer questions before the work health and safety commissioner; and

(b) the person attends before the work health and safety commissioner; and

(c) the work health and safety commissioner requires the person to answer a question; and

(d) the person fails to answer the question.

Maximum penalty: 50 penalty units.

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(2) A person commits an offence if—

(a) the person is required by a notice under section 88 to attend and answer questions before the work health and safety commissioner; and

(b) the person attends before the work health and safety commissioner; and

(c) the person fails to continue to attend as reasonably required by the work health and safety commissioner until excused from further attendance.

Maximum penalty: 50 penalty units.

(3) An offence against this section is a strict liability offence.

92 Privileges against self-incrimination and exposure to civil penalty

(1) This section applies if—

(a) a person is attending before the work health and safety commissioner in accordance with a requirement under section 88; and

(b) the work health and safety commissioner requires the person to answer a question.

(2) This section also applies if a person is required by a notice under section 88 to produce a document.

(3) The person cannot rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to answer the question or produce the document.

Note The Legislation Act, s 171 deals with client legal privilege.

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(4) However, any information, document or thing obtained, directly or indirectly, because of the giving of the answer or the production of the document is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence against this part or the Criminal Code, part 3.4 (False or misleading statements, information and documents).

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Part 6.2 Compliance agreements

93 Meaning of *relevant responsible person* for pt 6.2

In this part:

relevant responsible person, for a compliance agreement, means the responsible person for a dangerous substance who enters into the agreement.

94 Inspector may seek compliance agreement

(1) This section applies if an inspector believes, on reasonable grounds, that a provision of this Act has been, is being or may be contravened in relation to a dangerous substance.

Note A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

(2) The inspector may ask a responsible person for the dangerous substance to enter into an agreement (a ***compliance agreement***) in relation to the contravention.

(3) If the responsible person agrees to enter into a compliance agreement, the agreement must—

(a) state that it is a compliance agreement under this Act; and

(b) state the contravention of this Act in relation to which the agreement is entered into; and

(c) state the period for which the agreement is to operate; and

(d) state the measures to be taken by the responsible person or anyone else to ensure this Act is complied with and the times within which the measures must be taken; and

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(e) include a statement to the effect that each person who is required to comply with a duty under this Act must comply with the duty whether or not someone else may also be responsible for complying with the duty; and

(f) be signed by the inspector and the responsible person.

Examples of measures for par (d)

1 the dangerous substance is to be handled only by people with a stated qualification

2 the substance is to be handled at temperatures below 5°C

3 repair or replace particular premises or plant

4 develop, implement or amend a safety management system

(4) The compliance agreement may include anything else the inspector and the relevant responsible person consider appropriate.

(5) The inspector must give a copy of the compliance agreement to the relevant responsible person.

95 Term of compliance agreement

(1) A compliance agreement commences when the agreement is signed by the inspector and relevant responsible person, or at any later time stated in the agreement.

(2) The compliance agreement ends—

(a) at the end of the period of operation stated in the agreement; or

(b) if the inspector and relevant responsible person agree to extend the period of operation before the end of the stated period—at the end of the extended period.

(3) If an inspector is satisfied that the compliance agreement has been complied with before it ends, the inspector must revoke the agreement by written notice given to the relevant responsible person.

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96 Compliance agreement not admission of fault etc

(1) This section applies if a responsible person for a dangerous substance enters into a compliance agreement in relation to a contravention of this Act.

(2) Entering into the compliance agreement—

(a) is not an express or implied admission of fault or liability by the responsible person in relation to the contravention; and

(b) is not relevant to deciding fault or liability in relation to the contravention.

(3) Also, evidence of the existence or contents of the compliance agreement is not—

(a) admissible in a civil proceeding as evidence of the fault or liability of a person in relation to the contravention; or

(b) admissible in a criminal proceeding in relation to the contravention; or

(c) relevant to the taking of action under part 4.4 (Disciplinary action) in relation to the contravention.

Note This section does not prevent the issue of an improvement notice or prohibition notice in relation to the relevant contravention (see Legislation Act, s 44 and s 197).

97 Notification and display of compliance agreements

(1) This section applies to the relevant responsible person for a compliance agreement.

(2) The person commits an offence if the person fails to—

(a) tell each person (an ***affected person***) whose work is affected by the measures to be taken under the agreement about the agreement, including the measures; or

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(b) give a copy of the agreement to each other person in control of each of the premises where an affected person works.

Maximum penalty: 20 penalty units.

(3) The person commits an offence if the person fails to ensure that a copy of the agreement is displayed, while the agreement is operating, in a prominent place at or near each part of the premises affected by the contravention of this Act in relation to which the agreement was entered into.

Maximum penalty: 20 penalty units.

(4) An offence against this section is a strict liability offence.

98 Compliance agreement not to be removed etc

(1) A person commits an offence if—

(a) a copy of a compliance agreement is displayed at a place; and

(b) the person removes, alters, damages, defaces or covers the copy while the agreement is operating.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

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Part 6.3 Improvement notices

99 Meaning of *relevant responsible person* for pt 6.3

In this part:

relevant responsible person, for an improvement notice, means the person to whom the inspector gives the notice.

100 Giving improvement notices

An inspector may give a notice (an ***improvement notice***) to a responsible person for a dangerous substance if the inspector believes, on reasonable grounds, that a person has contravened, is contravening, or is likely to contravene, this Act.

Note 1 For how documents may be served, see the Legislation Act, pt 19.5.

Note 2 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

101 Contents of improvement notices

(1) An improvement notice may require the relevant responsible person to do 1 or more of the following:

(a) put stated premises, plant or a system for handling the dangerous substance into a safe condition, including, for example, by repairing or replacing the premises, plant or system;

(b) prepare, implement or amend a safety management system in relation to the handling of the substance;

(c) take stated measures to carry out the requirements of a safety management system in relation to the handling of the substance;

(d) destroy or otherwise dispose of the substance;

(e) comply with a particular provision of this Act in relation to the handling of the substance;

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(f) do anything else to ensure that this Act is complied with in relation to the substance.

(2) Also, the improvement notice must—

(a) state that it is an improvement notice under this Act; and

(b) state the contravention of this Act in relation to which the notice is given; and

(c) state the period for complying with the notice; and

(d) include a statement to the effect that each person who is required to comply with a duty under this Act must comply with the duty whether or not someone else may also be responsible for complying with the duty.

(3) The improvement notice may include any other information the inspector considers appropriate.

102 Extension of time for compliance with improvement notices

(1) This section applies if a responsible person for a dangerous substance has been given an improvement notice.

(2) An inspector may, by written notice given to the responsible person, extend the compliance period for the improvement notice on the inspector's own initiative or if asked by the responsible person.

(3) However, the inspector may extend the compliance period only if the period has not ended.

(4) In this section:

compliance period means the period stated in the improvement notice under section 101 (2) (c), and includes that period as extended under this section.

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103 Notification and display of improvement notices

(1) This section applies to the relevant responsible person for an improvement notice.

(2) The person commits an offence if the person fails to—

(a) tell each person (an ***affected person***) whose work is affected by anything required to be done under the notice about the notice, including the things required to be done under it; or

(b) give a copy of the notice to each person in control of each of the premises where an affected person works.

Maximum penalty: 20 penalty units.

(3) The person commits an offence if the person fails to ensure that a copy of the notice is displayed, while the notice is in force, in a prominent place at or near each part of the premises affected by the contravention of this Act in relation to which the notice was given.

Maximum penalty: 20 penalty units.

(4) An offence against this section is a strict liability offence.

104 Improvement notice not to be removed etc

(1) A person commits an offence if—

(a) a copy of an improvement notice is displayed at a place; and

(b) the person removes, alters, damages, defaces or covers the copy while the notice is in force.

Maximum penalty: 20 penalty units.

(2) An offence against this section is a strict liability offence.

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105 Scope of improvement notices

(1) An improvement notice for a dangerous substance may relate to 1 or more of the following:

(a) premises, or part of premises, for handling the substance;

(b) plant or a system for handling the substance;

(c) handling the substance in a stated way or for a stated purpose.

Note ***Premises*** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

(2) A requirement in an improvement notice to destroy or otherwise dispose of a dangerous substance may state either or both of the following:

(a) how the substance must be destroyed or otherwise disposed of;

(b) how the substance must be kept until it is destroyed or otherwise disposed of.

Note A requirement to destroy or otherwise dispose of a substance may be made under s 101 (1) (d).

106 Revocation of improvement notice on compliance

If an inspector is satisfied that an improvement notice has been complied with, the inspector must revoke the notice by written notice given to the relevant responsible person.

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107 Contravention of improvement notices

(1) The relevant responsible person for an improvement notice commits an offence if the person fails to take all reasonable steps to comply with a requirement of the notice.

Maximum penalty: 100 penalty units.

Note If an improvement notice is given to 2 or more responsible people for a dangerous substance, each of them must comply with the notice (see s 21).

(2) An offence against this section is a strict liability offence.

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Part 6.4 Prohibition notices

108 Definitions for pt 6.4

In this part:

basis, for giving a prohibition notice, means—

(a) the contravention of this Act in relation to which the prohibition notice was given and the risk to be prevented or minimised under the notice (see section 109 (1)); or

(b) the contravention of the improvement notice in relation to which the prohibition notice was given (see section 109 (2) (a)); or

(c) the inspection, testing or monitoring to be allowed under the notice (see section 109 (2) (b) (i)); or

(d) the accident or other incident to be investigated under the notice (see section 109 (2) (b) (ii)).

relevant responsible person, for a prohibition notice, means the responsible person for the dangerous substance stated in the notice to whom the notice is given.

109 Giving prohibition notices

(1) An inspector may give a notice (a ***prohibition notice***) to a responsible person for a dangerous substance at premises if the inspector believes, on reasonable grounds, that—

(a) someone at the premises has contravened, is contravening, or is likely to contravene, this Act in relation to the substance; and

(b) giving the notice is necessary to prevent or minimise risk of serious harm to the health or safety of people, or substantial damage to property or the environment, from a hazard at the premises associated with the substance.

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(2) An inspector may also give a notice (also a ***prohibition notice***) to a responsible person for a dangerous substance at premises if the inspector believes, on reasonable grounds, that—

(a) someone at the premises has contravened, is contravening, or is likely to contravene, an improvement notice; or

(b) giving the notice is necessary to allow—

(i) the inspection, testing or monitoring of anything at the premises used in relation to the handling of the substance; or

(ii) the investigation of an accident or other incident (including a dangerous occurrence) at the premises in relation to the substance.

Example for par (2) (b) (i)

to allow for routine compliance testing of plant and systems if the responsible person has not voluntarily agreed to the plant or system being shut down for the test

Note 1 For how documents may be served, see the Legislation Act, pt 19.5.

Note 2 A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

110 Contents of prohibition notices

(1) A prohibition notice in relation to a dangerous substance at premises may require a responsible person for the substance not to do 1 or more of the following until the notice ends:

(a) use stated premises, plant, systems, substances or things;

(b) disturb stated premises, plant, systems, substances or things;

(c) something else at or in relation to the premises.

Note ***Premises*** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

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(2) Also, the prohibition notice—

(a) must state the following:

(i) that it is a prohibition notice under this Act;

(ii) the dangerous substance and premises to which the notice relate;

(iii) the basis for giving the notice; and

(b) if the notice is given under section 109 (1) or (2) (a) (which are about notices given to prevent or minimise risk of serious harm etc from contravention of this Act or the contravention of an improvement notice)—must include a statement to the effect that the relevant responsible person may ask for a reinspection of the situation or circumstances that caused the notice to be given if the person considers that the situation or circumstances comply with this Act; and

(c) if the notice is given under section 109 (2) (b) (which is about notices given to allow inspection, testing, monitoring and investigation)—must state the reasonable period that the inspector considers necessary to carry out the inspection, testing, monitoring or investigation to which the notice relates.

111 Extension of time for inspection etc

(1) This section applies if a prohibition notice is given under section 109 (2) (b).

(2) An inspector may, by written notice given to the relevant responsible person for the prohibition notice, extend the relevant period for the notice on the inspector's own initiative or if asked by the relevant responsible person.

(3) However, the inspector may extend the relevant period only if the period has not ended.

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(4) In this section:

relevant period means the period stated in the prohibition notice under section 110 (2) (c), and includes that period as extended under this section.

112 Notification and display of prohibition notices

(1) This section applies to the relevant responsible person for a prohibition notice.

(2) The person commits an offence if the person fails to—

(a) tell each person who works at the premises to which the notice relates about the notice, including anything required not to be done under it; or

(b) give a copy of the notice to each other responsible person for the dangerous substance to which the notice relates.

Maximum penalty: 20 penalty units.

(3) The person commits an offence if the person fails to ensure that a copy of the prohibition notice is displayed in a prominent place, at or near each part of the premises to which the notice relates, while the notice is in force.

Maximum penalty: 20 penalty units.

(4) An offence against this section is a strict liability offence.

113 Prohibition notice not to be removed etc

(1) A person commits an offence if—

(a) a copy of a prohibition notice is displayed at a place; and

(b) the person removes, alters, damages, defaces or covers the copy while the notice is in force.

Maximum penalty: 20 penalty units.

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(2) An offence against this section is a strict liability offence.

114 Scope of prohibition notices

A prohibition notice for a dangerous substance may relate to either or both of the following:

(a) plant or a system for handling the substance;

(b) handling of the substance in a stated way or for a stated purpose.

115 Ending of prohibition notices for contravention of Act etc

(1) This section applies to a prohibition notice if the notice was given under section 109 (1) or (2) (a) (which are about notices given to prevent or minimise risk of serious harm etc from contravention of this Act or the contravention of an improvement notice).

(2) The prohibition notice ends when the notice is revoked under section 117.

116 Request for reinspection

(1) This section applies to a prohibition notice given under section 109 (1) or (2) (a).

(2) The relevant responsible person for the prohibition notice may ask the work health and safety commissioner, in writing, for a reinspection of the situation or circumstances that caused the notice to be given if the person considers that the situation or circumstances comply with this Act.

(3) If the request relates to a vehicle or equipment, the vehicle or equipment must be made available for reinspection where it was originally inspected or at another place agreed to by an inspector.

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117 Revocation on reinspection

(1) This section applies if a request has been made under section 116.

(2) If the inspector who carries out the reinspection is satisfied that there are no grounds for the prohibition notice to continue to operate, the inspector may revoke the notice by written notice given to the relevant responsible person for the prohibition notice.

(3) Also, the prohibition notice is taken to be revoked on the 3rd business day after the day the request for reinspection is received by the work health and safety commissioner if—

(a) an inspector does not make the reinspection within 2 business days after day the request is received; and

(b) the person who made the request is not responsible, completely or partly, for the delay in making the reinspection.

Note For the meaning of ***business day***, see the Legislation Act, dict, pt 1.

(4) Subsection (3) does not prevent an improvement notice or another prohibition notice being given to the same person in relation to the same contravention of this Act.

118 Ending of prohibition notices given for inspection etc

(1) This section applies to a prohibition notice if the notice was given under section 109 (2) (b) (which is about notices given to allow inspection, testing, monitoring and investigation).

(2) The prohibition notice ends at the end of the period stated in the notice under section 110 (2) (c) (Contents of prohibition notices) or, if the period is extended under section 111, the end of the extended period.

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119 Contravention of prohibition notices

(1) The relevant responsible person for a prohibition notice commits an offence if the person fails to take all reasonable steps to ensure the notice is not contravened.

Maximum penalty: 200 penalty units.

(2) An offence against this section is a strict liability offence.

120 Request for compensation for prohibition notice

(1) This section applies if—

(a) a prohibition notice is given in relation to premises; and

(b) a person suffers loss or expense because of the giving of the notice; and

(c) the person considers that there were insufficient grounds for giving the notice.

(2) The person may apply, in writing, to the Minister for compensation.

(3) The application must give reasons why the person considers that there were insufficient grounds for giving the prohibition notice.

121 Compensation for prohibition notice

(1) This section applies if a person applies under section 120 for compensation in relation to the giving of a prohibition notice.

(2) If, after considering the application, the Minister is satisfied that there were insufficient grounds for giving the prohibition notice, the Territory must pay the person the reasonable compensation decided by the Minister.

(3) However, compensation is not payable to the person—

(a) in relation to any loss or expense suffered by the person because of an act or omission of the person; or

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(b) if the person caused or contributed to the situation or circumstances that caused the prohibition notice to be given.

(4) The Minister must give the person written notice of the Minister's decision on the application.

(5) If the Minister does not decide the application within 28 days after the day the Minister receives the application, the Minister is taken to have refused to pay compensation.

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Part 6.5 Enforceable undertakings

122 Definitions for pt 6.5

In this part:

alleged contravention—see section 123 (3) (b).

enforceable undertaking means a safety undertaking that has been accepted under section 124.

relevant person, for an enforceable undertaking, means the person who gave the undertaking.

safety undertaking—see section 123 (2).

123 Making of safety undertakings

(1) This section applies if the work health and safety commissioner alleges that a person has contravened a provision of this Act in relation to a dangerous substance.

Note A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

(2) The person may give the work health and safety commissioner a written undertaking (a ***safety undertaking***) to comply with the provision in relation to the substance.

(3) The safety undertaking must—

(a) state that it is an enforceable undertaking under this Act; and

(b) acknowledge that the work health and safety commissioner alleges that the person has contravened a stated provision of this Act (the ***alleged contravention***); and

(c) identify the facts and circumstances of the alleged contravention; and

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(d) include 1 or more undertakings relating to the alleged contravention; and

(e) include a statement to the effect that each person who is required to comply with a duty under this Act must comply with the duty whether or not someone else may also be responsible for complying with the duty.

Examples of undertakings

1 to cease a certain conduct

2 to take particular action to compensate people adversely affected by a contravention of this Act

3 to take particular action to rectify a state of affairs that arose as a direct or indirect result of the contravention

4 to take particular action (including implementing particular systems) to prevent future contraventions of this Act

5 to implement publicity or education programs

124 Acceptance of safety undertaking

(1) The work health and safety commissioner may accept a safety undertaking by written notice given to the person who gave the undertaking.

(2) On the acceptance of the safety undertaking, the undertaking becomes an enforceable undertaking.

125 Withdrawal from or amendment of enforceable undertaking

(1) A relevant person for an enforceable undertaking may withdraw from or amend the undertaking only with the work health and safety commissioner's written agreement.

(2) However, the enforceable undertaking may not be amended to provide for a different alleged contravention.

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126 Term of enforceable undertaking

(1) A safety undertaking is enforceable from the time it becomes an enforceable undertaking.

(2) The work health and safety commissioner may end an enforceable undertaking by written notice to the relevant person for the undertaking if satisfied that the undertaking is no longer necessary or desirable.

(3) The work health and safety commissioner may act under subsection (2) on the work health and safety commissioner's own initiative or on the application of the relevant person for the enforceable undertaking.

(4) The undertaking ends when the relevant person for the enforceable undertaking receives the work health and safety commissioner's notice.

127 Safety undertaking not admission of fault etc

(1) This section applies if a person gives the work health and safety commissioner a safety undertaking, whether or not the undertaking is accepted by the work health and safety commissioner.

(2) Giving the safety undertaking—

(a) is not an express or implied admission of fault or liability by the person in relation to the alleged contravention; and

(b) is not relevant to deciding fault or liability in relation to the alleged contravention.

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128 Contravention of enforceable undertakings

(1) If the work health and safety commissioner believes, on reasonable grounds, that an enforceable undertaking has been contravened by anyone, the work health and safety commissioner may apply to the Magistrates Court for an order under subsection (2).

(2) If the Magistrates Court is satisfied that the enforceable undertaking has been contravened, the court may make 1 or more of the following orders:

(a) an order requiring the relevant person for the undertaking to ensure that the undertaking is not contravened;

(b) an order requiring the relevant person for the undertaking to pay to the Territory the amount assessed by the court as the value of the benefits anyone derived, directly or indirectly, from the contravention of the undertaking;

(c) an order that the court considers appropriate requiring the relevant person for the undertaking to compensate someone who has suffered loss or damage because of the contravention of the undertaking;

(d) any other order that the court considers appropriate.

(3) A person commits an offence if the person fails to take all reasonable steps to comply with an order under subsection (2).

Maximum penalty: 200 penalty units.

(4) An offence against this section is a strict liability offence.

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Part 6.6 Injunctions

129 Injunctions to restrain offences against Act

(1) This section applies if a person has committed, is committing, or is likely to commit, an offence against this Act.

Note 1 A reference to an offence against a territory law includes a reference to a related ancillary offence, eg attempt (see Legislation Act, s 189).

Note 2 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

(2) The work health and safety commissioner or any other interested person may apply to the Magistrates Court for an injunction.

(3) On application under subsection (2), the Magistrates Court may grant an injunction restraining the person from contravening this Act (including by requiring the person to do something).

(4) The Magistrates Court may grant the injunction—

(a) whether or not it appears to the court that the person intends to contravene this Act, contravene this Act again or continue to contravene this Act; and

(b) whether or not the person has previously contravened this Act; and

(c) whether or not there is a likelihood of the health or safety of a person being affected by, or property or the environment being damaged by, a hazard if the person contravenes this Act; and

(d) whether or not a proceeding for an offence against this Act has begun or is about to begin.

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(5) The Magistrates Court may grant an interim injunction restraining the person from committing an offence against this Act (including requiring the person to do something) before deciding an application for an injunction under this section.

130 Enforcement of injunctions

The Magistrates Court has the same powers as the Supreme Court to enforce an injunction (including an interim injunction) made under this part.

131 Amendment or discharge of injunctions

The Magistrates Court may amend or discharge an injunction (including an interim injunction) made under this part on the application of the work health and safety commissioner or any other interested person.

132 Interim injunctions—undertakings about damages

(1) If the work health and safety commissioner applies for an injunction under this part, the Magistrates Court must not require the work health and safety commissioner to give an undertaking about costs or damages as a condition of granting an interim injunction.

(2) The Magistrates Court must accept an undertaking from the work health and safety commissioner about costs or damages, and not require a further undertaking from anyone else, if—

(a) the applicant for an injunction under this part is not the work health and safety commissioner; and

(b) the court would, apart from this subsection, require the applicant to give an undertaking about costs or damages; and

(c) the work health and safety commissioner gives the undertaking.

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133 Magistrates Court's other powers not limited

(1) The powers given to the Magistrates Court under this part are in addition to any other powers of the court.

(2) In particular, an application to the Magistrates Court for an injunction under this part may be made without notice to the person against whom the injunction is sought.

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Part 6.7 Taking and analysis of samples

134 Inspector may buy samples without complying with pt 6.7

This part does not stop an inspector from buying a sample of a substance for analysis for the routine monitoring of compliance with this Act without complying with the requirements of this part.

Note For the admissibility of the analysis of a sample of a substance taken by an inspector, see s 204.

135 Person in charge etc to be told sample to be analysed

(1) This section applies if an inspector proposes to take, or takes, a sample of a substance for analysis from premises where a dangerous substance is handled.

(2) Before or as soon as practicable after taking the sample, the inspector must tell a person in charge of the premises of the inspector's intention to have the sample analysed.

(3) If a person in charge is not present or readily available, the inspector must instead tell the person from whom the sample was obtained of the inspector's intention to have the sample analysed.

136 Payment for samples

(1) This section applies if an inspector takes a sample of a substance for analysis from premises where a dangerous substance is handled.

(2) The inspector must pay, or offer to pay, to the person from whom the sample is taken—

(a) the amount (if any) prescribed by regulation as the amount payable for the sample; or

(b) if no amount is prescribed—the current market value of the sample.

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137 Samples from packaged substances

If a package of a substance contains 2 or more smaller packages of the same substance, the inspector may take 1 of the smaller packages for analysis.

138 Procedures for dividing samples

(1) This section applies to a sample of a substance being taken by an inspector for analysis and is subject to section 139.

(2) The inspector must—

(a) divide the sample into 3 separate parts, and mark and seal or fasten each part; and

(b) leave 1 part with the person told under section 135 (Person in charge etc to be told sample to be analysed) of the inspector's intention to have the sample analysed; and

(c) keep 1 of the parts for analysis; and

(d) keep 1 part for future comparison with the other parts of the sample.

(3) If a sample of a substance taken by an inspector is in the form of separate or severable objects, the inspector—

(a) may take a number of the objects; and

(b) if the inspector takes a number of the objects, must—

(i) divide them into 3 parts each consisting of 1 or more of the objects, or of the severable parts of the objects, and mark and either seal or fasten each part; and

(ii) deal with the sample under subsection (2) (b) to (d).

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139 Exception to s 138

(1) This section applies to a sample of a substance being taken by an inspector for analysis if dividing the substance into 3 separate parts would, in the inspector's opinion—

(a) so affect or impair the composition or quality of the sample as to make the separate parts unsuitable for accurate analysis; or

(b) result in the separate parts being of an insufficient size for accurate analysis; or

(c) otherwise make the sample unsuitable for analysis (including a method of analysis prescribed by regulation for the substance in relation to which the sample was taken).

(2) The inspector may take as many samples as the inspector considers necessary to allow an accurate analysis to be made, and may deal with the sample or samples in any way that is appropriate in the circumstances, instead of complying with section 138.

140 Certificates of analysis by authorised analysts

(1) The analysis of a sample of a substance for the work health and safety commissioner must be carried out by, or under the supervision of, an authorised analyst.

(2) The authorised analyst must give to the work health and safety commissioner a certificate of analysis that—

(a) is signed and dated by the analyst; and

(b) contains a written report of the analysis that sets out the findings; and

(c) identifies the method of analysis.

Note For the evidentiary status of a certificate under this section, see s 203.

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Chapter 7 Enforcement powers

Part 7.1 General

141 Definitions for ch 7

In this chapter:

connected—a thing is ***connected*** with an offence if—

(a) the offence has been committed in relation to it; or

(b) it will provide evidence of the commission of the offence; or

(c) it was used, is being used, or is intended to be used, to commit the offence.

data includes—

(a) information in any form; and

(b) a program (or part of a program).

data storage device means a thing containing, or designed to contain, data for use by a computer.

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

person assisting, in relation to a search warrant, means a person who has been authorised by an inspector to assist in executing the warrant.

search warrant means a warrant issued under part 7.3 (Search warrants) that is in force.

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Part 7.2 General powers of inspectors

142 General power to enter premises

(1) For this Act, an inspector may—

(a) at any reasonable time, enter premises that the inspector believes, on reasonable grounds, are—

(i) premises used in relation to the handling of dangerous substances; or

(ii) premises where there are documents relating to the handling of dangerous substances or plant or a system for handling dangerous substances; or

(b) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or

(c) at any time, enter premises with the consent of a person in charge of the premises; or

(d) enter premises in accordance with a search warrant; or

(e) at any time, enter premises if the inspector believes, on reasonable grounds, that the circumstances are of such seriousness and urgency as to require immediate entry to the premises without the authority of a search warrant.

Note ***Premises*** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

(2) However, subsection (1) (a) does not authorise entry into a part of premises that is being used only for residential purposes unless that part of the premises is being used in relation to the handling of dangerous substances.

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(3) For subsection (1), an inspector may stop and detain a vehicle that the inspector believes, on reasonable grounds—

(a) is carrying dangerous substances; or

(b) contains documents relating to the handling of dangerous substances or plant or a system for handling dangerous substances.

(4) For subsection (3), the inspector—

(a) may direct the driver of the vehicle to move the vehicle to a place (or another place) to which the public has access; and

(b) may exercise the inspector's powers in relation to the vehicle at the place; and

(c) must not detain the vehicle for longer than is reasonably necessary to exercise the inspector's powers under this chapter.

(5) An inspector may, without the consent of a person in charge of premises, enter the land around the premises to ask for consent to enter the premises.

(6) To remove any doubt, an inspector may enter premises under subsection (1) without payment of any entry fee or other charge.

(7) For subsection (1) (e), the inspector may enter the premises with any necessary assistance and force.

(8) In this section:

at any reasonable time means at any time—

(a) for subsection (1) (a) (i)—during normal business hours or any other time when the premises are being used in relation to the handling of dangerous substances; or

(b) for subsection (1) (a) (ii)—during normal business hours; or

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(c) for subsection (1) (b)—when the public is entitled to use the premises, or when the premises are open to or used by the public, whether or not on payment of money.

143 Production of identity card

An inspector must not remain at premises entered under this chapter if the inspector does not produce his or her identity card for inspection when asked by a person in charge of the premises.

144 Consent to entry

(1) When seeking the consent of a person in charge of premises to enter the premises under section 142 (1) (c) (General power to enter premises), an inspector must—

(a) produce his or her identity card; and

(b) tell the person—

(i) the purpose of the entry; and

(ii) that anything found and seized under this chapter may be used in evidence in court; and

(iii) that consent may be refused.

(2) If the person in charge consents, the inspector must ask the person to sign a written acknowledgment (an ***acknowledgment of consent***)—

(a) that the person was told—

(i) the purpose of the entry; and

(ii) that anything found and seized under this chapter may be used in evidence in court; and

(iii) that consent may be refused; and

(b) that the person consented to the entry; and

(c) stating the time and date when consent was given.

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(3) If the person in charge signs an acknowledgment of consent, the inspector must immediately give a copy to the person.

(4) A court must find that a person in charge of premises did not consent to an entry to the premises by an inspector under this chapter if—

(a) the question whether the person consented to the entry arises in a proceeding in the court; and

(b) an acknowledgment of consent for the entry is not produced in evidence for the entry; and

(c) it is not proved that the person consented to the entry.

145 General powers of inspectors—premises

An inspector who enters premises under this chapter may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:

(a) examine anything at the premises;

(b) examine and copy, or take extracts from, documents relating to—

(i) the handling of dangerous substances; or

(ii) plant or a system used for handling dangerous substances; or

(iii) a contravention, or possible contravention, of this Act;

(c) examine and copy, or take extracts from, any packaging, labelling or advertising material;

(d) open (or require to be opened) any container or package that the inspector believes, on reasonable grounds—

(i) contains a dangerous substance or equipment; or

(ii) is, or has been, used in relation to the carrying of a dangerous substance;

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(e) open or operate (or require to be opened or operated) plant or a system;

(f) take for analysis samples of water, soil or anything else that is part of the environment to find out whether the environment poses a risk to the health or safety of people;

(g) subject to part 6.7 (Taking and analysis of samples), take for analysis samples of anything else (including any substance) at the premises;

(h) carry out any other examination to find out whether this Act has been, or is being, complied with;

(i) take measurements, conduct tests and make sketches, drawings or any other kind of record (including photographs, films, or audio, video or other recordings);

(j) under section 152, seize a thing at the premises;

(k) take onto the premises any people, equipment or material the inspector reasonably needs to exercise a power under this Act;

(l) require a person in charge of the premises, or anyone at the premises, to give information, answer questions, or produce documents or anything else, reasonably needed to exercise the inspector's functions under this Act;

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

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(m) require a person in charge of the premises, or anyone at the premises, to give the inspector reasonable assistance to exercise a function under this chapter.

Note 1 ***At*** premises includes in or on the premises (see dict).

Note 2 ***Examine*** includes inspect, weigh, count, test or measure (see dict).

Note 3 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

146 General powers of inspectors for public places

(1) An inspector may exercise 1 or more of the powers mentioned in section 145 in relation to a substance at a public place if the inspector suspects, on reasonable grounds, that the substance is a dangerous substance.

(2) This Act applies in relation to the exercise of a power under subsection (1) as if—

(a) the public place were premises entered by the inspector under this chapter; and

(b) all other necessary changes were made.

(3) Without limiting subsection (2), if a person is required to do something by an inspector under subsection (1), the person need not comply with the requirement if the inspector does not produce his or her identity card for inspection when asked by the person.

(4) However, subsection (3) does not apply in relation to an inspector who is a police officer in uniform.

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147 Contravention of requirement by inspector

A person must take all reasonable steps to comply with a requirement made of the person under section 145 (l) or (m) (including a requirement made in relation to a substance at a public place).

Maximum penalty: 50 penalty units.

Note The Legislation Act, s 170 and s 171 deal with the application of the privilege against self-incrimination and client legal privilege.

148 Power to take action to prevent etc imminent risk

(1) This section applies if an inspector believes, on reasonable grounds that—

(a) there is an imminent risk of serious harm to a person, or of substantial damage to property or the environment, in relation to a dangerous substance at premises or from plant or a system for handling a dangerous substance at the premises; and

(b) it is necessary for the inspector to take action without delay to prevent or minimise the risk.

Note 1 ***At*** premises includes in or on the premises (see dict).

Note 2 ***Premises*** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle (see dict).

(2) This section applies even if an inspector has given a responsible person for the premises an improvement or prohibition notice in relation to the premises and the time for complying with the notice has not ended.

(3) The inspector may take the action the inspector believes, on reasonable grounds, is necessary to prevent or minimise the risk.

(4) For subsection (3), the inspector may enter the premises with any necessary assistance and force.

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(5) In deciding the action to be taken, the inspector must, to the extent that is reasonably practicable, consult with a person in charge of the premises and the work health and safety commissioner.

(6) The action an inspector may take includes asking someone the inspector believes, on reasonable grounds, has appropriate knowledge and experience to help the inspector prevent or minimise the risk.

(7) If an inspector asks someone to help under subsection (6), the person is taken to have the powers of an inspector to the extent reasonably necessary for the person to help prevent or minimise the risk.

(8) The power to enter premises under this section is additional to the powers under section 142 (General power to enter premises).

149 Report about action under s 148

As soon as practicable after taking action under section 148, an inspector must—

(a) prepare a report that outlines why the action was taken, the action that was taken and any damage to property because of the action; and

(b) give a copy of the report to a person in charge of the premises and the work health and safety commissioner.

150 Recovery of Territory's costs for action under s 148

(1) This section applies if an inspector takes action under section 148 (3) (Power to take action to prevent etc imminent risk) to prevent or minimise a risk.

(2) Costs incurred by the Territory in relation to the action are a debt owing to the Territory by, and are recoverable together and separately from, the following people:

(a) the person who owned the dangerous substance to which the risk related;

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(b) each person in control of the premises where the action was taken;

(c) the person who caused the risk.

(3) However, costs are not recoverable from a person if the person establishes that—

(a) the risk was caused by the act or omission of someone other than the person or the person's employee or agent; and

(b) reasonable precautions were taken and appropriate diligence was exercised by the person to avoid the act or omission.

(4) This section does not limit the powers the Territory has apart from this Act.

151 Power of entry etc in relation to dangerous occurrences

(1) This section applies if an inspector believes, on reasonable grounds, that a dangerous occurrence has happened, is happening or is about to happen at premises.

(2) The inspector may enter the premises to investigate the dangerous occurrence, ensure the premises are safe and prevent the concealment, loss or destruction of anything reasonably relevant to the investigation of the occurrence.

(3) For subsection (2), the inspector may enter the premises with any necessary assistance and force.

(4) The inspector may do anything reasonably necessary for a purpose mentioned in subsection (2).

(5) If an inspector acts under this section in the absence of a person in charge of the premises, the inspector must, when leaving the premises, leave a written notice, secured in a conspicuous place, setting out—

(a) the inspector's name; and

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(b) the time and date of the entry; and

(c) the purpose of the entry; and

(d) how to contact the inspector.

(6) The power to enter premises under this section is additional to the powers under section 142 (General power to enter premises).

152 Power to seize things

(1) An inspector who enters premises under this chapter with the consent of a person in charge of the premises may seize anything at the premises if—

(a) the inspector is satisfied, on reasonable grounds, that the thing is connected with an offence against this Act; and

(b) seizure of the thing is consistent with the purpose of the entry told to the person when seeking the person's consent.

(2) An inspector who enters premises under a warrant issued under this chapter may seize anything at the premises that the inspector is authorised to seize under the warrant.

(3) An inspector who enters premises under this chapter (whether with the consent of a person in charge of the premises, under a warrant or otherwise) may seize anything at the premises if satisfied, on reasonable grounds, that—

(a) the thing is connected with an offence against this Act; and

(b) the seizure is necessary to prevent the thing from being—

(i) concealed, lost or destroyed; or

(ii) used to commit, continue or repeat the offence.

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(4) Also, an inspector who enters premises under this chapter (whether with the consent of a person in charge of the premises, under a warrant or otherwise) may seize anything at the premises if satisfied, on reasonable grounds, that the thing poses a risk to the health or safety of people or of damage to property or the environment.

(5) The powers of an inspector under subsections (3) and (4) are additional to any powers of the inspector under subsection (1) or (2) or any other territory law.

153 Action in relation to thing seized

(1) This section applies if an inspector has seized a thing at premises (the ***place of seizure***) under section 152.

(2) The inspector may—

(a) remove the thing from the place of seizure to another place; or

(b) leave the thing at the place of seizure but restrict access to it; or

(c) for a thing mentioned in section 154 (1)—destroy or otherwise dispose of the thing under section 154 (5) (Power to destroy unsafe things).

Example of how access may be restricted

The inspector may—

(a) place the seized thing in a room or other enclosed area, compartment or cabinet at the place of seizure; and

(b) fasten and seal the door or opening providing access to the room, area, compartment or cabinet; and

(c) mark the door or opening in a way that indicates that access to it has been restricted under this Act.

(3) A person commits an offence if—

(a) the person interferes with a seized thing, or anything containing a seized thing, to which access has been restricted under subsection (2); and

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(b) the person does not have an inspector's approval to interfere with the thing.

Maximum penalty: 100 penalty units.

(4) An offence against this section is a strict liability offence.

154 Power to destroy unsafe things

(1) This section applies to anything inspected or seized under this chapter by an inspector if the inspector is satisfied, on reasonable grounds, that the thing poses a risk to the health or safety of people or of damage to property or the environment.

(2) The inspector may require a person in charge of the premises where the thing is to destroy or otherwise dispose of the thing.

(3) The requirement may state 1 or more of the following:

(a) how the thing must be destroyed or otherwise disposed of;

(b) how the thing must be kept until it is destroyed or otherwise disposed of;

(c) the period within which the thing must be destroyed or otherwise disposed of.

(4) A person in charge of the premises where the thing is commits an offence if the person contravenes a requirement given to the person under subsection (2).

Maximum penalty: 100 penalty units.

(5) Alternatively, if the thing has been seized under this chapter, the inspector may destroy or otherwise dispose of the thing.

(6) Costs incurred by the Territory in relation to the disposal of a thing under subsection (5) are a debt owing to the Territory by, and are recoverable together and separately from, the following people:

(a) the person who owned the thing;

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(b) each person in control of the premises where the thing was.

(7) An offence against this section is a strict liability offence.

155 Power to require name and address

(1) An inspector may require a person to state the person's name and home address if the inspector suspects, on reasonable grounds, that the person is committing, is about to commit, or has just committed, an offence against this Act.

Note A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

(2) If an inspector makes a requirement of a person under subsection (1), the inspector must—

(a) tell the person the reasons for the requirement; and

(b) as soon as practicable, record the reasons.

(3) A person commits an offence if the person contravenes a requirement under subsection (1).

Maximum penalty: 10 penalty units.

(4) However, a person is not required to comply with a requirement under subsection (1) if, when asked by the person, the inspector does not produce his or her identity card for inspection by the person.

(5) Subsection (4) does not apply in relation to an inspector who is a police officer in uniform.

(6) An offence against this section is a strict liability offence.

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156 Inspector's power to require production of licence

(1) This section applies if—

(a) an inspector suspects, on reasonable grounds, that the person is handling, is about to handle, or has just handled, a dangerous substance; and

(b) a regulation requires the handling to be authorised under a licence.

(2) The inspector may require the person to produce for inspection any licence that authorises the person to handle the dangerous substance.

(3) If an inspector makes a requirement of a person under subsection (2), the inspector must—

(a) tell the person the reasons for the requirement; and

(b) as soon as practicable, record the reasons.

(4) A person commits an offence if the person contravenes a requirement under subsection (2).

Maximum penalty: 5 penalty units.

(5) However, a person is not required to comply with a requirement under subsection (2) if, when asked by the person, the inspector does not produce his or her identity card for inspection by the person.

(6) Subsection (5) does not apply in relation to an inspector who is a police officer in uniform.

(7) An offence against this section is a strict liability offence.

(8) In this section:

licence includes an authority (however described) issued under a corresponding law that, under a regulation, authorises a person to handle a dangerous substance.

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Part 7.3 Search warrants

157 Warrants generally

(1) An inspector may apply to a magistrate for a warrant to enter premises.

(2) The application must be sworn and state the grounds on which the warrant is sought.

(3) The magistrate may refuse to consider the application until the inspector gives the magistrate all the information the magistrate requires about the application in the way the magistrate requires.

(4) The magistrate may issue a warrant only if satisfied there are reasonable grounds for suspecting—

(a) there is a particular thing or activity connected with an offence against this Act; and

(b) the thing or activity is, or is being engaged in, at the premises, or may be, or may be engaged in, at the premises within the next 14 days.

Note ***At*** premises includes in or on the premises (see dict).

(5) The warrant must state—

(a) that an inspector may, with any necessary assistance and force, enter the premises and exercise the inspector's powers under this chapter; and

(b) the offence for which the warrant is issued; and

(c) the things that may be seized under the warrant; and

(d) the hours when the premises may be entered; and

(e) the date, within 14 days after the day of the warrant's issue, that the warrant ends.

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(6) In this section:

connected—an activity is ***connected*** with an offence if—

(a) the offence has been committed by engaging or not engaging in it; or

(b) it will provide evidence of the commission of the offence.

Note For the meaning of thing ***connected*** with an offence, see s 141.

158 Warrants—application made other than in person

(1) An inspector may apply for a warrant by phone, fax, radio or other form of communication if the inspector considers it necessary because of—

(a) urgent circumstances; or

(b) other special circumstances.

(2) Before applying for the warrant, the inspector must prepare an application stating the grounds on which the warrant is sought.

(3) The inspector may apply for the warrant before the application is sworn.

(4) After issuing the warrant, the magistrate must immediately provide a written copy to the inspector if it is practicable to do so.

(5) If it is not practicable to provide a written copy to the inspector—

(a) the magistrate must—

(i) tell the inspector what the terms of the warrant are; and

(ii) tell the inspector the date and time the warrant was issued; and

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(b) the inspector must complete a form of warrant (the ***warrant form***) and write on it—

(i) the magistrate's name; and

(ii) the date and time the magistrate issued the warrant; and

(iii) the warrant's terms.

(6) The written copy of the warrant, or the warrant form properly completed by the inspector, authorises the entry and exercise of the inspector's powers under this chapter.

(7) The inspector must, at the first reasonable opportunity, send to the magistrate—

(a) the sworn application; and

(b) if the inspector completed a warrant form—the completed warrant form.

(8) On receiving the documents, the magistrate must attach them to the warrant.

(9) A court must find that a power exercised by an inspector was not authorised by a warrant under this section if—

(a) the question arises in a proceeding before the court whether the exercise of power was authorised by a warrant; and

(b) the warrant is not produced in evidence; and

(c) it is not proved that the exercise of power was authorised by a warrant under this section.

159 Search warrants—announcement before entry

(1) An inspector must, before anyone enters premises under a search warrant—

(a) announce that the inspector is authorised to enter the premises; and

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(b) give anyone at the premises an opportunity to allow entry to the premises; and

(c) if a person in charge of the premises, or someone else who apparently represents the person, is present at the premises—identify himself or herself to the person.

(2) The inspector is not required to comply with subsection (1) if the inspector believes, on reasonable grounds, that immediate entry to the premises is required to ensure—

(a) the safety of anyone (including the inspector or any person assisting); or

(b) that the effective execution of the warrant is not frustrated.

160 Details of search warrant to be given to person in charge etc

If a person in charge of the premises, or someone else who apparently represents the person, is present at the premises while a search warrant is being executed, the inspector or a person assisting must make available to the person—

(a) a copy of the warrant; and

(b) a document setting out the rights and obligations of the person.

161 Person in charge entitled to be present during search etc

(1) If a person in charge of premises, or someone else who apparently represents the person, is present at the premises while a search warrant is being executed, the person in charge or the other person is entitled to observe the search being conducted.

(2) However, the person is not entitled to observe the search if—

(a) to do so would impede the search; or

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(b) the person is under arrest, and allowing the person to observe the search being conducted would interfere with the objectives of the search.

(3) This section does not prevent 2 or more areas of the premises being searched at the same time.

162 Moving things to another place for examination or processing

(1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—

(a) both of the following apply:

(i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;

(ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or

(b) a person in charge of the premises agrees in writing.

(2) The thing may be moved to another place for examination or processing for no longer than 72 hours.

(3) An inspector may apply to a magistrate for an extension of time if the inspector believes, on reasonable grounds, that the thing cannot be examined or processed within 72 hours.

(4) The inspector must give notice of the application to a person in charge of the premises, and the person is entitled to be heard on the application.

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(5) If a thing is moved to another place under this section, the inspector must, if practicable—

(a) tell a person in charge of the premises the address of the place where, and time when, the examination or processing will be carried out; and

(b) allow the person or the person's representative to be present during the examination or processing.

(6) The provisions of this chapter relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

163 Use of electronic equipment at premises

(1) An inspector or a person assisting may operate electronic equipment at premises entered under a search warrant to access data (including data not held at the premises) if the inspector or person believes, on reasonable grounds, that—

(a) the data might be something to which the warrant relates; and

(b) the equipment can be operated without damaging the data.

(2) If the inspector or person assisting believes, on reasonable grounds, that any data accessed by operating the electronic equipment might be something to which the warrant relates, the inspector or person may—

(a) copy the data to a data storage device brought to the premises; or

(b) if a person in charge of the premises agrees in writing—copy the data to a data storage device at the premises.

(3) The inspector or person assisting may take the device from the premises.

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(4) The inspector or person assisting may do the following things if the inspector or person finds that anything to which the warrant relates (the ***material***) is accessible using the equipment:

(a) seize the equipment and any data storage device;

(b) if the material can, by using facilities at the premises, be put in documentary form—operate the facilities to put the material in that form and seize the documents produced.

(5) An inspector may seize equipment under subsection (4) (a) only if—

(a) it is not practicable to copy the data as mentioned in subsection (2) or to put the material in documentary form as mentioned in subsection (4) (b); or

(b) possession of the equipment by a person in charge of the premises or someone else could be an offence.

164 Person with knowledge of computer or computer system to assist access etc

(1) An inspector may apply to a magistrate for an order requiring a stated person to provide any information or assistance that is reasonably necessary to allow the inspector or a person assisting to do 1 or more of the following:

(a) access data held in or accessible from a computer that is at the premises;

(b) copy the data to a data storage device;

(c) convert the data into documentary form.

(2) The magistrate may make an order if satisfied that—

(a) there are reasonable grounds for suspecting that something to which the warrant relates is accessible from the computer; and

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(b) the stated person is—

(i) reasonably suspected of possessing, or having under the person's control, something to which the warrant relates; or

(ii) the owner or lessee of the computer; or

(iii) an employee or agent of the owner or lessee of the computer; and

(c) the stated person has knowledge of—

(i) the computer or a computer network of which the computer forms a part; or

(ii) measures applied to protect data held in or accessible from the computer.

(3) A person commits an offence if the person contravenes an order under this section.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(4) The provisions of this chapter relating to the issue of search warrants apply, with any necessary changes, to the making of an order under this section.

165 Securing electronic equipment

(1) This section applies if the inspector or a person assisting believes, on reasonable grounds, that—

(a) something to which the warrant relates (the ***material***) may be accessible by operating electronic equipment at the premises; and

(b) expert assistance is required to operate the equipment; and

(c) the material may be destroyed, altered or otherwise interfered with if the inspector or person does not take action.

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(2) The inspector or person may do whatever is necessary to secure the equipment, whether by locking it up, placing a guard or otherwise.

(3) The inspector or a person assisting must give written notice to a person in charge of the premises of—

(a) the inspector's or person's intention to secure the equipment; and

(b) the fact that the equipment may be secured for up to 24 hours.

(4) The equipment may be secured until the earlier of the following events happens:

(a) the end of the 24-hour period;

(b) the equipment is operated by the expert.

(5) If the inspector or a person assisting believes on reasonable grounds that the expert assistance will not be available within the 24-hour period, the inspector or person may apply to a magistrate to extend the period.

(6) The inspector or a person assisting must tell a person in charge of the premises of the intention to apply for an extension, and the person is entitled to be heard on the application.

(7) The provisions of this chapter relating to the issue of search warrants apply, with any necessary changes, to the giving of an extension under this section.

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166 Copies of seized things to be provided

(1) This section applies if—

(a) a person in charge of premises, or someone else who apparently represents the person, is present at the premises while a search warrant is executed; and

(b) the inspector seizes—

(i) a document, film, computer file or something else that can be readily copied; or

(ii) a data storage device containing information that can be readily copied.

(2) The person in charge or other person may ask the inspector to give the person a copy of the thing or information.

(3) The inspector must give the person the copy as soon as practicable after the seizure.

(4) However, the inspector is not required to give the copy if—

(a) the thing was seized under section 163 (Use of electronic equipment at premises); or

(b) possession of the thing or information by a person in charge of the premises or someone else would be an offence.

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Part 7.4 Return and forfeiture of things seized

167 Receipt for things seized

(1) As soon as practicable after a thing is seized by an inspector under this chapter, the inspector must give a receipt for it to the person from whom it was seized.

(2) If, for any reason, it is not practicable to comply with subsection (1), the inspector must leave the receipt, secured conspicuously, at the place of seizure under section 153 (1) (Action in relation to thing seized).

(3) A receipt under this section must include the following:

(a) a description of the thing seized;

(b) an explanation of why the thing was seized;

(c) an explanation of the person's right to apply to a court under section 170 for an order disallowing the seizure;

(d) if the thing is removed from the premises where it is seized—where the thing is to be taken to;

(e) the inspector's name, and how to contact the inspector.

168 Access to things seized

(1) This section applies to a document or anything else seized under this chapter.

(2) If asked by a person who would be entitled to inspect the thing if it were not seized under this chapter, an inspector must allow the person, at any reasonable time—

(a) for a document—to inspect it, take extracts from it or make copies of it; and

(b) for anything else—to inspect it.

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(3) This section does not apply to—

(a) a thing seized under section 152 (4) (which is about the seizure of a thing that poses a risk to the health or safety of people or of damage to property or the environment); or

(b) a thing seized under section 163 (Use of electronic equipment at premises); or

(c) a thing or information if possession of it by the person otherwise entitled to inspect it would be an offence.

169 Return of things seized

(1) A thing seized under this chapter must be returned to its owner, or reasonable compensation must be paid to the owner by the Territory for the loss of the thing, if—

(a) an infringement notice for an offence connected with the thing is not served on the owner within 1 year after the day of the seizure and either—

(i) a prosecution for an offence connected with the thing is not begun within the 1-year period; or

(ii) a prosecution for an offence connected with the thing is begun within the 1-year period but the court does not find the offence proved; or

(b) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, the infringement notice is withdrawn and—

(i) a prosecution for an offence connected with the thing is not begun within the 1-year period; or

(ii) a prosecution for an offence connected with the thing is begun within the 1-year period but the court does not find the offence proved; or

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(c) an infringement notice for an offence connected with the thing is served on the owner within 1 year after the day of the seizure, liability for the offence is disputed in accordance with the *Magistrates Court Act 1930*, section 132 (Disputing liability for infringement notice offence) and—

(i) an information is not laid in the Magistrates Court against the person for the offence within 60 days after the day notice is given under section 132 that liability is disputed; or

(ii) the Magistrates Court does not find the offence proved; or

(d) before the thing is forfeited to the Territory under section 173 (Forfeiture of seized things), the work health and safety commissioner—

(i) becomes satisfied that there has been no offence against this Act with which the thing was connected; or

(ii) decides not to prosecute or serve an infringement notice for the offence.

(2) However, this section does not apply—

(a) to a thing seized under section 152 (4) (which is about the seizure of things that pose a risk to the health or safety of people or of damage to property or the environment)); or

(b) to a thing if the work health and safety commissioner believes, on reasonable grounds, that the only practical use of the thing in relation to the premises where it was seized would be an offence against this Act; or

(c) to a thing if possession of it by its owner would be an offence.

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170 Application for order disallowing seizure

(1) A person claiming to be entitled to anything seized under this chapter may apply to the Magistrates Court within 10 days after the day of the seizure for an order disallowing the seizure.

(2) However, this section does not apply to a thing seized under section 152 (4) (which is about the seizure of things that pose a risk to the health or safety of people or of damage to property or the environment).

(3) The application may be heard only if the applicant has served a copy of the application on the work health and safety commissioner.

(4) The work health and safety commissioner is entitled to appear as respondent at the hearing of the application.

171 Order for return of seized thing

(1) This section applies if a person claiming to be entitled to anything seized under this chapter applies to the Magistrates Court under section 170 for an order disallowing the seizure.

(2) The Magistrates Court must make an order disallowing the seizure if the court is satisfied that—

(a) the applicant would, apart from the seizure, be entitled to the return of the seized thing; and

(b) the thing is not connected with an offence against this Act; and

(c) possession of the thing by the person would not be an offence.

(3) The Magistrates Court may also make an order disallowing the seizure if satisfied there are exceptional circumstances justifying the making of the order.

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(4) If the Magistrates Court makes an order disallowing the seizure, the court may make 1 or more of the following ancillary orders:

(a) an order directing the work health and safety commissioner to return the thing to the applicant or to someone else that appears to be entitled to it;

(b) if the thing cannot be returned or has depreciated in value because of the seizure—an order directing the Territory to pay reasonable compensation;

(c) an order about the payment of costs in relation to the application.

172 Adjournment pending hearing of other proceedings

(1) This section applies to the hearing of an application under section 170 (Application for order disallowing seizure).

(2) If it appears to the Magistrates Court that the seized thing is required to be produced in evidence in a pending proceeding in relation to an offence against a territory law, the court may, on the application of the work health and safety commissioner or its own initiative, adjourn the hearing until the end of that proceeding.

173 Forfeiture of seized things

(1) This section applies if—

(a) anything seized under this chapter has not been destroyed or otherwise disposed of under section 154 (Power to destroy unsafe things) or returned under section 169 (Return of things seized); and

(b) an application for disallowance of the seizure under section 170 (Application for order disallowing seizure)—

(i) has not been made within 10 days after the day of the seizure; or

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(ii) has been made within that period, but the application has been refused or has been withdrawn before a decision in relation to the application had been made.

(2) If this section applies to the seized thing—

(a) it is forfeited to the Territory; and

(b) it may be sold, destroyed or otherwise disposed of as the work health and safety commissioner directs.

174 Return of forfeited things

(1) This section applies to something forfeited under section 173 that has not been disposed of in a way that would prevent its return.

(2) If the work health and safety commissioner becomes satisfied that there has been no offence against this Act with which the thing was connected, the work health and safety commissioner must, as soon as practicable, return the thing to the person from whom it was seized or someone else who appears to the work health and safety commissioner to be entitled to it.

(3) On its return, any proprietary and other interests in the thing that existed immediately before its forfeiture are restored.

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175 Cost of disposal of things forfeited

(1) This section applies if—

(a) a person is convicted, or found guilty, of an offence against this Act in relation to something forfeited to the Territory under this chapter; and

(b) the thing was connected with an offence against this Act; and

(c) the person was the owner of the thing immediately before its forfeiture.

Note For the meaning of ***found guilty***, see the Legislation Act, dict, pt 1.

(2) If this section applies, costs incurred by or on behalf of the Territory in relation to the lawful disposal of the thing (including storage costs) are a debt owing to the Territory by the person.

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Part 7.5 Other enforcement provisions

176 Damage etc to be minimised

(1) In the exercise, or purported exercise, of a function under this chapter, an inspector must take all reasonable steps to ensure that the inspector, and any person assisting, causes as little inconvenience, detriment and damage as is practicable.

(2) If an inspector, or a person assisting, damages anything in the exercise or purported exercise of a function under this chapter, the inspector must give written notice of particulars of the damage to the person whom the inspector believes, on reasonable grounds, is the owner of the thing.

(3) If the damage happens at premises entered under this chapter in the absence of a person in charge of the premises, the notice may be given by leaving it secured in a conspicuous place at the premises.

177 Compensation to be paid in certain circumstances

(1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this chapter by an inspector or person assisting.

(2) Compensation may be claimed and ordered in a proceeding for—

(a) compensation brought in a court of competent jurisdiction; or

(b) an order under section 170 (Application for order disallowing seizure); or

(c) an offence against this Act brought against the person making the claim for compensation.

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(3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

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Chapter 8 Emergency powers

178 Meaning of *recall order* for ch 8

In this chapter:

recall order means an emergency order requiring the recall or disposal, or both, of a dangerous substance.

179 Emergency orders

The Minister may, in writing, make an order (an ***emergency order***) if the Minister believes, on reasonable grounds, that the order is necessary to prevent or minimise a risk of serious harm to the health or safety of people, or substantial damage to property or the environment, from a hazard associated with a dangerous substance.

Note An order may be made in relation to a particular kind of dangerous substance (see Legislation Act, s 48).

180 Nature of emergency orders

An emergency order in relation to a dangerous substance may do 1 or more of the following:

(a) require the publication of warnings, in a form approved by the Minister, that the substance is unsafe;

(b) prohibit the handling of the substance or particular kinds of handling of the substance, including, for example, the sale of the substance;

(c) prohibit the advertising of the substance;

(d) require the recall of the substance if it has been consigned or distributed for sale or sold and state how, and the period within which, the recall is to be conducted;

(e) require the destruction or other disposal of the substance, and state how the disposal is to be done;

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(f) prohibit absolutely the carrying on of an activity in relation to the substance, or permit the carrying on of the activity only in accordance with conditions stated in the order;

(g) require the taking and analysis of samples of the substance or of water, soil or anything else that is part of the environment where the activity is or has been engaged in in relation to the substance;

(h) require that stated methods be used for analysis of any samples required to be taken in accordance with the order.

181 Special provisions for recall orders

(1) A recall order in relation to a dangerous substance may require a person bound by the order to tell the public (or a stated part of the public), in a stated way, 1 or more of the following:

(a) the substance to be recalled or disposed of;

(b) the reasons why the substance is considered to be a hazard;

(c) the circumstances in which the substance may cause a risk;

(d) procedures for disposing of the substance.

(2) A person who is required by a recall order to recall a dangerous substance must give written notice to the work health and safety commissioner of the completion of the recall as soon as practicable after its completion.

(3) A person bound by a recall order is liable to the Territory for any costs incurred by the Territory in relation to the recall order.

Note An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

(4) In a proceeding for the recovery of any costs, a certificate signed by the work health and safety commissioner stating the amount of the costs, and how they were incurred, is evidence of the matters stated in the certificate.

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182 How emergency orders are made

(1) An emergency order may be addressed to—

(a) a person or 2 or more people; or

(b) a class of people or the general public.

(2) A copy of an emergency order mentioned in subsection (1) (a) must be served on the person or people to whom it is addressed.

Note For how documents may be served, see the Legislation Act, pt 19.5.

(3) As soon as practicable after an emergency order mentioned in subsection (1) (b) is made, the Minister must give public notice of the order in a way that, in the Minister's opinion, will be most likely to bring the order to the attention of the people to be bound by it.

Note ***Public notice*** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see Legislation Act, dict, pt 1).

(4) The notice must set out the terms of the order and the people to be bound by it.

(5) An emergency order, when it takes effect, is binding on the person or people to whom it is addressed.

(6) An emergency order that is served on a person takes effect in relation to the person when it is served on the person.

(7) An emergency order that is published under subsection (3) takes effect on the day after the day the order's 1st published under that subsection.

(8) An order ends at the end of 90 days after the day it takes effect unless it is sooner revoked.

(9) Subsection (8) does not prevent a further order being made in the same terms as an order that has ended.

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183 Stay or variation of emergency orders by Supreme Court

(1) A person bound by an emergency order may apply to the Supreme Court for an order staying or otherwise affecting the operation of the order.

(2) The Supreme Court may make an order staying or otherwise affecting the operation of an emergency order only if satisfied that the making of the order will not—

(a) create or significantly increase the possibility of a risk of serious harm to the health or safety of people, or substantial damage to property or the environment, from a hazard associated with a dangerous substance; or

(b) aggravate significantly the harm to the health or safety of people, or damage to property or the environment, from a substantial hazard associated with a dangerous substance.

(3) In deciding whether to make an order under this section, the Supreme Court must have regard to section 185 (Compensation for emergency order).

184 Failure to comply with emergency order

(1) A person commits an offence if—

(a) the person contravenes a prohibition imposed on the person by an emergency order; or

(b) the person fails to take all reasonable steps to comply with a direction given by an emergency order.

Maximum penalty: 500 penalty units.

(2) In this section:

emergency order includes an emergency order as affected by any order of the Supreme Court under section 183.

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185 Compensation for emergency order

(1) This section applies if—

(a) an emergency order has been made that binds, or has bound, a person; and

(b) the person suffers loss or damage because of the making of the order; and

(c) the person considers that there were insufficient grounds to make the order.

(2) The person may apply, in writing, to the Minister for compensation.

(3) The application must state the reasons why the person considers that there were insufficient grounds to make the emergency order.

(4) If, after considering the application, the Minister is satisfied that there were insufficient grounds to make the emergency order, the Territory must pay the person the reasonable compensation decided by the Minister.

(5) However, compensation is not payable to the person—

(a) in relation to any loss or damage suffered by the person because of an act or omission of the person; or

(b) if the person caused or contributed to the relevant risk or harm to the health or safety of people or of damage to property or the environment.

(6) The Minister must give the person written notice of the Minister's decision on the application.

(7) If the Minister does not decide the application within 28 days after the day the Minister receives the application, the Minister is taken to have refused to pay compensation.

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Chapter 9 Notification and review of decisions

186 Definitions—ch 9

In this chapter:

decision-maker means any of the following:

(a) the Minister;

(b) the director-general;

(c) an inspector;

(d) a licensed asbestos assessor.

internally reviewable decision means a decision (other than a decision made personally by the Minister or work health and safety commissioner) prescribed by regulation.

internal reviewer—see section 188.

internal review notice—see the *ACT Civil and Administrative Tribunal Act 2008*, section 67B (1).

reviewable decision means—

(a) an internal reviewer's decision in relation to an internally reviewable decision; or

(b) a decision-maker's decision (other than an internally reviewable decision) prescribed by regulation.

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186A Internal review notices

If a decision-maker makes an internally reviewable decision, the decision-maker must give an internal review notice to each entity prescribed by regulation in relation to the decision.

Note The decision-maker must also take reasonable steps to give an internal review notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67B).

187 Applications for internal review

(1) The following may apply to the work health and safety commissioner for review of an internally reviewable decision:

(a) an entity prescribed by regulation in relation to the decision;

(b) any other person whose interests are affected by the decision.

(2) The application must—

(a) be in writing; and

(b) state the applicant's name and address; and

(c) set out the applicant's reasons for making the application.

(3) The application must be given to the work health and safety commissioner within—

(a) 28 days after the day the applicant is given the internal review notice for the decision; or

(b) any longer period allowed by the work health and safety commissioner before or after the end of the 28-day period.

Note Section 191 provides for ACAT review of reviewable decisions that are not internally reviewable decisions.

187A Applications not stay internally reviewable decisions

The making of an application for review of an internally reviewable decision does not affect the operation of the decision.

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188 Internal reviewer

The work health and safety commissioner must arrange for a person (the ***internal reviewer***) who did not make the internally reviewable decision to review the decision.

189 Review by internal reviewer

(1) The internal reviewer for an internally reviewable decision must review the decision.

(2) The review must happen within 5 business days (the ***5-day period***) after the day the work health and safety commissioner receives the application for review of the internally reviewable decision.

(3) The internal reviewer must—

(a) confirm the decision; or

(b) vary the decision; or

(c) set aside the decision and substitute the reviewer's own decision.

(4) If the decision is not varied or set aside within the 5-day period, the decision is taken to have been confirmed by the internal reviewer.

190 Reviewable decision notices

If an internal reviewer or decision-maker makes a reviewable decision, the reviewer or decision-maker must give a reviewable decision notice to each entity prescribed by regulation in relation to the decision.

Note The internal reviewer or decision-maker must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

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191 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

(a) for an internal reviewer's decision in relation to an internally reviewable decision—an entity to whom an internal review notice is required to be given in relation to the decision;

(b) an entity prescribed by regulation in relation to the decision;

(c) any other person whose interests are affected by the decision.

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Chapter 10 Procedural and evidentiary provisions

Part 10.1 General provisions about offences against Act

192 Acts and omissions of representatives

(1) In this section:

person means an individual.

representative, of a person, means an employee or agent of the person.

state of mind, of a person, includes—

(a) the person's knowledge, intention, opinion, belief or purpose; and

(b) the person's reasons for the intention, opinion, belief or purpose.

(2) This section applies to a prosecution for any offence against this Act.

(3) If it is relevant to prove a person's state of mind about an act or omission, it is enough to show—

(a) the act was done or omission made by a representative of the person within the scope of the representative's actual or apparent authority; and

(b) the representative had the state of mind.

(4) An act done or omitted to be done on behalf of a person by the person's representative within the scope of the representative's actual or apparent authority is also taken to have been done or omitted to be done by the person.

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(5) However, subsection (4) does not apply if the person establishes that reasonable precautions were taken and appropriate diligence was exercised to avoid the act or omission.

(6) A person who is convicted of an offence cannot be punished by imprisonment for the offence if the person would not have been convicted of the offence without subsection (3) or (4).

193 Criminal liability of corporation officers

(1) This section applies to the following provisions:

(a) a provision mentioned in section 41 (Meaning of *safety duty* for pt 3.2);

(b) a provision of part 4.3 (Offences relating to licences);

(c) a provision of chapter 5 (Other serious offences);

(d) section 107 (Contravention of improvement notices);

(e) section 119 (Contravention of prohibition notices);

(f) section 128 (Contravention of enforceable undertakings).

(2) An officer of a corporation commits an offence if—

(a) the corporation contravenes a provision to which this section applies; and

(b) the contravention is an offence against this Act (the ***relevant offence***); and

(c) the officer was reckless about whether the contravention would happen; and

(d) the officer was in a position to influence the conduct of the corporation in relation to the contravention; and

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(e) the officer failed to take all reasonable steps to prevent the contravention.

Maximum penalty: The maximum penalty that may be imposed for the commission of the relevant offence by an individual.

(3) This section applies whether or not the corporation is prosecuted for, or convicted of, the relevant offence.

(4) In deciding whether the officer took (or failed to take) reasonable steps to prevent the contravention, a court must have regard to the following:

(a) any action the officer took directed towards ensuring the following (to the extent that the action is relevant to the act or omission):

(i) that the corporation arranged regular professional assessments of the corporation's compliance with the contravened provision;

(ii) that the corporation implemented any appropriate recommendation arising from such an assessment;

(iii) that the corporation's employees, agents and contractors had a reasonable knowledge and understanding of the requirement to comply with the contravened provision;

(b) any action the officer took when the officer became aware that the contravention was, or might be, about to happen.

(5) Subsection (4) does not limit the matters to which the court may have regard.

(6) This section does not apply if the corporation would have a defence to a prosecution for the relevant offence.

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194 No defence to claim deterioration of sample

It is not a defence in a proceeding for an offence against this Act for a defendant to claim that any part of a sample kept for future comparison with a sample that has been analysed has, from natural causes, deteriorated, perished or undergone material change.

195 Remedial orders by courts for offences

(1) This section applies if—

(a) a person is convicted, or found guilty, of an offence against this Act; and

(b) the prosecutor asks the court to make an order under this section; and

(c) it appears to the court that the person could partly or completely rectify a state of affairs that arose as a direct or indirect result of the conduct that was the subject of the offence.

Note For the meaning of ***found guilty***, see the Legislation Act, dict, pt 1.

(2) The court may order the person to take any steps that it considers are necessary and appropriate to rectify the state of affairs and that are within the person's power to take.

(3) If a court makes an order under this section, it may also make any other consequential orders (including orders about costs) that it considers appropriate.

196 Court-directed publicity for offences

If a person is convicted or found guilty of an offence against this Act, the court may direct the person to publish a statement in accordance with the directions of the court in relation to the offence.

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197 Publication by work health and safety commissioner of convictions etc

(1) This section applies if a person, or a representative of the person, is convicted or found guilty of an offence against this Act in relation to a dangerous substance and—

(a) the time for making an appeal against the conviction, or finding of guilt, ends without an application for an appeal being made; or

(b) if an appeal is made against the conviction or finding of guilt—

(i) the conviction or finding is confirmed on appeal, and the time for making any further appeal in relation to the conviction or finding ends without an application for an appeal being made; or

(ii) the appeal is withdrawn, struck out or discontinued or lapses; or

(c) if a retrial has been ordered—the time for making an appeal on the retrial ends in accordance with paragraph (a) or (b).

(2) The work health and safety commissioner may publish the following information in relation to the conviction or finding of guilt in a way that the work health and safety commissioner considers appropriate:

(a) particulars that allow the public to identify the person;

(b) details of the offence;

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(c) the decision of the court and the penalty imposed on the person or a representative of the person (including the forfeiture of anything under this Act).

Examples of publication

1 a press release

2 an article in a document published by the Territory or a territory authority

3 an advertisement in a newspaper circulating in the ACT

4 a public notice

Examples for par (a)

1 the licensee's name and ACN (if any)

2 any name (and, if relevant, ACN) used in the past by the licensee

3 the licensee's current and previous business addresses

Note 1 For the meaning of ***found guilty***, see the Legislation Act, dict, pt 1.

Note 2 ***Public notice*** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see Legislation Act, dict, pt 1).

(3) If the conviction or finding of guilt is quashed or set aside on appeal, the information must not be published.

(4) If the penalty is changed on appeal, this section applies in relation to the penalty as changed.

(5) In this section:

representative of the person means—

(a) if the person is an individual—an employee or agent of the person; or

(b) if the person is a corporation—an employee, agent or executive officer of the person.

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198 Court may order costs and expenses

(1) A court that hears a proceeding for an offence against this Act may make any order it considers appropriate in relation to costs and expenses in relation to the examination, seizure, detention, storage, analysis (including further analysis), destruction or other disposition of anything the subject of the proceeding.

(2) This section does not affect any other power of the court to award costs.

199 Court may order forfeiture

A court that convicts a person, or finds a person guilty, of an offence against this Act may order the forfeiture to the Territory of anything that was used in the commission of the offence.

200 Notices of noncompliance by territory entities

(1) This section applies if a territory entity (other than a territory-owned corporation) commits an offence against this Act and the offence is an infringement notice offence.

Note 1 For the meaning of ***territory-owned corporation***, see the Legislation Act, dict, pt 1

Note 2 A reference to an Act includes a reference to statutory instruments made or in force under the Act, including any regulation and any law or instrument applied, adopted or incorporated by the Act (see Legislation Act, s 104).

(2) An authorised person for the infringement notice offence may serve a notice of noncompliance on the responsible director-general for the territory entity.

Note For how documents may be served, see the Legislation Act, pt 19.5.

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(3) In this section:

authorised person, for an infringement notice offence, means an authorised person for the infringement notice offence under the *Magistrates Court Act 1930*, section 134A.

responsible director-general—see the *Auditor-General Act 1996*, dictionary.

territory entity means an administrative unit or a territory entity under the *Auditor-General Act 1996*.

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Part 10.2 Evidentiary provisions

201 Presumptions

In a proceeding for an offence against this Act, it is presumed until the contrary is proved, on the balance of probabilities, that—

(a) a substance that is part of a batch, lot or consignment of the substance of the same kind or description is representative of all of the substance in the batch, lot or consignment; and

(b) each part of a sample of a substance divided for analysis for this Act is of uniform composition with every other part of the sample; and

(c) a person who sold a substance in the conduct of a business and was not the holder of a licence sold the substance as the employee of the licensee; and

(d) a person who appears from any marking or label on an article, container or package containing a substance for sale to have manufactured, imported, packed or supplied the substance is a person in control of the manufacture, import, packing or supply of the substance.

202 Certificate evidence etc

(1) This section applies in relation to a proceeding for an offence against this Act.

(2) A document that appears to be a copy of a licence, approval, notice, order, authority or undertaking under this Act is evidence of the issue or giving of a licence, approval, notice, order, authority or undertaking.

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(3) A certificate that appears to be signed by or on behalf of the work health and safety commissioner, and that states any of the following matters, is evidence of the matters:

(a) that there was, or was not, in force a licence, approval, notice, order, authority or undertaking in relation to a stated person or people or premises;

(b) that a licence, approval, notice, order, authority or undertaking authorised or required or did not authorise or require a stated activity at a particular time and place;

(c) that a licence, approval, notice, order, authority or undertaking was or was not subject to stated conditions;

(d) that a substance is or is not a dangerous substance;

(e) that a dangerous substance belongs to or does not belong to a particular class or category of dangerous substances;

(f) that an explosive is or is not a particular kind of explosive;

(g) the receipt or otherwise of a notice, application or payment;

(h) that an amount of fees or another amount is payable under this Act by a stated person.

(4) A certificate that appears to be signed by or on behalf of the work health and safety commissioner, and states anything prescribed by regulation for this section, is evidence of the thing.

(5) A certificate mentioned in subsection (3) or (4) may state anything by reference to a date or period.

(6) A court must accept a certificate or other document mentioned in this section as proof of the matters stated in it if there is no evidence to the contrary.

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(7) In this section:

authority includes an appointment as an authorised analyst or inspector.

notice includes a compliance notice, improvement notice or prohibition notice.

order includes an emergency order (including a recall order).

undertaking means an enforceable undertaking under part 6.5.

203 Evidence of analysts

(1) A certificate of the results of an analysis is admissible in a proceeding for an offence against this Act, and is evidence of the facts stated in it, if a copy of the certificate is served by the party who obtained the analysis on the other party to the proceeding at least 14 days before the day of the hearing.

(2) However, a court may order, at the request of a party to the proceeding or on its own initiative, that the period mentioned in subsection (1) be reduced to the period stated in the court's order.

(3) An analyst who carried out an analysis in relation to which a certificate is produced as evidence in a proceeding for an offence against this Act need not be called as a witness in the proceeding by the party producing the certificate unless the court hearing the proceeding orders, at the request of a party to the proceeding or on its own initiative, that the analyst be called as a witness.

204 Admissibility of analysis of sample taken by inspector

The analysis of a sample of a substance taken by an inspector is admissible in evidence in a proceeding for an offence against this Act only if the sample was taken as required or allowed by part 6.7 (Taking and analysis of samples).

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205 Power of court to order further analysis

(1) This section applies if the court before which a person is being prosecuted for an offence against this Act is satisfied that there is a disagreement between the evidence of the analysts for the parties to the proceeding.

(2) The court may order that the part or parts of a sample kept under section 138 (Procedures for dividing samples) be sent by the work health and safety commissioner to an independent analyst.

(3) For subsection (2), the order may require the sample to be sent to a particular analyst or to an analyst agreed to by the parties.

(4) An analyst who is sent a part or parts of a sample for analysis under this section must make the analysis for the information of the court.

(5) Subject to section 198 (Court may order costs and expenses), the cost of an analysis under this section is payable by the Territory.

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Chapter 11 Administration

206 Inspection of incorporated documents

The work health and safety commissioner must ensure that an incorporated document is made available for inspection free of charge to the public on business days at reasonable times at the office of an administrative unit administered by the work health and safety commissioner.

207 Inspectors

(1) Each of the following is an inspector for this Act:

(a) a police officer;

(b) a public servant appointed under subsection (2);

(c) the work health and safety commissioner.

(2) The work health and safety commissioner may appoint a public servant as an inspector for this Act.

Note For laws about appointments, see the Legislation Act, pt 19.3.

208 Identity cards

(1) This section applies only to an inspector appointed under section 207 (2).

(2) The work health and safety commissioner must give each inspector an identity card that states the person's name and appointment as an inspector, and shows—

(a) a recent photograph of the person; and

(b) the date of issue of the card; and

(c) the date of expiry of the card; and

(d) anything else prescribed by regulation.

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(3) A person commits an offence if—

(a) the person ceases to be an inspector; and

(b) the person does not return the person's identity card to the work health and safety commissioner as soon as practicable (but within 7 days) after the day the person ceases to be an inspector.

Maximum penalty: 1 penalty unit.

(4) An offence against this section is a strict liability offence.

209 Functions of inspectors

The functions of an inspector under this Act include the following:

(a) to inspect and monitor the handling of dangerous substances and premises, plant and systems for handling dangerous substances;

(b) to investigate compliance with this Act and incidents adversely affecting the safe handling of a dangerous substance.

210 Appointment of authorised analysts

The work health and safety commissioner may appoint a person as an authorised analyst for this Act.

Note For laws about appointments, see the Legislation Act, pt 19.3.

211 Secrecy

(1) In this section:

court includes a tribunal or other entity with power to require the production of documents or the answering of questions.

person to whom this section applies means—

(a) a person who is or has been an inspector; or

(b) anyone else who has exercised a function under this Act.

produce includes allow access to.

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protected information means information obtained under this Act in relation to manufacturing secrets or commercial secrets, working processes or anything else prescribed by regulation.

(2) A person commits an offence if—

(a) the person is a person to whom this section applies; and

(b) the person—

(i) makes a record of protected information; or

(ii) directly or indirectly, divulges or communicates protected information to a person; and

(c) the record is not made, or the information is not divulged or communicated, in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

(3) Subsection (2) does not prevent a person to whom this section applies from divulging or communicating protected information—

(a) with the consent of the person from whom the information was obtained; or

(b) to a person administering or enforcing a corresponding law; or

(c) to a law enforcement authority.

(4) A person to whom this section applies need not divulge or communicate protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another Act.

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212 Protection from liability

(1) In this section:

official means—

(a) the Minister; or

(b) the work health and safety commissioner; or

(c) an inspector; or

(d) anyone else exercising functions under this Act.

(2) An official does not incur civil liability for an act or omission done honestly and without negligence for this Act.

(3) Any civil liability that would, apart from this section, attach to an official attaches instead to the Territory.

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Chapter 12 Regulations about dangerous substances

213 Regulations may apply etc instruments

(1) A regulation may apply, adopt or incorporate an instrument, as in force from time to time.

Note The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

(2) The Legislation Act, section 47 (6) does not apply in relation to the ADG Code if applied, adopted or incorporated under subsection (1).

Note The ADG Code does not need to be notified under the Legislation Act because s 47 (6) does not apply (see Legislation Act, s 47 (7)). The ADG Code is accessible at www.ntc.gov.au.

214 Scheme for explosives to be prescribed

(1) The regulations are to provide a scheme for regulating the handling of explosives.

(2) However, subsection (1) does not require all aspects of the handling of all explosives to be licensed.

Example

a person selling or possessing a distress flare may not be required under the regulations to hold a licence to sell or possess the flare

(3) A regulation may make provision in relation to explosives, including, for example—

(a) the explosives that may or must not be handled, including—

(i) the authorisation, control and prohibition of explosives for this Act; and

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(ii) the composition, testing and classification of explosives; and

(b) the kinds of handling of explosives that must be authorised by a licence or by regulation; and

(c) the packing, labelling and storage of explosives; and

(d) the qualifications, training and experience of people to handle explosives; and

(e) the authorisation of people to handle explosives; and

(f) the authorisation of vehicles to carry explosives and the routes over which explosives may or must not be carried; and

(g) the purposes for which, and the circumstances in which, explosives may or must not be handled; and

(h) the duties of people, including reporting and notification requirements, in relation to explosives; and

(i) the advertising, display and sale of explosives; and

(j) the making and keeping of records in relation to explosives and their inspection.

(4) A regulation may also make provision in relation to dangerous substances, and other substances, that can be used to manufacture explosives.

215 Regulations about licences

(1) A regulation may make provision in relation to licences for handling dangerous substances, including, for example—

(a) prescribing the circumstances in which a licence is required for handling dangerous substances by, for example, the class or kind of dangerous substance, the kind of handling, the circumstances of the handling or the amount handled; and

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(b) the suitability of a person to be licensed to handle dangerous substances, including—

(i) the knowledge, experience and training of the person; and

(ii) the testing or examination of a person to decide whether the person is, or continues to be, a suitable person to hold a licence; and

(c) the suitability of premises (including vehicles) in relation to a licence; and

(d) the kinds of licences that may be issued and the authority given to a licensee by a particular kind of licence; and

(e) the conditions of a licence; and

(f) the creation and publication of registers in relation to licences; and

(g) authorising a person to handle a prohibited dangerous substance or controlled dangerous substance for research, education or any other purpose.

(2) A regulation may also provide the circumstances in which a licence or other form of authority (however described) to handle a dangerous substance under a corresponding law authorises a person to handle the dangerous substance in the ACT.

216 Regulations about dangerous substances generally

(1) A regulation may make provision in relation to dangerous substances (including explosives), including, for example—

(a) the methods and equipment for examining and testing a substance to decide whether the substance is a dangerous substance; and

(b) the methods and equipment for classifying dangerous substances; and

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(c) the classification of dangerous substances, including the classification (however described) to which a dangerous substance does or does not belong; and

(d) the advertising, display and sale of dangerous substances; and

(e) the safe handling of dangerous substances; and

(f) the authorisation, control, notification and prohibition of the handling of dangerous substances; and

(g) the containers, plant, premises and systems for handling dangerous substances, including—

(i) the suitability of premises (including vehicles) for handling dangerous substances; and

(ii) the design, manufacture, construction, supply, installation, operation, maintenance, repair and use of containers, premises, plant and systems for handling dangerous substances; and

(iii) the design, siting, construction and management of plant, premises and systems for handling dangerous substances; and

(iv) the inspection, examination and testing of containers, plant, premises and systems for handling dangerous substances; and

(v) the qualifications and authorisation of people installing, maintaining or repairing containers, plant, premises and systems for handling dangerous substances; and

(vi) safety requirements and safety procedures in relation to containers, plant, premises and systems for handling dangerous substances; and

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(h) the packing, marking, labelling and packaging of dangerous substances, including—

(i) the maximum sizes for containers and packages of dangerous substances; and

(ii) the construction and properties of containers and packages for dangerous substances; and

(i) the preparation, review, supply and making available of safety information about dangerous substances; and

(j) placarding in relation to dangerous substances, including the placarding of manufacturing and storage facilities and other premises where dangerous substances are handled; and

(k) safety management systems, including—

(i) the preparation, implementation, keeping up to date and documentation of safety management systems; and

(ii) the documentation of compliance with duties under safety management systems; and

(l) the making and keeping of records in relation to dangerous substances (including plant and premises for handling dangerous substances) and their inspection and auditing; and

(m) the duties of people, including reporting and notification requirements, in relation to dangerous substances; and

(n) the creation and publication of registers in relation to dangerous substances and premises, plant and systems for handling dangerous substances; and

(o) the safety procedures to be complied with in relation to premises used to handle dangerous substances.

(2) A regulation may also make provision in relation to substances that can be used to manufacture dangerous substances.

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217 Regulations may exempt people, plant or premises from Act

(1) A regulation may—

(a) exempt plant, premises or a person, from this Act; or

(b) authorise the work health and safety commissioner to exempt plant, premises or a person, from this Act.

Note A reference to an Act includes a reference to a provision of an Act (see Legislation Act, s 7 (3)).

(2) An exemption given by a regulation mentioned in subsection (1) may be conditional.

(3) A regulation may make provision in relation to the failure to comply with a condition of an exemption (including an exemption under this section).

(4) A regulation may provide for the work health and safety commissioner to—

(a) suspend the operation of a regulation mentioned in subsection (1) (a) in a certain way or in certain circumstances; or

(b) suspend the operation of an exemption given by the work health and safety commissioner to plant or premises, or a person, in a certain way or in certain circumstances.

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Chapter 13 Miscellaneous

218 Minister may exempt people, plant, premises or dangerous substances from Act

(1) The Minister may exempt plant, premises or a person, from this Act.

Note A reference to an Act includes a reference to a provision of an Act (see Legislation Act, s 7 (3)).

(2) An exemption may be conditional.

(3) An exemption under subsection (1) has no effect to the extent that it is inconsistent with a regulation.

(4) An exemption is a disallowable instrument.

219 Codes of practice

(1) The Minister may approve codes of practice setting out guidelines for this Act.

(2) An approved code of practice may apply, adopt or incorporate an instrument, as in force from time to time.

Note The text of an applied, adopted or incorporated instrument, whether applied as in force from time to time or as at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).

(3) An approval of a code of practice is a disallowable instrument.

221 Determination of fees

(1) The Minister may determine fees for this Act.

(2) A determination is a disallowable instrument.

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222 Approved forms

(1) The Minister may approve forms for this Act.

(2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

(3) An approved form is a notifiable instrument.

223 Regulation-making power

(1) The Executive may make regulations for this Act.

(2) A regulation may prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 30 penalty units for offences against a regulation.

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Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- ACT
- administrative unit
- ambulance service
- contravene
- director-general (see s 163)
- fail
- fire and rescue service
- found guilty
- home address
- instrument (see s 14)
- notification (see s 63)
- penalty unit (see s 133)
- public servant
- reviewable decision notice
- rural fire service
- SES
- State
- work health and safety commissioner.

ADG Code (or ***Australian Dangerous Goods Code***) means the Australian Code for the Transport of Dangerous Goods by Road and Rail, published by the Commonwealth, as in force from time to time.

affected building, for chapter 3A (Asbestos)—see section 47I.

affected residential premises, for chapter 3A (Asbestos)—see section 47I.

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affected residential premises register, for chapter 3A (Asbestos)—see section 47P.

alleged contravention, for part 6.5 (Enforceable undertakings)—see section 123 (3) (b).

analysis, of a dangerous substance or anything else, includes examining or testing the substance or thing.

approved code of practice means a code of practice approved under section 219 (1).

approved occupant, for chapter 3A (Asbestos)—see section 47T.

asbestos—see the *Work Health and Safety Regulation 2011*, dictionary.

asbestos assessment report, for chapter 3A (Asbestos)—see section 47K.

asbestos contamination, for chapter 3A (Asbestos)—see section 47I.

asbestos contamination report, for chapter 3A (Asbestos)—see section 47J.

at premises includes in or on the premises.

Australian Dangerous Goods Code—see ***ADG Code***.

Australian Explosives Code means the Australian Code for the Transport of Explosives by Road and Rail, published by the Commonwealth, as in force from time to time.

Note The Australian Explosives Code is accessible at www.safeworkaustralia.gov.au.

authorised analyst means a person appointed as an authorised analyst under section 210.

authorised person, for part 5.2 (Preservation of site of dangerous occurrence)—see section 85.

basis, for giving a prohibition notice—see section 108.

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building work, for chapter 3A (Asbestos)—see the *Building Act 2004*, section 6.

business includes—

(a) a business not carried on for profit; and

(b) a trade or profession.

buyback scheme, for chapter 3A (Asbestos)—see section 47I.

carry a dangerous substance or anything else means move the substance or thing by any means.

Examples of *carry* for a dangerous substance

1 moving, transferring or transporting a dangerous substance within a processing system or pipeline

2 loading a dangerous substance onto, and unloading the substance from, a vehicle

3 driving a vehicle carrying a dangerous substance

cause death or injury to a person, or substantial damage to property or the environment, means substantially contribute directly or indirectly to the death, injury or damage.

class, of building, for chapter 3A (Asbestos)—see section 47I.

close associate, of someone, for chapter 4 (Licences for dangerous substances)—see section 48.

compliance agreement—see section 94 (2).

condition, of a licence, includes a condition prescribed by regulation that applies to the licence.

connected, with an offence, for chapter 7 (Enforcement powers)—see section 141.

controlled dangerous substance—see section 73.

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correctly—

(a) classify a dangerous substance—see section 13; and

(b) pack, store, label or placard a dangerous substance—see section 14.

corresponding law means—

(a) a law of the Commonwealth, a State, another Territory or New Zealand corresponding, or substantially corresponding, to this Act; or

(b) a law of the Commonwealth, a State, another Territory or New Zealand that is declared by regulation to be a corresponding law, whether or not the law corresponds, or substantially corresponds, to this Act; or

(c) the *Dangerous Goods Act 1975*.

current asbestos contamination report, for chapter 3A (Asbestos)—see section 47J (2).

dangerous occurrence—see section 38.

dangerous substance—see section 10.

data, for chapter 7 (Enforcement powers)—see section 141.

data storage device, for chapter 7 (Enforcement powers)—see section 141.

decision-maker, for chapter 9 (Notification and review of decisions)—see section 186.

disciplinary action—see section 68 (3) and (4).

disciplinary notice—see section 68 (1).

dispose, of a dangerous substance or anything else, includes impound, isolate or destroy the substance or thing.

emergency order—see section 179.

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enforceable undertaking, for part 6.5—see section 122.

environment includes the built and natural environment.

examine includes inspect, weigh, count, test and measure.

executive officer, of a corporation, means a person, by whatever name called and whether or not the person is a director of the corporation, who is concerned with, or takes part in, the corporation's management.

explosive—see section 73.

export a dangerous substance or anything else means export the substance or thing from the ACT.

handle, a dangerous substance—see section 11.

handling authority—see section 56 (1) (d).

hazard—see section 15.

import a dangerous substance or anything else means import the substance or thing into the ACT.

improvement notice—see section 100.

incorporated document means any of the following documents:

(a) the ADG Code;

(b) the Australian Explosives Code;

(c) an instrument applied, adopted or incorporated by regulation.

infringement notice—see the *Magistrates Court Act 1930*, section 117.

infringement notice offence—see the *Magistrates Court Act 1930*, section 117.

inspector means an inspector under section 207.

install plant or a system includes construct the plant or system.

internally reviewable decision—see section 186.

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internal reviewer, for chapter 9 (Notification and review of decisions)—see section 188.

internal review notice, for chapter 9 (Notification and review of decisions)—see the *ACT Civil and Administrative Tribunal Act 2008*, section 67B (1).

licence means a licence issued under this Act.

licensed asbestos assessor—see the *Work Health and Safety Regulation 2011*, dictionary.

licensed asbestos removalist, for chapter 3A (Asbestos)—see the *Work Health and Safety Regulation 2011*, dictionary.

loose-fill asbestos insulation, for chapter 3A (Asbestos)—see section 47I.

manufacture a dangerous substance or anything else includes—

(a) make, remake, alter, break-up, process, recondition or treat the substance or thing; and

(b) change the substance or thing in a way that affects its properties or performance.

non-commercial, for the handling of a dangerous substance—see section 12.

occupancy prohibition—see section 47S.

occupy, for part 3A.3 (Occupancy prohibition)—see section 47R.

offence, for chapter 7 (Enforcement powers)—see section 141.

officer, of a corporation, means—

(a) a director or secretary of the corporation; or

(b) a person—

(i) who makes, or takes part in making, decisions that affect all, or a substantial part, of the business of the corporation; or

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(ii) in accordance with whose instructions or wishes the directors of the corporation are accustomed to act (excluding advice given by the person in the proper exercise of functions attaching to the person's professional capacity or business relationship with the directors or the corporation); or

(c) a receiver, or receiver and manager, of the corporation's property; or

(d) an administrator of the corporation; or

(e) an administrator of a deed of company arrangement executed by the corporation; or

(f) a liquidator of the corporation; or

(g) a trustee or other person administering a compromise or arrangement made between the corporation and someone else.

owner, of affected residential premises, for chapter 3A (Asbestos)—see section 47I.

person assisting, in relation to a search warrant, for chapter 7 (Enforcement powers)—see section 141.

person in charge, of premises, includes—

(a) a person believed, on reasonable grounds, to be a person in charge of, or the occupier of, the premises and a person apparently in charge of, or the occupier of, the premises; and

(b) anyone else in control of the premises.

Note ***Premises*** includes any land, structure or vehicle and any part of an area of land, a structure or vehicle.

person in control—see section 17.

plant includes—

(a) machinery or equipment (including scaffolding), or an appliance, implement or tool; and

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(b) a container used for packing, carrying or storing dangerous substances; and

(c) a vehicle used for handling a dangerous substance; and

(d) a component, fitting or accessory for the plant; and

(e) a building or other structure.

premises includes land or a structure or vehicle and any part of an area of land or a structure or vehicle.

prohibited dangerous substance—see section 73.

prohibition notice—see section 109.

reasonable steps, in relation to a risk—see section 16.

recall order, for chapter 8 (Emergency orders)—see section 178.

regulator, for chapter 3A (Asbestos)—see section 47I.

relevant person, for an enforceable undertaking—see section 122.

relevant responsible person—

(a) for a compliance agreement—see section 93; and

(b) for an improvement notice—see section 99; and

(c) for a prohibition notice—see section 108.

residential premises, for chapter 3A (Asbestos)—see section 47I.

responsible person, for a dangerous substance—see section 18.

reviewable decision—see section 186.

risk—see section 15.

safety duty, for part 3.2 (Failure to comply with safety duties)—see section 41.

safety management system, for handling a dangerous substance—see section 19.

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safety undertaking, for part 6.5 (Enforceable undertakings)—see section 123 (2).

search warrant, for chapter 7 (Enforcement powers)—see section 141.

security sensitive substance—see section 10A.

sell includes—

(a) barter or offer or attempt to sell; and

(b) possess for sale; and

(c) advertise for sale (whether directly or indirectly); and

(d) display for sale; and

(e) cause or allow to be sold or offered for sale; and

(f) dispose of in any way for valuable consideration; and

(g) dispose of to an agent for sale on consignment; and

(h) give away for the purpose of advertisement or for trade or commerce; and

(i) sell for the purpose of resale.

serious harm, to a person—see the Criminal Code, dictionary.

site, of a dangerous occurrence at premises, for part 5.2 (Preservation of site of dangerous occurrence)—see section 85.

site preservation period for part 5.2 (Preservation of site of dangerous occurrence)—see section 85.

substance includes a matter, material or thing, whether solid, liquid or gas or in a mixture.

suitable person, for a licence—see section 49.

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supply a dangerous substance or anything else includes—

(a) sell the substance or thing; and

(b) transfer ownership of, or responsibility for, the substance or thing.

system includes the following:

(a) a mechanical system;

(b) an electronic system;

(c) a computer program;

(d) a system of work;

(e) a management system;

(f) a safety management system;

(g) a system prescribed by regulation;

(h) a system that includes any combination of the systems mentioned in paragraphs (a) to (g).

trade or commerce includes a business or professional activity.

transfer, for part 3A.3 (Occupancy prohibition)—see the *Land Titles Act 1925*, dictionary.

transmission, for part 3A.3 (Occupancy prohibition)—see the *Land Titles Act 1925*, dictionary.

vehicle means any kind of vehicle on wheels (including a vehicle used on railways or tramways), and includes an aircraft or vessel used on water.

WHS Act means the *Work Health and Safety Act 2011*.

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Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
underlining = whole or part not commenced or to be expired

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3 Legislation history

Dangerous Substances Act 2004 A2004-7
notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
remainder commenced 5 April 2004 (s 2 and CN2004-6)

as modified by

Dangerous Substances (General) Regulation 2004 SL2004-9 pt 5 (as am by SL2004-39; om by SL2004-56 s 605)
notified LR 2 April 2004
s 1, s 2 commenced 2 April 2004 (LA s 75 (1))
pt 5 commenced 5 April 2004 (s 2)

as amended by

Emergencies Act 2004 A2004-28 sch 3 pt 3.7
notified LR 29 June 2004
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))
sch 3 pt 3.7 commenced 1 July 2004 (s 2 (1) and CN2004-11)

Dangerous Substances (General) Amendment Regulations 2004 (No 1) SL2004-39
notified LR 30 August 2004
reg 1, reg 2 commenced 30 August 2004 (LA s 75 (1))
commenced 31 August 2004 (reg 2)

Note This regulation only amends the Dangerous Substances (General) Regulations 2004 SL2004-9.

Dangerous Substances (Asbestos) Amendment Act 2004 A2004-66 ss 4-7 (as am by A2005-3 and A2005-55 pt 2)
notified LR 31 August 2004
s 1, s 2 commenced 31 August 2004 (LA s 75 (1))
s 4 commenced 1 September 2004 (s 2 (1))
s 5 commenced 4 April 2005 (s 2 (3) as am by A2005-3 s 4)
sch 1 commenced 1 September 2004 (s 2 (2))
s 6, s 7 om before commenced by A2005-55 pt 2

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as modified by

Dangerous Substances (General) Regulation 2004 SL2004-56 pt 6.1
notified LR 14 December 2004
s 1, s 2 commenced 14 December 2004 (LA s 75 (1))
pt 6.1 commenced 15 December 2004 (s 2 (1))

as amended by

Dangerous Substances (Asbestos) Amendment Act 2005 A2005-3 (as am by A2005-55 pt 3)
notified LR 22 February 2005
s 1, s 2 commenced 22 February 2005 (LA s 75 (1))
s 3, s 4 commenced 23 February 2005 (s 2)
s 10 om before commenced by A2005-55 pt 3
remainder commenced 4 April 2005 (LA s 79A and see A2004-66 s 2 (3))

Note This Act only amends the Dangerous Substances (Asbestos) Amendment Act 2004 A2004-66.

Domestic Violence and Protection Orders Amendment Act 2005 A2005-13 sch 1 pt 1.6
notified LR 24 March 2005
s 1, s 2 commenced 24 March 2005 (LA s 75 (1))
sch 1 pt 1.6 commenced 25 March 2005 (s 2)

Statute Law Amendment Act 2005 A2005-20 sch 1 pt 1.1, sch 3 pt 3.15
notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 1 pt 1.1, sch 3 pt 3.15 commenced 2 June 2005 (s 2 (1))

Insurance Authority Act 2005 A2005-24 s 22
notified LR 11 May 2005
s 1, s 2 commenced 11 May 2005 (LA s 75 (1))
s 22 commenced 12 May 2005 (s 2)

Occupational Health and Safety Legislation Amendment Act 2005 A2005-38 s 4
notified LR 30 August 2005
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))
s 4 commenced 31 August 2005 (s 2)

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Criminal Code (Administration of Justice Offences) Amendment Act 2005 A2005-53 sch 1 pt 1.7

notified LR 26 October2005
s 1, s 2 commenced 26 October 2005 (LA s 75 (1))
sch 1 pt 1.7 commenced 23 November 2005 (s 2)

Dangerous Substances (Asbestos) Amendment Act 2005 (No 2) A2005-55

notified LR 27 October 2005
s 1, s 2 commenced 27 October 2005 (LA s 75 (1))
remainder commenced 28 October 2005 (s 2)

Note This Act only amends the Dangerous Substances (Asbestos) Amendment Act 2004 A2004-66 and the Dangerous Substances (Asbestos) Amendment Act 2005 A2005-3.

Asbestos Legislation Amendment Act 2006 A2006-16 sch 1 pt 1.6 (as am by A2006-24 s 4)

notified LR 18 May 2006
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
sch 1 pt 1.6 commenced 1 July 2006 (s 2 (1) as am by A2006-24 s 4))

Asbestos Legislation Amendment Act 2006 (No 2) A2006-24

notified LR 18 May 2006
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))
remainder commenced 19 May 2006 (s 2)

Note This Act only amends the Asbestos Legislation Amendment Act 2006 A2006-16.

Radiation Protection Act 2006 A2006-33 sch 1 pt 1.2

notified LR 31 August 2006
s 1, s 2 commenced 31 August 2006 (LA s 75 (1))
sch 1 pt 1.2 commenced 1 July 2007 (s 2 (3))

Statute Law Amendment Act 2006 A2006-42 sch 3 pt 3.9

notified LR 26 October 2006
s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))
sch 3 pt 3.9 commenced 16 November 2006 (s 2 (1))

Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.10

notified LR 20 June 2007
s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))
sch 3 pt 3.10 commenced 11 July 2007 (s 2 (1))

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Occupational Health and Safety Amendment Act 2007 A2007-31 sch 1 pt 1.1

notified LR 24 October 2007
s 1, s 2 commenced 24 October 2007 (LA s 75 (1))
sch 1 pt 1.1 commenced 25 October 2007 (s 2)

Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26 sch 2 pt 2.8

notified LR 14 August 2008
s 1, s 2 commenced 14 August 2008 (LA s 75 (1))
sch 2 pt 2.8 commenced 14 February 2009 (s 2 and LA s 79)

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.22

notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.22 commenced 26 August 2008 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.27

notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.27 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Domestic Violence and Protection Orders Act 2008 A2008-46 sch 3 pt 3.7

notified LR 10 September 2008
s 1, s 2 commenced 10 September 2008 (LA s 75 (1))
sch 3 pt 3.7 commenced 30 March 2009 (s 2)

Dangerous Substances and Litter (Dumping) Legislation Amendment Act 2009 A2009-1 pt 2

notified LR 17 February 2009
s 1, s 2 commenced 17 February 2009 (LA s 75 (1))
pt 2 commenced 17 August 2009 (s 2 and LA s 79)

Work Safety Legislation Amendment Act 2009 A2009-28 sch 2 pt 2.5

notified LR 9 September 2009
s 1, s 2 commenced 9 September 2009 (LA s 75 (1))
sch 2 pt 2.5 commenced 1 October 2009 (s 2 and see Work Safety Act 2008 A2008-51 s 2 (1) (b) and CN2009-11)

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Dangerous Goods (Road Transport) Act 2009 A2009-34 sch 1 pt 1.1
notified LR 28 September 2009
s 1, s 2 commenced 28 September 2009 (LA s 75 (1))
sch 1 pt 1.1 commenced 2 April 2010 (s 2, CN2010-5 and LA s 77 (3))

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.17
notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.17 commenced 17 December 2009 (s 2)

Dangerous Substances Amendment Act 2011 A2011-10 pt 2
notified LR 16 March 2011
s 1, s 2 commenced 16 March 2011 (LA s 75 (1))
pt 2 commenced 17 March 2011 (s 2)

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.50
notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.50 commenced 1 July 2011 (s 2 (1))

Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.18
notified LR 28 November 2011
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))
sch 3 pt 3.18 commenced 12 December 2011 (s 2)

Work Health and Safety (Consequential Amendments) Act 2011 A2011 55 sch 1 pt 1.6
notified LR 14 December 2011
s 1, s 2 commenced 14 December 2011 (LA s 75 (1))
sch 1 pt 1.6 commenced 1 January 2012 (s 2 and see Work Health and Safety Act 2011 A2011-35, s 2 and CN2011-12)

Statute Law Amendment Act 2014 A2014-18 sch 1 pt 1.3
notified LR 20 May 2014
s 1, s 2 commenced 20 May 2014 (LA s 75 (1))
sch 1 pt 1.3 commenced 10 June 2014 (s 2 (1))

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Dangerous Substances (Asbestos Safety Reform) Legislation Amendment Act 2014 A2014-53 pt 6

notified LR 3 December 2014
s 1, s 2 commenced 3 December 2014 (LA s 75 (1))
pt 6 commenced 1 January 2015 (s 2)

Dangerous Substances (Loose-fill Asbestos Eradication) Legislation Amendment Act 2014 A2015-6 sch 1 pt 1.2

notified LR 31 March 2015
s 1, s 2 commenced 31 March 2015 (LA s 75 (1))
sch 1 pt 1.2 amdt 1.3 (to the extent that it inserts s 47M) commenced 17 April 2015 (s 2 and CN2015-6)
sch 1 pt 1.2 remainder commenced 29 June 2015 (s 2 and CN2015-6)

Annual Reports (Government Agencies) Amendment Act 2015 A2015-16 sch 1 pt 1.6

notified LR 27 May 2015
s 1, s 2 commenced 27 May 2015 (LA s 75 (1))
sch 1 pt 1.6 commenced 3 June 2015 (s 2)

Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.16

notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.16 commenced 14 October 2015 (s 2)

Statute Law Amendment Act 2015 (No 2) A2015-50 sch 3 pt 3.14

notified LR 25 November 2015
s 1, s 2 commenced 25 November 2015 (LA s 75 (1))
sch 3 pt 3.14 commenced 9 December 2015 (s 2)

Red Tape Reduction Legislation Amendment Act 2016 A2016-18 sch 3 pt 3.18

notified LR 13 April 2016
s 1, s 2 commenced 13 April 2016 (LA s 75 (1))
sch 3 pt 3.18 commenced 27 April 2016 (s 2)

Emergencies Amendment Act 2016 A2016-33 sch 1 pt 1.4

notified LR 20 June 2016
s 1, s 2 commenced 20 June 2016 (LA s 75 (1))
sch 1 pt 1.4 commenced 21 June 2016 (s 2)

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Family Violence Act 2016 A2016-42 sch 3 pt 3.11 (as am by A2017-10 s 7)

notified LR 18 August 2016
s 1, s 2 commenced 18 August 2016 (LA s 75 (1))
sch 3 pt 3.11 commenced 1 May 2017 (s 2 (2) as am by A2017-10 s 7)

Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.21

notified LR 25 August 2016
s 1, s 2 commenced 25 August 2016 (LA s 75 (1))
sch 1 pt 1.21 commenced 1 September 2016 (s 2)

Family and Personal Violence Legislation Amendment Act 2017 A2017-10 s 7

notified LR 6 April 2017
s 1, s 2 commenced 6 April 2017 (LA s 75 (1))
s 7 commenced 30 April 2017 (s 2 (1))

Note This Act only amends the Family Violence Act 2016 A2016-42.

Work Health and Safety Legislation Amendment Act 2018 A2018-8 pt 2

notified LR 5 March 2018
s 1, s 2 commenced 5 March 2018 (LA s 75 (1))
pt 2 commenced 29 March 2018 (s 2)

Red Tape Reduction Legislation Amendment Act 2018 A2018-33 sch 1 pt 1.9

notified LR 25 September 2018
s 1, s 2 commenced 25 September 2018 (LA s 75 (1))
sch 1 pt 1.9 commenced 23 October 2018 (s 2 (4))

Work Health and Safety Amendment Act 2019 A2019-38 sch 1 pt 1.2

notified LR 31 October 2019
s 1, s 2 commenced 31 October 2019 (LA s 75 (1))
sch 1 pt 1.2 commenced 30 April 2020 (s 2 (1) and LA s 79)

Loose-fill Asbestos Legislation Amendment Act 2020 A2020-20 pt 3

notified LR 27 May 2020
s 1, s 2 commenced 27 May 2020 (LA s 75 (1))
pt 3 commenced 1 July 2020 (s 2)

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Loose-fill Asbestos Legislation Amendment Act 2021 A2021-16 pt 3
notified LR 1 July 2021
s 1, s 2 commenced 1 July 2021 (LA s 75 (1))
pt 3 commenced 18 August 2021 (s 2)

Planning and Environment Legislation Amendment Act 2023 A2023-20 pt 3
notified LR 21 June 2023
s 1, s 2 commenced 21 June 2023 (LA s 75 (1))
pt 3 commenced 1 July 2023 (s 2 (2))

Statute Law Amendment Act 2025 A2025-29 sch 4 pt 4.53
notified LR 6 November 2025
s 1, s 2 commenced 6 November 2025 (LA s 75 (1))
sch 4 pt 4.53 commenced 16 December 2025 (s 2 (6))

Workplace Legislation Amendment Act 2025 (No 3) A2025-30 pt 2, sch 1 pt 1.1
notified LR 12 November 2025
s 1, s 2 commenced 12 November 2025 (LA s 75 (1))
pt 2, sch 1 pt 1.1 commenced 19 November 2025 (s 2 (3))

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4 Amendment history

Commencement
s 2 om LA s 89 (4)

Exclusions from Act
s 7 am A2006-33 amdt 1.2; A2014-53 s 35; ss renum R38 LA; A2018-8 s 5; ss renum R48 LA

Relationship of Act to other laws
s 8 am A2004-28 amdt 3.13; A2008-26 amdt 2.19; A2009-28 amdt 2.11, amdt 2.12; A2009-34 amdt 1.1, amdt 1.2; A2011-55 amdt 1.9; A2014-18 amdt 1.5

Relationship of Act to WHS Act
s 8A ins A2014-18 amdt 1.6

Relationship of regulations to approved codes of practice and incorporated documents
s 9 am A2018-8 s 6

Meaning of *dangerous substance*
s 10 am A2006-42 amdt 3.31
sub A2018-8 s 7
am A2025-29 amdt 4.53

Meaning of *security sensitive substance*
s 10A ins A2018-8 s 7
am A2025-29 amdt 4.53

***Handle* a dangerous substance**
s 11 am A2018-8 s 8, s 9

***Non-commercial* handling of a dangerous substance**
s 12 am A2018-8 s 10

***Correctly* classified for a dangerous substance**
s 13 am A2006-42 amdt 3.31; A2018-8 s 11; A2025-29 amdt 4.53

***Correctly* for packed, stored, labelled and placarded**
s 14 am A2018-8 s 12

Meaning of *hazard* and *risk*
s 15 am A2007-16 amdt 3.44

Incorporated documents and approved codes of practice may be considered
s 22 am A2018-8 s 13

Application—ch 3
pt 3.1A hdg ins A2018-8 s 14

Application
s 22A ins A2018-8 s 14

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Person in control of premises—safety duty to report actual or likely dangerous occurrences
s 39 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Failure to comply with safety duty—exposing people to substantial risk of death or serious harm
s 43 am A2007-31 amdt 1.1; A2009-1 s 4; A2014-53 s 36; A2020-20 s 10

Failure to comply with safety duty—causing death or serious harm to people
s 44 am A2007-31 amdt 1.2

Failure to comply with safety duty—exposing property or environment to substantial risk of substantial damage
s 45 am A2007-31 amdt 1.3; A2009-1 s 5

Failure to comply with safety duty—causing substantial damage to property or environment
s 46 am A2007-31 amdt 1.4

Alternative verdicts for failure to comply with safety duties
s 47 table renum R6 LA

Asbestos
ch 3A hdg ins A2004-66 s 4
sub A2020-20 s 11

Preliminary
pt 3A.1 hdg ins A2004-66 s 4
om A2014-53 s 37
ins A2020-20 s 11.

Meaning of *asbestos*
s 47A ins A2004-66 s 4
sub A2011-10 s 4
om A2014-53 s 37

Establishment of task force
s 47B ins A2004-66 s 4
exp 31 August 2006 (s 47H)

Members of task force
s 47C ins A2004-66 s 4
am A2005-24 s 22
exp 31 August 2006 (s 47H)

Chairperson of task force
s 47D ins A2004-66 s 4
exp 31 August 2006 (s 47H)

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Role of task force

s 47E ins A2004-66 s 4
exp 31 August 2006 (s 47H)

Arrangements for use of inspectors etc

s 47F ins A2004-66 s 4
exp 31 August 2006 (s 47H)

Report of analysis

s 47G ins A2004-66 s 4
exp 31 August 2006 (s 47H)

Expiry—pt 3A.2

s 47H ins A2004-66 s 4
exp 31 August 2006 (s 47H)

Definitions—ch 3A

s 47I ins A2004-66 s 4
sub A2020-20 s 11
def ***affected building*** ins A2020-20 s 11
def ***affected residential premises*** ins A2020-20 s 11
def ***affected residential premises register*** ins A2020-20 s 11
def ***approved occupant*** ins A2020-20 s 11
def ***asbestos assessment report*** ins A2020-20 s 11
def ***asbestos contamination*** ins A2020-20 s 11
def ***asbestos contamination report*** ins A2020-20 s 11
def ***building work*** ins A2020-20 s 11
def ***buyback scheme*** ins A2020-20 s 11
sub A2021-16 s 5
def ***class*** ins A2020-20 s 11
def ***current asbestos contamination report*** ins A2020-20 s 11
def ***licensed asbestos removalist*** ins A2020-20 s 11
def ***loose-fill asbestos insulation*** ins A2020-20 s 11
def ***owner*** ins A2020-20 s 11
def ***regulator*** ins A2020-20 s 11
def ***residential premises*** ins A2020-20 s 11

Meaning of *asbestos contamination report* and *current asbestos contamination report*

s 47J ins A2004-66 s 5 (as am A2005-3 ss 5-9)
sub A2006-16 amdt 1.47; A2020-20 s 11

Meaning of *asbestos assessment report*

s 47K ins A2004-66 s 6 (as am A2005-3 s 10 (s 10 om before commenced by A2005-55 s 7)) (A2004-66 s 6 om before commenced by A2005-55 s 4)
ins A2006-16 amdt 1.47
am A2014-53 s 40, s 41
sub A2020-20 s 11

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Asbestos—assessments and register etc

pt 3A.2 hdg ins A2004-66 s 4
exp 31 August 2006 (s 47H)
ins A2020-20 s 11

Duty to publish educational material

s 47L ins A2004-66 s 7 (A2004-66 s 7 om before commenced by A2005-55 s 5)
ins A2006-16 amdt 1.47
am A2014-53 s 42, s 43
sub A2020-20 s 11

Asbestos advice

s 47M ins A2015-6 amdt 1.3
sub A2020-20 s 11
am A2023-20 s 13; A2025-29 amdt 4.53

Requirement to give asbestos assessment report

s 47N ins A2015-6 amdt 1.3
sub A2020-20 s 11

Requirements—affected residential premises

s 47O ins A2015-6 amdt 1.3
sub A2020-20 s 11

Affected residential premises register

s 47P ins A2020-20 s 11

Notice of affected residential premises to registrar-general

s 47Q ins A2020-20 s 11

Occupancy prohibition

pt 3A.3 hdg ins A2004-66 s 4
om A2014-53 s 38
ins A2020-20 s 11

Definitions—pt 3A.3

s 47R ins A2020-20 s 11
def ***occupy*** ins A2020-20 s 11
def ***transfer*** ins A2020-20 s 11
def ***transmission*** ins A2020-20 s 11

Meaning of *occupancy prohibition*

s 47S ins A2020-20 s 11

Meaning of *approved occupant*

s 47T ins A2020-20 s 11

Occupancy prohibition—affected residential premises

s 47U ins A2020-20 s 11

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Owner must notify regulator of approved occupants
s 47V ins A2020-20 s 11

Asbestos advice and assessment reports
pt 3A.4 hdg ins A2004-66 s 5
sub A2006-16 amdt 1.47
om A2014-53 s 39

Other provisions about asbestos
pt 3A.5 hdg ins A2004-66 s 7 (A2004-66 s 7 om before commenced by A2005-55 s 5)

Meaning of *close associate* for ch 4
s 48 am A2011-22 amdt 1.159; A2018-8 s 15; A2019-38 amdt 1.2

Working out whether person is a *suitable person*
s 49 am A2005-13 amdt 1.29; A2006-42 amdt 3.32; A2008-46 amdt 3.17; A2011-22 amdt 1.159; A2016-42 amdt 3.53; A2019-38 amdt 1.2

Applications for licences etc to comply with Act
s 50 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Power to ask for information from applicants, licensees and others
s 51 am A2011-22 amdt 1.159; A2016-18 amdt 3.74, amdt 3.75; A2019-38 amdt 1.2

Licence application and decision
s 52 am R34 LA; A2019-38 amdt 1.2; A2025-29 amdt 4.53

Licence conditions
s 53 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Form of licence
s 56 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Licensee to keep work health and safety commissioner informed
s 57 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2
s 57 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Licence—application to amend by licensee
s 58 am A2011-22 amdt 1.159; A2019-38 amdt 1.2; A2025-29 amdt 4.53

Licence—imposition etc of conditions on work health and safety commissioner's initiative
s 59 hdg am A2011-22 amdt 1.153; A2019-38 amdt 1.3
s 59 am A2011-22 amdt1.153, amdt 1.159; A2019-38 amdt 1.2, amdt 1.3

Replacement of licence
s 60 am A2011-22 amdt 1.159; A2016-18 amdt 3.76, amdt 3.77; A2019-38 amdt 1.2; A2025-29 amdt 4.53

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Surrender of licence

s 61 am A2011-22 amdt 1.159; A2016-18 amdt 3.78, amdt 3.79; A2019-38 amdt 1.2

Work health and safety commissioner may ask for information etc from licensee

s 62 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2

s 62 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Return of amended, suspended or cancelled licences

s 64 am A2011-22 amdt 1.153, amdt 1.159; A2019-38 amdt 1.2, amdt 1.3

Grounds for disciplinary action

s 67 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Taking disciplinary action

s 68 am A2011-22 amdt1.153, amdt 1.159; A2019-38 amdt 1.2, amdt 1.3

Immediate suspension of licence

s 69 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Effect of suspension of licence

s 70 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Action by work health and safety commissioner in relation to amended, suspended or cancelled licence

s 71 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2

s 71 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Publication of disciplinary decision by work health and safety commissioner

s 72 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2

s 72 am A2006-42 amdt 3.33; A2011-22 amdt 1.159; A2015-33 amdt 1.38, amdt 1.39; A2019-38 amdt 1.2

Unauthorised handling of dangerous substances generally

s 82 am A2009-34 amdt 1.3

Handling of certain dangerous substances to be notified

s 83 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Definitions for pt 5.2

s 85 am A2004-28 amdt 3.14
def ***authorised person*** am A2015-50 amdt 3.93; A2016-33 amdt 1.9
def ***site preservation period*** am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Person in control of premises to preserve site of dangerous occurrence

s 86 am A2005-20 amdt 1.1

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Work health and safety commissioner may require answers to questions and production of documents

s 88 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2
s 88 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Compliance with notice to produce

s 89 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Failure to attend before work health and safety commissioner or produce documents

s 90 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2
s 90 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Attendance before work health and safety commissioner—offences

s 91 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2
s 91 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Privileges against self-incrimination and exposure to civil penalty

s 92 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Notification and display of compliance agreements

s 97 am A2005-20 amdt 3.127

Notification and display of improvement notices

s 103 am A2005-20 amdt 3.128

Definitions for pt 6.4

s 108 def ***basis*** sub A2005-20 amdt 1.2
def ***dangerous substance*** om A2005-20 amdt 3.129
def ***premises*** om A2005-20 amdt 3.129
sub ***relevant responsible person*** sub A2005-20 amdt 3.130

Giving prohibition notices

s 109 sub A2005-20 amdt 1.3

Contents of prohibition notices

s 110 am A2005-20 amdt 1.4, amdt 1.5

Extension of time for inspection etc

s 111 am A2005-20 amdt 1.6

Ending of prohibition notices for contravention of Act etc

s 115 am A2005-20 amdt 1.7

Request for reinspection

s 116 am A2005-20 amdt 1.8; A2011-22 amdt 1.159; A2019-38 amdt 1.2

Revocation on reinspection

s 117 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Ending of prohibition notices given for inspection etc

s 118 am A2005-20 amdt 1.9

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Contravention of prohibition notices
s 119 am A2005-20 amdt 3.131, amdt 3.132

Making of safety undertakings
s 123 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Acceptance of safety undertaking
s 124 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Withdrawal from or amendment of enforceable undertaking
s 125 am A2011-22 amdt 1.153; A2019-38 amdt 1.3

Term of enforceable undertaking
s 126 am A2011-22 amdt 1.153, amdt 1.159; A2019-38 amdt 1.2, amdt 1.3

Safety undertaking not admission of fault etc
s 127 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Contravention of enforceable undertakings
s 128 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Injunctions to restrain offences against Act
s 129 am A2005-53 amdt 1.41; A2011-22 amdt 1.159; A2019-38 amdt 1.2

Amendment or discharge of injunctions
s 131 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Interim injunctions—undertakings about damages
s 132 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Procedures for dividing samples
s 138 am A2008-28 amdt 3.77; A2009-49 amdt 3.37

Certificates of analysis by authorised analysts
s 140 am A2011-22 amdt 1.159; A2019-38 amdt 1.2; A2025-29 amdt 4.53

Power to take action to prevent etc imminent risk
s 148 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Report about action under s 148
s 149 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Power to require name and address
s 155 am A2009-49 amdt 3.38

Warrants—application made other than in person
s 158 am A2018-33 amdt 1.17, amdt 1.18

Return of things seized
s 169 am A2005-20 amdt 3.133; A2011-22 amdt 1.159; A2019-38 amdt 1.2

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Application for order disallowing seizure
s 170 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Order for return of seized thing
s 171 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Adjournment pending hearing of other proceedings
s 172 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Forfeiture of seized things
s 173 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Return of forfeited things
s 174 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Emergency orders
s 179 am A2025-29 amdt 4.53

Special provisions for recall orders
s 181 am A2011-22 amdt 1.159; A2011-52 amdt 3.66; A2019-38 amdt 1.2

How emergency orders are made
s 182 am A2015-33 amdt 1.40

Notification and review of decisions
ch 9 hdg sub A2008-37 amdt 1.105

Definitions–ch 9
s 186 def ***decision-maker*** ins A2008-37 amdt 1.105
am A2011-22 amdt 1.159; A2019-38 amdt 1.2
sub A2020-20 s 12
def ***internally reviewable decision*** ins A2008-37 amdt 1.105
am A2011-22 amdt 1.159; A2019-38 amdt 1.2
def ***internal reviewer*** ins A2008-37 amdt 1.105
def ***internal review notice*** ins A2008-37 amdt 1.105
def ***reviewable decision*** ins A2008-37 amdt 1.105

Internal review notices
s 186A ins A2008-37 amdt 1.105
am A2025-29 amdt 4.53

Applications for internal review
s 187 sub A2008-37 amdt 1.105
am A2011-22 amdt 1.159; A2019-38 amdt 1.2; A2025-29 amdt 4.53

Applications not stay internally reviewable decisions
s 187A ins A2008-37 amdt 1.105

Internal reviewer
s 188 sub A2008-37 amdt 1.105
am A2011-22 amdt 1.159; A2019-38 amdt 1.2

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Review by internal reviewer
s 189 sub A2008-37 amdt 1.105
am A2011-22 amdt 1.159; A2018-8 s 16; A2019-38 amdt 1.2

Reviewable decision notices
s 190 sub A2008-37 amdt 1.105
am A2025-29 amdt 4.53

Applications for review
s 191 sub A2008-37 amdt 1.105
am A2025-29 amdt 4.53

Publication by work health and safety commissioner of convictions etc
s 197 hdg am A2011-22 amdt 1.159; A2019-38 amdt 1.2
s 197 am A2011-22 amdt 1.159; A2015-33 amdt 1.41, amdt 1.42; A2019-38 amdt 1.2

Notices of noncompliance by territory entities
s 200 am A2005-20 amdt 3.134; A2011-22 amdts 1.154-1.156; A2015-16 amdt 1.6, andt 1.7; ss renum R40 LA

Certificate evidence etc
s 202 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Power of court to order further analysis
s 205 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Inspection of incorporated documents
s 206 am A2011-22 amdt 1.159
sub A2018-8 s 17
am A2019-38 amdt 1.2

Inspectors
s 207 am A2011-22 amdt 1.159; A2019-38 amdt 1.2; A2025-30 s 4, amdt 1.1

Identity cards
s 208 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Appointment of authorised analysts
s 210 am A2011-22 amdt 1.159; A2019-38 amdt 1.2; A2025-30 amdt 1.1

Protection from liability
s 212 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

Regulations may apply etc instruments
s 213 am A2018-8 s 18; A2025-29 amdt 4.53

Regulations may exempt people, plant or premises from Act
s 217 am A2011-22 amdt 1.159; A2019-38 amdt 1.2

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Minister may exempt people, plant, premises or dangerous substances from Act

s 218 am A2006-42 amdt 3.34; A2025-29 amdt 4.53

Codes of practice

s 219 am A2006-42 amdt 3.34; A2025-29 amdt 4.53

Notification of certain incorporated documents

s 220 am A2011-22 amdt 1.159
om A2018-8 s 19

Determination of fees

s 221 am A2006-42 amdt 3.34; A2025-29 amdt 4.53

Approved forms

s 222 am A2006-42 amdt 3.34; A2025-29 amdt 4.53

Regulation-making power

s 223 am A2025-29 amdt 4.53

Review of Act

s 224 sub A2005-38 s 4
exp 30 June 2008 (s 224 (3))

Consequential and transitional matters

ch 14 hdg exp 5 April 2006 (s 231)

Repeals

s 225 om LA s 89 (3)

Existing licences

s 226 mod SL2004-9 reg 251 (as am by SL2004-39 reg 5; om by SL2004-56 s 605)
mod SL2004-56 s 601
exp 5 April 2006 (s 231)

Existing shotfirers' permits

s 226A ins as mod SL2004-9 reg 253
exp 15 May 2004 (s 226A (5))

Existing general public display fireworks permits

s 226B ins as mod SL2004-9 reg 253
exp 15 May 2004 (s 226B (5))

Existing permits under OH&S Regulations to use explosives

s 226C ins as mod SL2004-9 reg 253
exp 1 September 2004 (s 226C (5))

Meaning of *LPG* for s 7

s 227 exp 1 July 2004 (s 227 (3))

Transitional regulations

s 228 exp 5 April 2006 (s 231)

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Modification of ch 14's operation
s 229 exp 5 April 2006 (s 231)

Legislation amended—sch 1
s 230 om LA s 89 (3)

Expiry of ch 14
s 231 exp 5 April 2006 (s 231)

Transitional—Loose-fill Asbestos Legislation Amendment Act 2020
ch 15 hdg ins A2020-20 s 13
exp 1 July 2022 (s 237)

Definitions—ch 15
s 232 ins A2020-20 s 13
exp 1 July 2022 (s 237)

Existing asbestos advice
s 233 ins A2020-20 s 13
exp 1 July 2022 (s 237)

Existing contamination reports
s 234 ins A2020-20 s 13
exp 1 July 2022 (s 237)

Existing assessment reports
s 235 ins A2020-20 s 13
exp 1 July 2022 (s 237)

Existing register
s 236 ins A2020-20 s 13
exp 1 July 2022 (s 237)

Expiry—ch 15
s 237 ins A2020-20 s 13
exp 1 July 2022 (s 237)

Consequential amendments
sch 1 om LA s 89 (3)

Dictionary
dict am A2004-28 amdt 3.15; A2008-37 amdt 1.106; A2009-49 amdt 3.39; A2011-22 amdt 1.157, amdt 1.158; A2015-50 amdt 3.94; A2016-33 amdt 1.10; A2016-52 amdt 1.62; A2019-38 amdt 1.4
def ***ADG Code*** ins A2018-8 s 20
def ***affected building*** ins A2020-20 s 14
def ***affected residential premises*** ins A2020-20 s 14
def ***affected residential premises register*** ins A2015-6 amdt 1.4
sub A2020-20 s 15

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def ***approved occupant*** ins A2020-20 s 16
def ***asbestos*** ins A2011-10 s 5
sub A2014-53 s 44
def ***asbestos assessment report*** ins A2020-20 s 16
def ***asbestos contamination*** ins A2020-20 s 16
def ***asbestos contamination report*** ins A2020-20 s 16
def ***Australian Dangerous Goods Code*** sub A2018-8 s 21
def ***Australian Explosives Code*** sub A2018-8 s 22
def ***Australian Standard 1940*** om A2018-8 s 23
def ***building work*** ins A2020-20 s 16
def ***buyback scheme*** ins A2020-20 s 16
def ***class*** ins A2020-20 s 16
def ***current asbestos contamination report*** ins A2020-20 s 16
def ***dangerous substance*** sub A2005-20 amdt 3.135
def ***decision-maker*** sub A2008-37 amdt 1.107
def ***incorporated document*** sub A2018-8 s 24
def ***internally reviewable decision*** sub A2008-37 amdt 1.108
def ***internal reviewer*** sub A2008-37 amdt 1.108
def ***internal review notice*** ins A2008-37 amdt 1.109
def ***licensed asbestos assessor*** ins A2020-20 s 16
def ***licensed asbestos removalist*** ins A2020-20 s 16
def ***loose-fill asbestos insulation*** ins A2015-6 amdt 1.4
sub A2020-20 s 17
def ***NOHSC approved criteria*** om A2018-8 s 25
def ***NOHSC List of Designated Hazardous Substances*** om A2018-8 s 25
def ***occupancy prohibition*** ins A2020-20 s 18
def ***occupy*** ins A2020-20 s 18
def ***owner*** ins A2020-20 s 18
def ***premises*** sub A2005-20 amdt 3.135
def ***regulator*** ins A2020-20 s 18
def ***residential premises*** ins A2020-20 s 18
def ***reviewable decision*** sub A2008-37 amdt 1.109
def ***security sensitive substance*** ins A2018-8 s 26
def ***transfer*** ins A2020-20 s 18
def ***transmission*** ins A2020-20 s 18
def ***WHS Act*** ins A2014-18 amdt 1.7

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5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 5 Apr 2004	5 Apr 2004– 15 May 2004	not amended	new Act and modifications by SL2004-9
R2 16 May 2004	16 May 2004– 30 June 2004	not amended	commenced expiry
R3 1 July 2004	1 July 2004– 1 July 2004	A2004-28	amendments by A2004-28
R4 2 July 2004	2 July 2004– 30 Aug 2004	A2004-28	commenced expiry
R5 31 Aug 2004	31 Aug 2004– 31 Aug 2004	A2004-28	amendment to modification
R6 1 Sep 2004	1 Sep 2004– 1 Sep 2004	A2004-66	amendments by A2004-66
R7 2 Sep 2004	2 Sep 2004– 14 Dec 2004	A2004-66	commenced expiry
R8 15 Dec 2004	15 Dec 2004– 22 Feb 2005	A2004-66	modification by SL2004-56
R9 23 Feb 2005	23 Feb 2005– 24 Mar 2005	A2005-3	uncommenced amendments by A2005-3
R10 25 Mar 2005	25 Mar 2005– 3 Apr 2005	A2005-13	amendments by A2005-13
R11 4 Apr 2005	4 Apr 2005– 11 May 2005	A2005-13	amendments by A2004-66

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Republication No and date	Effective	Last amendment made by	Republication for
R12 12 May 2005	12 May 2005– 1 June 2005	A2005-24	amendments by A2005-24
R13 2 June 2005	2 June 2005– 30 Aug 2005	A2005-24	amendments by A2005-20
R14 31 Aug 2005	31 Aug 2005– 27 Oct 2005	A2005-38	amendments by A2005-38
R15 28 Oct 2005	28 Oct 2005– 22 Nov 2005	A2005-55	amendments by A2004-66 and A2005-3 as amended by A2005-55
R16* 23 Nov 2005	23 Nov 2005– 5 Apr 2006	A2005-55	amendments by A2005-53
R17 6 Apr 2006	6 Apr 2006– 30 June 2006	A2005-55	commenced expiry
R18 1 July 2006	1 July 2006– 31 Aug 2006	A2006-24	amendments by A2006-16 as amended by A2006-24
R19 1 Sept 2006	1 Sept 2006– 15 Nov 2006	A2006-33	commenced expiry
R20 16 Nov 2006	16 Nov 2006– 30 June 2007	A2006-42	amendments by A2006-42
R21 1 July 2007	1 July 2007– 10 July 2007	A2007-16	amendments by A2006-33
R22 11 July 2007	11 July 2007– 24 Oct 2007	A2007-16	amendments by A2007-16
R23* 25 Oct 2007	25 Oct 2007– 30 June 2008	A2007-31	amendments by A2007-31
R24 1 July 2008	1 July 2008– 25 Aug 2008	A2007-31	commenced expiry
R25 26 Aug 2008	26 Aug 2008– 1 Feb 2009	A2008-28	amendments by A2008-28

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5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R26 2 Feb 2009	2 Feb 2009– 13 Feb 2009	A2008-46	amendments by A2008-37
R27 14 Feb 2009	14 Feb 2009– 29 Mar 2009	A2008-46	amendments by A2008-26
R28 30 Mar 2009	30 Mar 2009– 16 Aug 2009	A2009-1	amendments by A2008-46
R29 17 Aug 2009	17 Aug 2009– 30 Sept 2009	A2009-1	amendments by A2009-1
R30 1 Oct 2009	1 Oct 2009– 16 Dec 2009	A2009-34	amendments by A2009-28
R31 17 Dec 2009	17 Dec 2009– 1 Apr 2010	A2009-49	amendments by A2009-49
R32 (RI) 6 Apr 2010	2 Apr 2010– 16 Mar 2011	A2009-49	amendments by A2009-34 reissue for republication correction
R33* 17 Mar 2011	17 Mar 2011– 30 June 2011	A2011-10	amendments by A2011-10
R34 1 July 2011	1 July 2011– 11 Dec 2011	A2011-22	amendments by A2011-22
R35 12 Dec 2011	12 Dec 2011– 31 Dec 2011	A2011-52	amendments by A2011-52
R36 1 Jan 2012	1 Jan 2012– 9 June 2014	A2011-55	amendments by A2011-55
R37* 10 June 2014	10 June 2014– 31 Dec 2014	A2014-18	amendments by A2014-18
R38* 1 Jan 2015	1 Jan 2015– 16 Apr 2015	A2014-53	amendments by A2014-53
R39 17 Apr 2015	17 Apr 2015– 2 June 2015	A2015-6	amendments by A2015-6

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Republication No and date	Effective	Last amendment made by	Republication for
R40 3 June 2015	3 June 2015– 28 June 2015	A2015-16	amendments by A2015-16
R41 29 June 2015	29 June 2015– 13 Oct 2015	A2015-16	amendments by A2015-6
R42 14 Oct 2015	14 Oct 2015– 8 Dec 2015	A2015-33	amendments by A2015-33
R43 9 Dec 2015	9 Dec 2015– 26 Apr 2016	A2015-50	amendments by A2015-50
R44 27 Apr 2016	27 Apr 2016– 20 Jun 2016	A2016-18	amendments by A2016-18
R45 21 June 2016	21 June 2016– 31 Aug 2016	A2016-33	amendments by A2016-33
R46 1 Sep 2016	1 Sep 2016– 30 Apr 2017	A2016-52	amendments by A2016-52
R47 1 May 2017	1 May 2017– 28 Mar 2018	A2017-10	amendments by A2016-42 as amended by A2017-10
R48 29 Mar 2018	29 Mar 2018– 22 Oct 2018	A2018-8	amendments by A2018-8
R49 23 Oct 2018	23 Oct 2018– 29 Apr 2020	A2018-33	amendments by A2018-33
R50 30 Apr 2020	30 Apr 2020– 30 June 2020	A2019-38	amendments by A2019-38
R51 1 July 2020	1 July 2020– 17 Aug 2021	A2020-20	amendments by A2020-20
R52 18 Aug 2021	18 Aug 2021– 1 July 2022	A2021-16	amendments by A2021-16
R53 2 July 2022	2 July 2022– 30 June 2023	A2021-16	expiry of transitional provisions (ch 15)

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Republication No and date	Effective	Last amendment made by	Republication for
R54 1 July 2023	1 July 2023– 18 Nov 2025	A2023-20	amendments by A2023-20
R55 19 Nov 2025	19 Nov 2025– 15 Dec 2025	A2025-30	amendments by A2025-30

6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation 'exp' followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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