

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Territory and Municipal Services)

Public Unleased Land Bill 2011

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2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Territory and Municipal Services)

Public Unleased Land Bill 2011

A Bill for

An Act about public unleased land, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Public Unleased Land Act 2011*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15 **3 Dictionary**

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

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

20 For example, the signpost definition '*registered operator*—see the *Road*
21 *Transport (Vehicle Registration) Act 1999*, dictionary.' means that the
22 term 'registered operator' is defined in that dictionary and the definition
23 applies to this Act.

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

1 **4** **Notes**

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

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

5 **5** **Offences against Act—application of Criminal Code etc**

6 Other legislation applies in relation to offences against this Act.

7 *Note 1* *Criminal Code*

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

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

14 *Note 2* *Penalty units*

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

17 **6** **Object of Act**

18 The main objects of this Act are to—

19 (a) protect the amenity and natural value of public unleased land;
20 and

21 (b) facilitate the use of public unleased land.

1 **7 Application of Act to Territory**

- 2 (1) The following sections do not bind the Territory:
- 3 (a) section 16 (Offence—fail to comply with drainage direction);
- 4 (b) section 20 (Offence—carry out work on public unleased land
- 5 without approval);
- 6 (c) section 22 (Offence—fail to comply with repair damage
- 7 direction).
- 8 (2) This section has effect despite the Legislation Act, section 121
- 9 (Binding effect of Acts).

10 **8 Meaning of *public unleased land***

11 In this Act:

12 *public unleased land* means unleased territory land that—

- 13 (a) the public is entitled to use; or
- 14 (b) is open to, or used by, the public.

15 **9 Meaning of *public road***

16 In this Act:

17 *public road* means any street, road, lane, thoroughfare, footpath, or

18 place that is—

- 19 (a) territory land; and
- 20 (b) open to, or used by, the public.

1 **Part 2** **Managing and protecting public**
2 **unleased land**

3 **Division 2.1** **Public roads**

4 **10** **Director-general may fix or change public road levels**

- 5 (1) The director-general may fix or change the level of a public road.
- 6 (2) However, before deciding whether to fix or change a level, the
7 director-general must—
- 8 (a) publish twice in a daily newspaper, at least 30 days before the
9 level is to be fixed or changed, a notice about the proposal to
10 fix or change the level; and
- 11 (b) give anyone interested in the proposal an opportunity to be
12 heard about the proposal.
- 13 (3) The notice must state—
- 14 (a) the name and location of the road; and
- 15 (b) where plans of the proposal may be inspected; and
- 16 (c) where and when anyone interested in the proposal may be
17 heard.
- 18 (4) The director-general must hear anyone interested in the proposal at
19 the time and place mentioned in the notice.
- 20 (5) In deciding whether to fix or change the level, the director-general
21 must consider submissions made at the hearing.

- 1 **11 Director-general may temporarily close public roads**
- 2 (1) The director-general may temporarily close a public road (a *closed*
- 3 *road*).
- 4 (2) However, before closing a public road, the director-general must—
- 5 (a) publish in a daily newspaper, at least 7 days before the road is
- 6 to be closed, a notice about the proposal to close the road; and
- 7 (b) display a notice about the proposal to close the road in a
- 8 conspicuous place at the road.
- 9 (3) Subsection (2) does not apply in urgent circumstances.
- 10 **12 Approval to use closed road**
- 11 (1) A person may apply to the director-general for approval (a *closed*
- 12 *road approval*) to use a closed road.
- 13 *Note 1* If a form is approved under s 131 for this provision, the form must be
- 14 used.
- 15 *Note 2* A fee may be determined under s 130 for this provision.
- 16 (2) On receiving an application, the director-general must—
- 17 (a) give a copy of the application to each entity the
- 18 director-general considers should be consulted about the
- 19 application; and
- 20 (b) tell each entity that they may give a written submission to the
- 21 director-general, not later than 15 working days after receiving
- 22 the copy of the application, about—
- 23 (i) why the closed road should not be used; or
- 24 (ii) how the closed road should be used.

- 1 (3) In deciding whether to issue an approval, the director-general must
2 consider—
- 3 (a) whether the use would be likely to—
- 4 (i) cause undue risk to people or property; or
- 5 (ii) damage the road; and
- 6 (b) any submissions received under subsection (2).
- 7 (4) The director-general may issue an approval only if satisfied that use
8 of the road in accordance with the approval would not be likely to
9 cause unacceptable risk to people, property or the road.
- 10 (5) An approval may be subject to any condition that the
11 director-general reasonably believes is necessary for the
12 management or protection of the road.

13 **13 Offence—use closed road without approval**

- 14 (1) A person commits an offence if the person—
- 15 (a) uses a closed road; and
- 16 (b) does not hold a closed road approval authorising the use of the
17 closed road.

18 Maximum penalty: 10 penalty units.

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

20 **14 Director-general may make temporary public roads**

- 21 (1) This section applies if the director-general—
- 22 (a) temporarily closes a public road under section 11
23 (Director-general may temporarily close public roads); and
- 24 (b) considers that it is necessary to make a temporary road for use
25 while the road is closed.
- 26 (2) The director-general may make a temporary public road.

1 (3) However, if the land for the temporary public road is fenced, the
2 director-general must tell the occupier or owner of the land about
3 the temporary public road at least 24 hours before making the
4 temporary public road.

5 (4) Subsection (3) does not apply in urgent circumstances.

6 **Division 2.2 Drainage affecting public unleased**
7 **land**

8 **15 Directions to construct surface water drains**

9 (1) This section applies if surface water from land—

10 (a) overflows into public unleased land; and

11 (b) damages the public unleased land.

12 (2) The director-general may direct (a *drainage direction*) the land
13 owner to do 1 or more of the following:

14 (a) repair the damage;

15 (b) construct stated drains.

16 (3) A drainage direction must be in writing and state—

17 (a) if damage is to be repaired—

18 (i) the public unleased land; and

19 (ii) the damage to be repaired; and

20 (b) if a drain is to be constructed—

21 (i) the location of the drain; and

22 (ii) the size of the drain; and

23 (iii) that the owner must maintain the drain in good condition;
24 and

- 1 (c) when the direction must be complied with, being a day at least
2 1 month after the direction is given to the owner.

3 *Note* Power to make the direction includes power to amend or repeal the
4 direction (see Legislation Act, s 46).

5 **16 Offence—fail to comply with drainage direction**

- 6 (1) A person commits an offence if the person—

7 (a) is subject to a drainage direction; and

8 (b) fails to comply with the direction.

9 Maximum penalty: 5 penalty units.

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

11 **17 Construction of drains by Territory**

- 12 (1) This section applies if a land owner—

13 (a) is subject to a drainage direction; and

14 (b) fails to comply with the direction.

- 15 (2) The director-general may—

16 (a) if a drain has not been constructed or maintained as directed—

17 (i) enter onto the land mentioned in the drainage direction,
18 with the assistance that the director-general considers
19 necessary; and

20 (ii) construct or maintain the drains mentioned in the drainage
21 direction; and

22 (iii) recover the reasonable costs of the construction or
23 maintenance from the land owner; and

1 (b) if damage to public unleased land has not been repaired as
2 directed—

3 (i) repair the damage; and

4 (ii) recover the reasonable costs of repairing the damage from
5 the land owner.

6 *Note 1* Powers of entry are further dealt with in div 4.5.

7 *Note 2* An amount owing under a law may be recovered as a debt in a court of
8 competent jurisdiction or the ACAT (see Legislation Act, s 177).

9 **Division 2.3 Work on public unleased land**

10 **18 Meaning of *work* on public unleased land**

11 In this Act:

12 *work*, on public unleased land, includes—

13 (a) any interference with Territory property on the public unleased
14 land; and

15 (b) construction work carried out on the public unleased land.

16 **19 Approval to carry out work on public unleased land**

17 (1) A person may apply to the director-general for approval (a *work*
18 *approval*) to carry out work on public unleased land.

19 *Note 1* If a form is approved under s 131 for this provision, the form must be
20 used.

21 *Note 2* A fee may be determined under s 130 for this provision.

22 (2) On receiving an application, the director-general must—

23 (a) give a copy of the application to each entity the
24 director-general considers should be consulted about the
25 application; and

- 1 (b) tell each entity that they may give a written submission to the
2 director-general, not later than 15 working days after receiving
3 the copy of the application, about—
- 4 (i) why the work should not be carried out; or
5 (ii) how the work should be carried out.
- 6 (3) In deciding whether to issue an approval, the director-general must
7 consider—
- 8 (a) whether the work would be likely to—
- 9 (i) cause undue disturbance, inconvenience or offence to
10 people lawfully on or near the public unleased land; or
11 (ii) cause undue risk to people or property; or
12 (iii) damage the public unleased land; and
13 (b) any submissions received under subsection (2).
- 14 (4) The director-general may issue an approval only if satisfied that
15 carrying out the work in accordance with the approval would not be
16 likely to—
- 17 (a) unacceptably affect people lawfully on or near the public
18 unleased land; and
19 (b) cause unacceptable risk to people, property or the public
20 unleased land.
- 21 (5) An approval may be conditional.

22 **Examples—conditions**

23 1 that the work site be lit from sunset to sunrise

24 2 that the work site be fenced

25 *Note* An example is part of the Act, is not exhaustive and may extend, but
26 does not limit, the meaning of the provision in which it appears (see
27 Legislation Act, s 126 and s 132).

1 **20 Offence—carry out work on public unleased land without**
2 **approval**

- 3 (1) A person commits an offence if the person—
4 (a) carries out work on public unleased land; and
5 (b) does not hold a work approval authorising the carrying out of
6 the work on the public unleased land.

7 Maximum penalty: 10 penalty units.

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

9 **Division 2.4 Damage to public unleased land**

10 **21 Directions to repair damage to public unleased land**

- 11 (1) This section applies if—
12 (a) a person causes damage to—
13 (i) public unleased land; or
14 (ii) Territory property on public unleased land; and

15 **Example—Territory property on public unleased land**

16 1 boundary mark

17 2 public notice

18 *Note* An example is part of the Act, is not exhaustive and may
19 extend, but does not limit, the meaning of the provision in
20 which it appears (see Legislation Act, s 126 and s 132).

- 21 (b) the damage is not authorised under an approval or public
22 unleased land permit under this Act.

23 **Example—approval that may authorise damage**

24 1 closed road approval

25 2 work approval

- 26 (2) The director-general may direct (a *repair damage direction*) the
27 person to repair the damage.

- 1 (3) A repair damage direction must be in writing and state—
2 (a) the public unleased land and Territory property (if any); and
3 (b) the damage to be repaired; and
4 (c) when the direction must be complied with, being a day at least
5 1 month after the direction is given to the person.

6 *Note* Power to make the direction includes power to amend or repeal the
7 direction (see Legislation Act, s 46).

8 **22 Offence—fail to comply with repair damage direction**

- 9 (1) A person commits an offence if the person—
10 (a) is subject to a repair damage direction; and
11 (b) fails to comply with the direction.
12 Maximum penalty: 20 penalty units.
13 (2) An offence against this section is a strict liability offence.

14 **23 Repair of damage by Territory**

- 15 (1) This section applies if a person—
16 (a) is subject to a repair damage direction; and
17 (b) fails to comply with the direction.
18 (2) The director-general may—
19 (a) repair the damage; and
20 (b) recover the reasonable costs of repairing the damage from the
21 person.

22 *Note* An amount owing under a law may be recovered as a debt in a
23 court of competent jurisdiction or the ACAT (see Legislation Act,
24 s 177).

1 **Division 2.5 Signs on public unleased land**

2 **24 Meaning of *sign* on public unleased land**

3 In this Act—

4 *sign*, on public unleased land, includes—

- 5 (a) an advertisement; and
6 (b) a public notice.

7 **25 Approval to place sign on public unleased land**

- 8 (1) A person may apply to the director-general for approval (a *sign*
9 *approval*) to place a sign on public unleased land.

10 *Note 1* If a form is approved under s 131 for this provision, the form must be
11 used.

12 *Note 2* A fee may be determined under s 130 for this provision.

- 13 (2) On receiving an application, the director-general must—

14 (a) give a copy of the application to each entity the
15 director-general considers should be consulted about the
16 application; and

17 (b) tell each entity that they may give a written submission to the
18 director-general, not later than 15 working days after receiving
19 the copy of the application, about—

20 (i) why the sign should not be placed on the public unleased
21 land; or

22 (ii) how the sign should be placed on the public unleased
23 land.

- 1 (3) In deciding whether to issue an approval, the director-general must
2 consider—
- 3 (a) whether the placement of the sign would be likely to—
- 4 (i) cause undue disturbance, inconvenience or offence to
5 people lawfully on or near the public unleased land; or
- 6 (ii) cause undue risk to people or property; or
- 7 (iii) damage the public unleased land; and
- 8 (b) any submissions received under subsection (2).
- 9 (4) The director-general may issue an approval only if satisfied that
10 placing the sign in accordance with the approval would not be likely
11 to—
- 12 (a) unacceptably affect people lawfully on or near the public
13 unleased land; and
- 14 (b) cause unacceptable risk to people, property or the public
15 unleased land.
- 16 (5) If the sign is a movable sign, the approval is subject to the condition
17 that the placement and keeping of the sign must comply with the
18 movable signs code of practice.
- 19 (6) An approval may be subject to any other condition that the
20 director-general reasonably believes is necessary for the
21 management or protection of the public unleased land.

1 **26 Offence—place sign on public unleased land without**
2 **approval**

- 3 (1) A person commits an offence if the person—
4 (a) places a sign on public unleased land; and
5 (b) does not hold a sign approval authorising the placing of the
6 sign on the public unleased land.

7 Maximum penalty: 10 penalty units.

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

9 **27 Movable signs code of practice**

- 10 (1) The Minister may approve a code of practice about movable signs
11 on public unleased land (a *movable signs code of practice*).

- 12 (2) A movable signs code of practice may include provisions about 1 or
13 more of the following matters:

- 14 (a) the construction of movable signs on public unleased land;
15 (b) the size of movable signs on public unleased land;
16 (c) the location of movable signs on public unleased land;
17 (d) the words or images that may be displayed on movable signs
18 on public unleased land;
19 (e) the number of movable signs that may be placed on public
20 unleased land;
21 (f) the kind of insurance policy that a person placing a movable
22 sign on public unleased land must hold.

- 23 (3) An approved code of practice is a disallowable instrument.

24 *Note* A disallowable instrument must be notified, and presented to the
25 Legislative Assembly, under the Legislation Act.

1 **28 Offence—fail to comply with code of practice**

- 2 (1) A person commits an offence if—
- 3 (a) the person places a movable sign on public unleased land; and
- 4 (b) either—
- 5 (i) the person fails to comply with the movable signs code of
- 6 practice; or
- 7 (ii) the sign does not comply with the movable signs code of
- 8 practice.

9 Maximum penalty:

- 10 (a) if the failure relates to insurance—50 penalty units; or
- 11 (b) if the failure does not relate to insurance—10 penalty units.

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

13 **29 Territory indemnified regarding movable signs**

14 A person who places a movable sign on public unleased land is

15 liable to indemnify the Territory for any liability the Territory incurs

16 as a result of the movable sign being on the public unleased land.

1 **Division 2.6** **Trees and other plants affecting**
2 **public unleased land**

3 **30** **Definitions—div 2.6**

4 In this division:

5 *damage* a protected tree—see the *Tree Protection Act 2005*,
6 section 12.

7 *registered tree*—see the *Tree Protection Act 2005*, section 9.

8 *tree protection approval* means an approval under the *Tree*
9 *Protection Act 2005*—

- 10 (a) section 25 (Decision on approval application); or
11 (b) section 29 (Approval in urgent circumstances or for minor
12 works).

13 **31** **Direction to prune tree etc overhanging public unleased**
14 **land**

15 (1) This section applies if the director-general believes on reasonable
16 grounds that a tree or other plant is—

- 17 (a) overhanging public unleased land; and
18 (b) likely to obstruct or inconvenience anyone on the public
19 unleased land.

20 (2) The director-general may direct (a *plant pruning direction*) the
21 occupier of the land on which the tree or other plant is growing to
22 prune the tree or other plant.

1 (3) However, if the tree or other plant is a registered tree and the
2 pruning would or may damage the tree, a tree protection approval
3 for the pruning must be in force before the director-general issues
4 the plant pruning direction.

5 *Note* A tree protection approval is not needed for regulated trees because they
6 are exempted under the *Tree Protection Act 2005*, s 19 (1) (d) (iv).

7 (4) The plant pruning direction must—

8 (a) be in writing; and

9 (b) state the public unleased land; and

10 (c) identify the tree or other plant; and

11 (d) state how the tree or plant must be pruned; and

12 (e) state when the direction must be complied with, being a day at
13 least 7 days after the direction is given to the occupier; and

14 (f) if subsection (3) applies to the tree or other plant—be
15 accompanied by the tree protection approval.

16 *Note* Power to make the direction includes power to amend or repeal the
17 direction (see *Legislation Act*, s 46).

18 **32 Offence—fail to comply with plant pruning direction**

19 (1) A person commits an offence if the person—

20 (a) is subject to a plant pruning direction; and

21 (b) fails to comply with the direction.

22 Maximum penalty: 5 penalty units.

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

1 **33 Pruning of tree etc by Territory**

- 2 (1) This section applies if an occupier—
- 3 (a) is subject to a plant pruning direction; and
- 4 (b) fails to comply with the direction.
- 5 (2) The director-general may—
- 6 (a) enter onto the land mentioned in the plant pruning direction,
- 7 with the assistance that the director-general considers
- 8 necessary; and
- 9 *Note* Powers of entry are further dealt with in div 4.5.
- 10 (b) prune the tree or other plant as mentioned in the plant pruning
- 11 direction; and
- 12 (c) recover the reasonable costs of the pruning from the occupier.

13 *Note* An amount owing under a law may be recovered as a debt in a

14 court of competent jurisdiction or the ACAT (see Legislation Act,

15 s 177).

16 **34 Direction to remove tree etc endangering public on public**

17 **unleased land**

- 18 (1) This section applies if the director-general believes on reasonable
- 19 grounds that a tree or other plant endangers the safety of anyone on
- 20 public unleased land.

21 **Example—tree or plant endangering safety of person on public unleased**

22 **land**

23 tree obstructing vision of drivers on public road

24 *Note* An example is part of the Act, is not exhaustive and may extend, but

25 does not limit, the meaning of the provision in which it appears (see

26 Legislation Act, s 126 and s 132).

- 27 (2) The director-general may direct (a *plant removal direction*) the
- 28 occupier of the land on which the tree or other plant is growing to
- 29 immediately remove the tree or plant.

1 (3) However, if the tree or other plant is a registered tree, a tree
2 protection approval for the removal must be in force before the
3 director-general issues the plant removal direction.

4 *Note* A tree protection approval is not needed for regulated trees because they
5 are exempted under the *Tree Protection Act 2005*, s 19 (1) (d) (iv).

6 (4) The plant removal direction must—

7 (a) be in writing; and

8 (b) state the public unleased land; and

9 (c) identify the tree or other plant; and

10 (d) state when the direction must be complied with, being a day at
11 least 5 days after the direction is given to the occupier; and

12 (e) if subsection (3) applies to the tree or other plant—be
13 accompanied by the tree protection approval.

14 *Note* Power to make the direction includes power to amend or repeal the
15 direction (see Legislation Act, s 46).

16 **35 Offence—fail to comply with plant removal direction**

17 (1) A person commits an offence if the person—

18 (a) is subject to a plant removal direction; and

19 (b) fails to comply with the direction.

20 Maximum penalty: 50 penalty units.

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

22 **36 Removal of tree etc by Territory**

23 (1) This section applies if an occupier—

24 (a) is subject to a plant removal direction; and

25 (b) fails to comply with the direction.

- 1 (2) The director-general may—
- 2 (a) enter onto the land mentioned in the plant removal direction,
- 3 with the assistance that the director-general considers
- 4 necessary; and
- 5 (b) remove the tree or other plant; and
- 6 (c) recover the reasonable costs of the pruning from the occupier.

7 *Note 1* Powers of entry are further dealt with in div 4.5.

8 *Note 2* An amount owing under a law may be recovered as a debt in a court of

9 competent jurisdiction or the ACAT (see Legislation Act, s 177).

10 **Division 2.7 Graffiti visible from public unleased**

11 **land**

12 **37 Meaning of *occupier* of leased territory land—div 2.7**

13 In this division:

14 *occupier*, of leased territory land, includes—

- 15 (a) a person believed on reasonable grounds to be an occupier of
- 16 the land; and
- 17 (b) a person apparently in charge of the land.

18 **38 Graffiti removal from property on leased territory land**

- 19 (1) This section applies to graffiti on property on leased territory land if
- 20 the graffiti is visible from public unleased land.
- 21 (2) An authorised person may remove the graffiti with the consent of
- 22 the occupier of the land.
- 23 (3) An authorised person may remove the graffiti without the consent of
- 24 the occupier of the land if an authorised person has, immediately
- 25 before the graffiti removal work is to be carried out, taken
- 26 reasonable steps to tell the occupier that the work is to be carried
- 27 out.

1 (4) However, graffiti removal work under subsection (3) must be
2 carried out only from public unleased land.

3 (5) After graffiti removal work under subsection (2) or (3) has been
4 carried out, an authorised person must tell the occupier of the land,
5 in writing—

6 (a) that the work has been carried out; and

7 (b) about the effect of section 39.

8 **39 Graffiti removal—liability of the Territory**

9 (1) The cost of graffiti removal work under section 38 is payable by the
10 Territory.

11 (2) The Territory is liable for any damage caused to the property in
12 carrying out graffiti removal work, other than any minor damage
13 that is incidental to the removal of the graffiti.

14 **Examples—minor incidental damage**

15 1 minor discoloration of the surface from which the graffiti is removed

16 2 minor variations in the colour and application of paintwork

17 *Note* An example is part of the Act, is not exhaustive and may extend, but
18 does not limit, the meaning of the provision in which it appears (see
19 Legislation Act, s 126 and s 132).

20 (3) The Territory is not liable for any failure to completely remove any
21 graffiti.

22 (4) To remove any doubt, the Territory is not required to—

23 (a) carry out any graffiti removal work; or

24 (b) restore any property to its former state before graffiti was
25 applied to it.

1 **Part 3 Public unleased land permits**

2 **Division 3.1 Important concepts**

3 **40 What is a *public unleased land permit*?**

4 In this Act:

5 *public unleased land permit* means a permit that authorises the
6 permit-holder to exclusively use stated public unleased land (the
7 *permitted public unleased land*)—

8 (a) at a stated time (the *permitted time*); and

9 (b) for a stated activity (the *permitted activity*).

10 **41 When does a person use public unleased land?—pt 3**

11 In this part:

12 *use*, public unleased land—a person *uses* public unleased land if the
13 person carries on an activity on the public unleased land in a way
14 that excludes some or all members of the public from the place.

15 **Examples—using public unleased land**

16 1 placing tables and chairs on the footpath outside a cafe

17 2 placing a construction skip on a footpath

18 3 placing a charity bin on a footpath

19 4 holding markets on unleased land

20 5 holding a concert in a park

21 6 holding a wedding in a park

22 7 parking a car in a park

23 *Note* An example is part of the Act, is not exhaustive and may extend, but
24 does not limit, the meaning of the provision in which it appears (see
25 Legislation Act, s 126 and s 132).

1 **42** **Who is an *influential person* for a corporation?—pt 3**

2 (1) In this part:

3 ***influential person***, for a corporation, means any of the following:

4 (a) an executive officer of the corporation;

5 (b) a person who may exercise a relevant power in relation to the
6 corporation;

7 (c) a related corporation;

8 (d) an executive officer of a related corporation.

9 (2) In this section:

10 ***related corporation*** means a related body corporate under the
11 Corporations Act.

12 ***relevant power***, for a corporation, means a power—

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

15 (b) to elect or appoint a person as an executive officer in the
16 corporation; or

17 (c) to exercise a significant influence in relation to the conduct of
18 the corporation.

1 **Division 3.2 Public unleased land permits—**
2 **offences**

3 **43 Offence—use public unleased land without permit**

- 4 (1) A person commits an offence if the person—
5 (a) uses public unleased land; and
6 (b) does not hold a public unleased land permit authorising the
7 use.

8 Maximum penalty: 20 penalty units.

- 9 (2) An offence against this section is a strict liability offence.
- 10 (3) This section does not apply to a person if the person—
11 (a) holds a work approval or sign approval for the public unleased
12 land; and
13 (b) uses the public unleased land in accordance with the approval.
- 14 (4) This section does not apply to a person if the person—
15 (a) holds a licence under the *Planning and Development Act 2007*,
16 section 303, to occupy or use the public unleased land; and
17 (b) occupies or uses the public unleased land in accordance with
18 the licence.
- 19 (5) This section does not apply to a person who parks a vehicle on
20 public unleased land if—
21 (a) the person holds a licence under the *Hawkers Act 2003* to use
22 the vehicle to sell goods or services in the public unleased
23 land; and
24 (b) the person is carrying on the business of a hawker under that
25 Act in accordance with the licence.

1 **44 Offence—fail to comply with condition of permit**

- 2 (1) A person commits an offence if—
- 3 (a) the person holds a public unleased land permit; and
- 4 (b) the permit is subject to a condition; and
- 5 (c) the person fails to comply with the condition.
- 6 Maximum penalty:
- 7 (a) if the condition is not a financial assurance condition—
- 8 20 penalty units; or
- 9 (b) if the condition is a financial assurance condition—30 penalty
- 10 units.
- 11 (2) An offence against this section is a strict liability offence.

12 **Division 3.3 Public unleased land permits—**

13 **application**

14 **45 Public unleased land permit—application**

- 15 (1) A person may apply to the director-general for a public unleased
- 16 land permit.
- 17 (2) The application must—
- 18 (a) be in writing; and
- 19 (b) state—
- 20 (i) the public unleased land for the permit; and
- 21 (ii) the times for the permit; and
- 22 (iii) the activity for the permit; and

- 1 (c) include complete details of suitability information about—
2 (i) the applicant; and
3 (ii) if the applicant is a corporation—each influential person
4 for the applicant; and
5 (iii) the activity for the permit; and
6 *Note* *Suitability information*, about a person—see s 47.
7 *Suitability information*, about an activity—see s 50.
- 8 (d) include a plan (a *location plan*) that—
9 (i) clearly shows—
10 (A) the location, boundaries and dimensions of the
11 public unleased land for the permit; and
12 (B) the position of the activity on the public unleased
13 land; and
14 (ii) if the activity for the permit involves placing tables and
15 chairs at an outdoor eating or drinking place—is
16 professionally drafted.
- 17 (3) In this section:
18 *outdoor eating or drinking place*—see the *Smoke-Free Public*
19 *Unleased Land Act 2003*, section 9A (Meaning of *outdoor eating or*
20 *drinking place*).
- 21 *Note 1* Giving false or misleading information is an offence against the
22 Criminal Code, s 338.
- 23 *Note 2* If a form is approved under s 131 for this provision, the form must be
24 used.
- 25 *Note 3* A fee may be determined under s 130 for this provision.

1 **Division 3.4** **Public unleased land permits—**
2 **suitability of people**

3 **46** **Who is a *suitable person* to hold a public unleased land**
4 **permit?**

5 (1) In this Act:

6 *suitable person*, to hold a public unleased land permit, means a
7 person who the director-general is satisfied is a suitable person to
8 hold the permit.

9 (2) In deciding whether a person is a suitable person to hold a public
10 unleased land permit, the director-general must consider each of the
11 following:

12 (a) suitability information about the person;

13 (b) any information given to the director-general under section 48
14 (Suitability of people—further information about people).

15 **47** **What is *suitability information* about a person?**

16 In this Act:

17 *suitability information*, about a person, means information about
18 the following:

19 (a) any conviction of, or finding of guilt against, the person for an
20 offence against 1 or more of the following:

21 (i) this Act;

22 (ii) a law of another jurisdiction corresponding, or
23 substantially corresponding, to this Act;

24 *Note* A reference to an Act includes a reference to the statutory
25 instruments made or in force under the Act, including any
26 regulation (see Legislation Act, s 104).

1 (b) any proven noncompliance by the person with a legal
2 obligation in relation to carrying on an activity on public
3 unleased land;

4 **Example**

5 failing to comply with a direction to remove an object (see s 96)

6 *Note* An example is part of the Act, is not exhaustive and may extend,
7 but does not limit, the meaning of the provision in which it
8 appears (see Legislation Act, s 126 and s 132).

9 (c) any refusal of an application by the person for a licence, permit
10 or other authority (however described) to carry on an activity
11 on public unleased land;

12 **Example**

13 A person has had an application refused for a licence under the *Planning*
14 *and Development Act 2007*, s 303, to occupy or use an area of unleased
15 land.

16 (d) any other matter relevant to the person's ability to safely and
17 responsibly carry on an activity on public unleased land.

18 **48 Suitability of people—further information about people**

19 (1) This section applies if the director-general is making a decision
20 about whether a person is a suitable person to hold a public unleased
21 land permit.

22 (2) The director-general may, by written notice given to the person
23 (a *personal information notice*), require the person to give the
24 director-general stated information about 1 or more of the following
25 people, not later than a stated reasonable time:

26 (a) the person;

27 (b) if the person is a corporation—an influential person for the
28 person.

- 1 (3) The director-general need not decide whether a person is a suitable
2 person to hold a public unleased land permit if—
- 3 (a) the director-general has given the person a personal
4 information notice; and
- 5 (b) the person does not comply with the notice.

6 **Division 3.5 Public unleased land permits—**
7 **suitability of activities**

8 **49 What is a *suitable activity* for a public unleased land**
9 **permit?**

- 10 (1) In this Act:
- 11 *suitable activity*, for a public unleased land permit, means an
12 activity that the director-general is satisfied is suitable for the
13 permit.
- 14 (2) In deciding whether an activity is suitable for a public unleased land
15 permit, the director-general must consider each of the following:
- 16 (a) suitability information about the activity;
- 17 (b) the location plan given to the director-general with the
18 application;
- 19 (c) any information about the activity given to the director-general
20 under section 51 (Suitability of activities—further information
21 about activity);
- 22 (d) any approval, licence, permit or other authority for the activity
23 given to the director-general under section 52 (Suitability of
24 activities—other approvals);

- 1 (e) any submission about the activity received by the
2 director-general under—
- 3 (i) section 53 (Suitability of activities—public consultation);
4 or
- 5 (ii) section 54 (Suitability of activities—public consultation
6 submissions);
- 7 (f) any risk management plan given to the director-general under
8 section 55 (Suitability of activities—risk management plan);
- 9 (g) the results of any inspection of an object by the
10 director-general under section 56 (Suitability of activities—
11 inspection of object).

12 **50 What is *suitability information* about an activity?**

13 In this Act:

14 *suitability information*, about an activity, means information about
15 the following:

- 16 (a) if the activity involves placing an object on public unleased
17 land—the following information:
- 18 (i) the nature of the object;
- 19 (ii) the size of the object;
- 20 (iii) the intended use of the object;
- 21 (iv) if the object is not to remain on the public unleased land
22 at all times during the public unleased land permit—when
23 the object will be on the public unleased land;
- 24 (v) any risks that the placement of the object may cause to the
25 public, and how the risks are to be minimised;

- 1 (vi) if placement of the object requires construction work on
2 the public unleased land—
- 3 (A) the nature of the work; and
- 4 (B) any risks that the construction work may cause to the
5 public, and how the risks are to be minimised; and
- 6 (vii) any other matter relevant to the appropriateness of the
7 object on the public unleased land;
- 8 (b) if the activity involves holding an event on public unleased
9 land—the following information:
- 10 (i) the nature of the event;
- 11 (ii) the number of people expected to attend the event;
- 12 (iii) if the event is not to be held on the public unleased land at
13 all times during the public unleased land permit—when
14 the event will be held on the public unleased land;
- 15 (iv) any risks that the holding of the event may cause to the
16 public, and how the risks are to be minimised;
- 17 (v) any other matter relevant to the appropriateness of
18 holding the event on the public unleased land.
- 19 *Note* The director-general must also consider suitability information for an
20 activity when deciding to amend or renew a public unleased land permit
21 (see s 68, s 69 and s 74).

22 **51 Suitability of activities—further information about activity**

- 23 (1) This section applies if the director-general is making a decision
24 about whether an activity is a suitable activity for a public unleased
25 land permit.
- 26 (2) The director-general may, by written notice given to the applicant
27 (an *activity information notice*), require the applicant to give the
28 director-general stated information about the activity, not later than
29 a stated reasonable time.

- 1 (3) The director-general need not decide whether an activity is a
2 suitable activity for a public unleased land permit if—
- 3 (a) the director-general has given the applicant an activity
4 information notice; and
- 5 (b) the applicant does not comply with the notice.

6 **52 Suitability of activities—other approvals**

- 7 (1) This section applies if—
- 8 (a) the director-general is making a decision about whether an
9 activity is a suitable activity for a public unleased land permit;
10 and
- 11 (b) carrying on the activity on the public unleased land in
12 accordance with the permit would require an approval, licence,
13 permit or other authority (however described) under another
14 territory law or Commonwealth law.
- 15 (2) The director-general may, by written notice given to the applicant
16 (an *additional approval notice*), require the applicant to give the
17 director-general a copy of the stated approval, licence, permit or
18 other authority.
- 19 (3) The director-general need not decide an application for a public
20 unleased land permit if—
- 21 (a) the director-general has given the applicant an additional
22 approval notice; and
- 23 (b) the applicant does not comply with the notice.

- 1 **53 Suitability of activities—public consultation**
- 2 (1) This section applies if the director-general—
- 3 (a) is making a decision about whether an activity is a suitable
- 4 activity for a public unleased land permit; and
- 5 (b) considers that carrying on the activity on the public unleased
- 6 land in accordance with the permit may have significant impact
- 7 on people lawfully at adjacent or nearby places.
- 8 (2) The director-general may, by written notice given to the applicant (a
- 9 *public consultation notice*), require the applicant to—
- 10 (a) display a sign about the application on the public unleased
- 11 land; and
- 12 (b) publish a notice about the application in a daily newspaper.
- 13 (3) The sign and notice must—
- 14 (a) state—
- 15 (i) the times for the public unleased land permit; and
- 16 (ii) the activity for the public unleased land permit; and
- 17 (iii) that anyone may give a written submission to the
- 18 director-general about how the use of the public unleased
- 19 land in accordance with the proposed permit may have
- 20 significant impact on someone lawfully at adjacent or
- 21 nearby places; and
- 22 (iv) that submissions may be given to the director-general
- 23 only during the 15 working days after the date of the sign
- 24 or notice (the *public consultation period*); and
- 25 (b) comply with the requirements prescribed by regulation.
- 26 (4) A person who gives the director-general a submission about an
- 27 application may, in writing, withdraw the submission at any time
- 28 before the application is decided.

- 1 (5) The director-general need not decide an application for a public
2 unleased land permit if—
3 (a) the director-general has given the applicant a public
4 consultation notice; and
5 (b) the applicant does not comply with the notice.

6 **54 Suitability of activities—public consultation submissions**

- 7 (1) This section applies if the director-general—
8 (a) receives a submission under section 53 (3); and
9 (b) proposes to decide that the activity is not a suitable activity for
10 the public unleased land permit because of information
11 contained in the submission.

12 *Note* The director-general may issue a public unleased land permit only if
13 satisfied that the activity is a suitable activity for the public unleased
14 land permit (see s 57).

- 15 (2) The director-general must give the applicant written notice of the
16 proposed decision (a *public consultation submission notice*).
17 (3) The notice must—
18 (a) include a copy of the submission; and
19 (b) state that—
20 (i) the applicant may give a written submission to the
21 director-general showing cause why the activity should
22 not be considered unsuitable for the public unleased land
23 permit; and
24 (ii) the applicant's submission may be given to the
25 director-general only during the 20 working days (the
26 *show cause period*) after the date of the notice.

- 1 **55 Suitability of activities—risk management plan**
- 2 (1) This section applies if the director-general—
- 3 (a) is making a decision about whether an activity is a suitable
- 4 activity for a public unleased land permit; and
- 5 (b) considers that carrying on the activity on the public unleased
- 6 land in accordance with the public unleased land permit may
- 7 cause undue risk to people or property.
- 8 (2) The director-general may, by written notice given to the applicant (a
- 9 ***risk management plan notice***), require the applicant to prepare a
- 10 risk management plan for the public unleased land permit.
- 11 (3) The risk management plan must—
- 12 (a) identify the risks to people and property; and
- 13 (b) detail the procedures, practices and arrangements for
- 14 eliminating or minimising the risks.
- 15 (4) The director-general need not decide an application for a public
- 16 unleased land permit if—
- 17 (a) the director-general has given the applicant a risk management
- 18 plan notice; and
- 19 (b) the applicant does not comply with the notice.
- 20 **56 Suitability of activities—inspection of object**
- 21 (1) This section applies if—
- 22 (a) the director-general is making a decision about whether an
- 23 activity is suitable for a public unleased land permit; and
- 24 (b) the activity involves placing an object on public unleased land.

- 1 (2) The director-general may, by written notice given to the applicant
2 (an *inspection notice*), require the applicant to allow the
3 director-general to inspect the object within a stated reasonable
4 time.
- 5 (3) The director-general need not decide whether an activity is a
6 suitable activity for a public unleased land permit if—
- 7 (a) the director-general has given the applicant an inspection
8 notice; and
- 9 (b) the applicant does not comply with the notice.

10 **Division 3.6 Public unleased land permits—**
11 **decision**

12 **57 Public unleased land permit—decision on application**

- 13 (1) This section applies if the director-general receives an application
14 for a public unleased land permit.
- 15 (2) The director-general may issue the public unleased land permit to
16 the applicant only if satisfied that—
- 17 (a) the applicant is a suitable person to hold the public unleased
18 land permit; and
- 19 (b) if the applicant is a corporation—each influential person for
20 the applicant is a suitable person to hold the public unleased
21 land permit; and
- 22 (c) the activity is a suitable activity for the public unleased land
23 permit.

24 *Note* **Suitable person**, to hold a public unleased land permit—see s 46.
25 **Suitable activity**, for a public unleased land permit—see s 49.

- 1 (3) The director-general may impose a condition on a public unleased
2 land permit.

3 **Examples—conditions**

- 4 1 that the permit-holder must hold a stated kind of insurance
5 2 that the permit-holder must fence the permitted public unleased land
6 3 a financial assurance condition (see s 60)

7 *Note* An example is part of the Act, is not exhaustive and may extend, but
8 does not limit, the meaning of the provision in which it appears (see
9 Legislation Act, s 126 and s 132).

- 10 (4) The director-general must, not later than the required time—

- 11 (a) decide the application; and
12 (b) tell the applicant about the decision on the application.

- 13 (5) In this section:

14 ***required time*** means the latest of the following:

- 15 (a) if the director-general gives the applicant a personal
16 information notice under section 48—28 days after the
17 director-general receives the stated information;
- 18 (b) if the director-general gives the applicant an activity
19 information notice under section 51—28 days after the
20 director-general receives the information;
- 21 (c) if the director-general gives the applicant an additional
22 approval notice under section 52—28 days after the
23 director-general receives the approval, licence, permit or other
24 authority;
- 25 (d) if the director-general gives the applicant a public consultation
26 notice under section 53 and receives a submission during the
27 public consultation period—28 days after the director-general
28 receives the submission;

- 1 (e) if the director-general gives the applicant a public consultation
2 submission notice under section 54 and receives a submission
3 during the show cause period—28 days after the
4 director-general receives the submission;
- 5 (f) if the director-general gives the applicant a risk management
6 plan notice under section 55—28 days after the
7 director-general receives the risk management plan;
- 8 (g) if the director-general gives the applicant an inspection notice
9 under section 56—28 days after the director-general inspects
10 the object;
- 11 (h) 28 days after the day the director-general receives the
12 application.

13 *Note* Failure to issue a public unleased land permit within the required time is
14 taken to be a decision not to issue the public unleased land permit (see
15 *ACT Civil and Administrative Tribunal Act 2008*, s 12).

16 **58 Public unleased land permit—form**

- 17 (1) A public unleased land permit must—
- 18 (a) be in writing; and
- 19 (b) include the following information:
- 20 (i) the name of the permit-holder;
- 21 (ii) the location of the permitted public unleased land;
- 22 (iii) the permitted activity;
- 23 (iv) the permitted times;
- 24 (v) the term of the permit;
- 25 (vi) the conditions on the permit;
- 26 (vii) anything else prescribed by regulation.

- 1 (2) A public unleased land permit may include anything else the
2 director-general considers relevant.

3 **59 Public unleased land permit—term**

- 4 (1) A public unleased land permit starts on the day stated in the permit.
5 (2) The director-general must not issue a public unleased land permit
6 for longer than 2 years.
7 (3) A public unleased land permit expires on the day stated in the
8 permit.

9 **Division 3.7 Public unleased land permits—**
10 **financial assurance conditions**

11 **60 Meaning of *financial assurance condition***

12 In this Act:

13 *financial assurance condition*, on a public unleased land permit,
14 means a condition requiring the permit-holder to give the
15 director-general a financial assurance of a stated kind and amount.

16 **61 Financial assurance condition—imposition**

- 17 (1) The director-general may impose a financial assurance condition on
18 a public unleased land permit if satisfied that it is justified having
19 regard to—
20 (a) the likelihood that the permitted activity will cause serious or
21 material damage to the permitted public unleased land; and
22 (b) the likelihood that action will need to be taken in the future to
23 repair the damage; and
24 (c) any other matter the director-general considers relevant.

- 1 (2) A financial assurance must be in the form of—
2 (a) a bank guarantee; or
3 (b) a bond; or
4 (c) an insurance policy; or
5 (d) another form of security that the director-general considers
6 appropriate.
- 7 (3) The director-general must not require financial assurance of an
8 amount greater than the total amount that the director-general
9 reasonably believes is needed to repair the damage that could result
10 from the activity.
- 11 (4) A financial assurance must be given for the period stated in the
12 condition on the public unleased land permit.

13 **62 Financial assurance condition—show cause**

- 14 (1) If the director-general proposes to impose a financial assurance
15 condition on a public unleased land permit, the director-general
16 must give the applicant or permit-holder written notice of the
17 intention to impose the condition.
- 18 (2) The notice must state—
19 (a) the grounds for the proposed condition; and
20 (b) the amount and form of the proposed financial assurance; and
21 (c) that the applicant or permit-holder may give a written
22 submission to the director-general showing cause why the
23 proposed condition should not be imposed; and
24 (d) that submissions may be given to the director-general only
25 during the 20 working days (the *show cause period*) after the
26 date of the notice.

- 1 (3) The director-general must, within 20 working days after the end of
2 the show cause period—
- 3 (a) consider any submissions received under subsection (2) (d);
4 and
- 5 (b) decide whether to impose the condition; and
- 6 (c) tell the applicant or permit-holder (a *decision notice*)—
- 7 (i) about the decision; and
- 8 (ii) if the condition is to be imposed—when (the *due date*)
9 the financial assurance must be provided.
- 10 (4) The director-general must not decide a due date that is earlier than
11 10 working days after the date of the decision notice.

12 **63 Financial assurance condition—permit cancellation**

- 13 (1) This section applies if—
- 14 (a) the director-general imposes a financial assurance condition on
15 a public unleased land permit; and
- 16 (b) the permit-holder does not provide the financial assurance—
- 17 (i) in accordance with the condition; or
- 18 (ii) by the due date.
- 19 (2) The director-general must cancel the public unleased land permit.
- 20 (3) In this section:
- 21 *due date*—see section 62 (3) (c) (ii).

1 **64 Financial assurance condition—claim or realisation**

- 2 (1) This section applies if—
- 3 (a) the director-general issues a public unleased land permit
4 subject to a financial assurance condition; and
- 5 (b) the public unleased land is seriously or materially damaged
6 because of the use of the public unleased land under the public
7 unleased land permit; and
- 8 (c) the director-general incurs, or will incur, expenses in repairing
9 the damage to the public unleased land; and
- 10 (d) the damage is the kind of harm for which the financial
11 assurance may be claimed or realised; and
- 12 (e) the damage was not permitted under this Act.
- 13 (2) The director-general may recover the reasonable expenses of
14 repairing the damage by making a claim on or realising the financial
15 assurance.

16 **65 Financial assurance condition—notice before claim or**
17 **realisation**

- 18 (1) Before acting under section 64, the director-general must give the
19 permit-holder, a written notice stating—
- 20 (a) the serious or material damage caused by the use of the public
21 unleased land; and
- 22 (b) details of the action taken, or to be taken, to repair the damage;
23 and
- 24 (c) the amount of the financial assurance to be claimed or realised;
25 and
- 26 (d) that the permit-holder may give a written submission to the
27 director-general showing cause why the financial assurance
28 should not be claimed or realised as proposed; and

- 1 (e) that a submission may be given to the director-general only
2 during the 20 working days (the *show cause period*) after the
3 date of the notice.
- 4 (2) The director-general must, within 20 working days after the end of
5 the show cause period—
- 6 (a) consider any submission received under subsection (1) (d); and
7 (b) decide whether to make a claim on or realise the financial
8 assurance; and
9 (c) tell the permit-holder about the decision.

10 **66 Financial assurance condition—recovery of extra costs**

- 11 (1) This section applies if—
- 12 (a) the director-general makes a claim on or realises a financial
13 assurance under a public unleased land permit; and
14 (b) the amount recovered by the director-general (the *realised*
15 *assurance*) is less than the reasonable expenses that the
16 director-general incurred, or will incur, in repairing the
17 damage.
- 18 (2) The director-general may give the permit-holder written notice—
- 19 (a) requiring the permit-holder to pay the stated amount, being the
20 difference between the reasonable expenses and the realised
21 assurance; and
22 (b) stating when (the *due date*) the stated amount is required to be
23 paid.
- 24 (3) The director-general must not decide a due date that is earlier than
25 20 working days after the date of the notice.

1 (4) If the permit-holder does not pay the stated amount on or before the
2 due date, the amount that remains unpaid, together with interest on
3 the unpaid amount, is a debt due to the Territory by the
4 permit-holder.

5 *Note 1* A rate of interest may be determined under s 130 for this provision.

6 *Note 2* An amount owing under a law may be recovered as a debt in a court of
7 competent jurisdiction or the ACAT (see Legislation Act, s 177).

8 **67 Financial assurance condition—money held by Territory**

9 If an amount of money is held by the Territory as a financial
10 assurance, the following provisions apply:

11 (a) interest accrues on as much of the original amount as from
12 time to time remains unclaimed by the director-general under
13 section 64 (Financial assurance condition—claim or
14 realisation);

15 *Note* A rate of interest may be determined under s 130 for this
16 provision.

17 (b) for a claim made by the director-general under section 64, the
18 financial assurance is taken to include any accrued interest
19 other than interest to which the permit-holder is entitled to be
20 paid under paragraph (c);

21 (c) during the period for which the financial assurance is required,
22 on each anniversary of the payment of the original amount, the
23 permit-holder is entitled to be paid by the Territory as much of
24 the interest that accrued during the year that ended on the day
25 before that anniversary as remains unclaimed by the
26 director-general under section 64;

- 1 (d) the amount of the original amount and accrued interest that
2 remains unclaimed by the director-general under section 64
3 must be paid by the Territory to the permit-holder if—
- 4 (i) the financial assurance is no longer required by the
5 director-general; or
- 6 (ii) the public unleased land permit is—
- 7 (A) surrendered under section 76 (Public unleased land
8 permit—surrender); or
- 9 (B) cancelled under section 81 (Public unleased land
10 permit—taking regulatory action).

11 **Division 3.8** **Public unleased land permits—**
12 **amendment, transfer, renewal, etc**

13 **68** **Public unleased land permit—amendment initiated by**
14 **director-general**

- 15 (1) The director-general may, by written notice (an *amendment notice*)
16 given to a permit-holder, amend the public unleased land permit if
17 satisfied that—
- 18 (a) the permit-holder is a suitable person to hold the permit as
19 amended; and
- 20 (b) if the permit-holder is a corporation—each influential person
21 for the permit-holder is a suitable person to hold the permit as
22 amended; and
- 23 (c) the permitted activity is a suitable activity for the permit as
24 amended.

25 *Note* *Suitable person*, to hold a public unleased land permit—see s 46.
26 *Suitable activity*, for a public unleased land permit—see s 49.

- 1 (2) However, the director-general may amend the public unleased land
2 permit only if—
- 3 (a) the director-general has given the permit-holder written notice
4 (a *proposal notice*) of the proposed amendment; and
- 5 (b) the proposal notice states that written submissions on the
6 proposal may be made to the director-general before the end of
7 a stated period of at least 14 days after the day the proposal
8 notice is given to the permit-holder; and
- 9 (c) after the end of the stated period, the director-general has
10 considered any submissions made in accordance with the
11 proposal notice.
- 12 (3) Subsection (2) does not apply if the permit-holder applied for, or
13 agreed in writing to, the amendment.
- 14 (4) The amendment takes effect on the day the amendment notice is
15 given to the permit-holder or a later day stated in the notice.

16 **69 Public unleased land permit—application to amend**
17 **permit**

- 18 (1) A permit-holder may apply to the director-general to amend the
19 public unleased land permit.
- 20 *Note 1* If a form is approved under s 131 for an application, the form must be
21 used.
- 22 *Note 2* A fee may be determined under s 130 for this provision.
- 23 (2) A permit-holder must apply to the director-general for amendment
24 of the permit if the permit-holder is a corporation and someone else
25 (the *new influential person*) is to become an influential person for
26 the permit-holder.

- 1 (3) The application must—
2 (a) be in writing; and
3 (b) if the permit-holder is a corporation and someone else is to
4 become an influential person for the permit-holder—include
5 complete details of suitability information about the new
6 influential person.

7 *Note 1* **Suitability information**, about a person—see s 47.

8 *Note 2* Giving false or misleading information is an offence against the
9 Criminal Code, s 338.

10 *Note 3* If a form is approved under s 131 for this provision, the form must be
11 used.

12 *Note 4* A fee may be determined under s 130 for this provision.

13 **70 Public unleased land permit—decision on application to**
14 **amend permit**

15 (1) This section applies if the director-general receives an application to
16 amend a public unleased land permit under section 69.

17 (2) The director-general may amend the permit only if satisfied that—

18 (a) the permit-holder is a suitable person to hold the permit as
19 amended; and

20 (b) if the permit-holder is a corporation—each influential person
21 for the permit-holder is a suitable person to hold the permit as
22 amended; and

23 (c) the permitted activity is a suitable activity for the permit as
24 amended.

25 *Note 1* **Suitable person**, to hold a public unleased land permit—see s 46.
26 **Suitable activity**, for a public unleased land permit—see s 49.

27 *Note 2* The director-general may require the applicant to undertake public
28 consultation before making a decision—see s 53.

- 1 (3) The director-general may impose or amend a condition on a public
2 unleased land permit.
- 3 (4) The director-general must, not later than the required time—
4 (a) decide the application for amendment; and
5 (b) tell the permit-holder about the decision on the application.
- 6 (5) In this section:
7 ***required time*** means the latest of the following:
- 8 (a) if the director-general gives the applicant a personal
9 information notice under section 48—28 days after the
10 director-general receives the stated information;
- 11 (b) if the director-general gives the applicant an activity
12 information notice under section 51—28 days after the
13 director-general receives the information;
- 14 (c) if the director-general gives the applicant an additional
15 approval notice under section 52—28 days after the
16 director-general receives the approval, licence, permit or other
17 authority;
- 18 (d) if the director-general gives the applicant a public consultation
19 notice under section 53 and receives a submission during the
20 public consultation period—28 days after the director-general
21 receives the submission;
- 22 (e) if the director-general gives the applicant a public consultation
23 submission notice under section 54 and receives a submission
24 during the show cause period—28 days after the
25 director-general receives the submission;
- 26 (f) if the director-general gives the applicant a risk management
27 plan notice under section 55—28 days after the
28 director-general receives the risk management plan;

1 (g) if the director-general gives the applicant an inspection notice
2 under section 56—28 days after the director-general inspects
3 the object;

4 (h) 28 days after the day the director-general receives the
5 application.

6 *Note* Failure to amend a public unleased land permit within the required time
7 is taken to be a decision not to amend the permit (see *ACT Civil and*
8 *Administrative Tribunal Act 2008*, s 12).

9 **71 Public unleased land permit—application to transfer**
10 **permit**

11 (1) A permit-holder may apply to the director-general to transfer the
12 public unleased land permit to someone else (the *proposed new*
13 *permit-holder*).

14 (2) The application must—

15 (a) be in writing; and

16 (b) include complete details of suitability information about—

17 (i) the proposed new permit-holder; and

18 (ii) if the proposed new permit-holder is a corporation—each
19 influential person for the proposed new permit-holder.

20 *Note 1* *Suitability information*, about a person—see s 47.

21 *Note 2* Giving false or misleading information is an offence against the
22 Criminal Code, s 338.

23 *Note 3* If a form is approved under s 131 for this provision, the form must be
24 used.

25 *Note 4* A fee may be determined under s 130 for this provision.

- 1 **72 Public unleased land permit—decision on application to**
2 **transfer permit**
- 3 (1) This section applies if the director-general receives an application to
4 transfer a public unleased land permit under section 71.
- 5 (2) The director-general may transfer the public unleased land permit to
6 the proposed new permit-holder only if satisfied that each of the
7 following people is a suitable person to hold the permit:
- 8 (a) the proposed new permit-holder;
- 9 (b) if the proposed new permit-holder is a corporation—each
10 influential person for the proposed new permit-holder;
- 11 *Note Suitable person*, to hold a public unleased land permit—see s 46.
- 12 (3) The director-general may impose or amend a condition on a public
13 unleased land permit.
- 14 (4) The director-general must, not later than the required time—
- 15 (a) decide the application for transfer; and
- 16 (b) tell the permit-holder about the decision on the application.
- 17 (5) In this section:
- 18 *required time* means the latest of the following:
- 19 (a) if the director-general gives the applicant a personal
20 information notice under section 48—28 days after the
21 director-general receives the stated information;
- 22 (b) 28 days after the day the director-general receives the
23 application.
- 24 *Note Failure to transfer a public unleased land permit within the required*
25 *time is taken to be a decision not to transfer the public unleased land*
26 *permit (see ACT Civil and Administrative Tribunal Act 2008, s 12).*

- 1 **73** **Public unleased land permit—application for renewal of**
2 **permit**
- 3 (1) A permit-holder may apply to the director-general to renew the
4 public unleased land permit for a period not longer than 2 years.
- 5 *Note 1* If a form is approved under s 131 for an application, the form must be
6 used.
- 7 *Note 2* A fee may be determined under s 130 for this provision.
- 8 (2) The application must be—
- 9 (a) in writing; and
- 10 (b) received by the director-general at least 30 days before the
11 permit expires.
- 12 (3) However, the director-general may extend the time for making an
13 application.
- 14 *Note* A permit-holder may apply to the director-general for the time to be
15 extended, and the director-general may extend the time, even though the
16 time has ended (see Legislation Act, s 151C).
- 17 (4) If a permit-holder applies to renew a public unleased land permit
18 under this section, the permit remains in force until the application
19 is decided.
- 20 **74** **Public unleased land permit—decision on application for**
21 **renewal of permit**
- 22 (1) This section applies if the director-general receives an application
23 for renewal of a public unleased land permit under section 73.
- 24 (2) The director-general may renew the public unleased land permit
25 only if satisfied that—
- 26 (a) the permit-holder continues to be a suitable person to hold the
27 permit; and

- 1 (b) if the permit-holder is a corporation—each influential person
2 for the permit-holder continues to be a suitable person to hold
3 the permit; and
- 4 (c) the permitted activity continues to be a suitable activity for the
5 permit.
- 6 *Note 1* **Suitable person**, to hold a public unleased land permit—see s 46.
7 **Suitable activity**, for a public unleased land permit—see s 49.
- 8 *Note 2* The director-general may require the applicant to undertake public
9 consultation before making a decision—see s 53.
- 10 (3) The director-general may impose or amend a condition on a public
11 unleased land permit.
- 12 (4) The director-general must, not later than the required time—
13 (a) decide the application for renewal; and
14 (b) tell the permit-holder about the decision on the application.
- 15 (5) In this section:
16 **required time** means the latest of the following:
- 17 (a) if the director-general gives the applicant a personal
18 information notice under section 48—28 days after the
19 director-general receives the stated information;
- 20 (b) if the director-general gives the applicant an activity
21 information notice under section 51—28 days after the
22 director-general receives the information;
- 23 (c) if the director-general gives the applicant an additional
24 approval notice under section 52—28 days after the
25 director-general receives the approval, licence, permit or other
26 authority;

- 1 (d) if the director-general gives the applicant a public consultation
2 notice under section 53 and receives a submission during the
3 public consultation period—28 days after the director-general
4 receives the submission;
- 5 (e) if the director-general gives the applicant a public consultation
6 submission notice under section 54 and receives a submission
7 during the show cause period—28 days after the
8 director-general receives the submission;
- 9 (f) if the director-general gives the applicant a risk management
10 plan notice under section 55—28 days after the
11 director-general receives the risk management plan;
- 12 (g) if the director-general gives the applicant an inspection notice
13 under section 56—28 days after the director-general inspects
14 the object;
- 15 (h) 28 days after the day the director-general receives the
16 application.

17 *Note* Failure to renew a public unleased land permit within the required time
18 is taken to be a decision not to renew the permit (see *ACT Civil and*
19 *Administrative Tribunal Act 2008*, s 12).

20 **75 Public unleased land permit—replacing when lost, stolen**
21 **or destroyed**

- 22 (1) The director-general may issue a replacement public unleased land
23 permit to a permit-holder if satisfied that the permit-holder's
24 original permit has been lost, stolen or destroyed.
- 25 (2) For subsection (1), the director-general may require the
26 permit-holder to give the director-general a statutory declaration
27 signed by the permit-holder, stating that the original public unleased
28 land permit has been lost, stolen or destroyed.

29 *Note 1* A fee may be determined under s 130 for this provision.

30 *Note 2* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of
31 statutory declarations under ACT laws.

1 **76 Public unleased land permit—surrender**

2 (1) A permit-holder may surrender the public unleased land permit by
3 giving written notice (a *surrender notice*) of the surrender to the
4 director-general.

5 *Note* If a form is approved under s 131 for this provision, the form must be
6 used.

7 (2) The surrender notice must be accompanied by—

8 (a) the permit; or

9 (b) if the permit has been lost, stolen or destroyed—a statutory
10 declaration signed by the permit-holder stating that the permit
11 has been lost, stolen or destroyed.

12 *Note* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of
13 statutory declarations under ACT laws.

14 **77 Offence—fail to notify change of name or address**

15 (1) A person commits an offence if—

16 (a) the person is a permit-holder; and

17 (b) the person's name or address changes; and

18 (c) the person does not, within 30 days after the change, give the
19 director-general—

20 (i) written notice of the change; and

21 (ii) the permit.

22 Maximum penalty: 1 penalty unit.

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

1 **78 Public unleased land permit—director-general to change**
2 **name and address**

- 3 (1) This section applies if a permit-holder gives the director-general—
4 (a) written notice of a change to the person's name or address; and
5 (b) the permit.
6 (2) The director-general must enter the changed details on the permit
7 and return it to the permit-holder.

8 **Division 3.9 Public unleased land permits—**
9 **regulatory action**

10 **79 Public unleased land permit—grounds for regulatory**
11 **action**

- 12 (1) Each of the following is a *ground for regulatory action* against a
13 permit-holder:

- 14 (a) the permit-holder gave information to the director-general in
15 relation to an application for the issue, amendment, transfer or
16 renewal of the permit that was false or misleading in a material
17 particular;

18 *Note* Giving false or misleading information is also an offence against
19 the Criminal Code, s 338.

- 20 (b) the permit-holder contravened a condition of the permit.

- 21 (2) In this section:

22 *permit-holder* includes, if the person is a corporation, each
23 executive officer of the corporation.

- 1 **80 Public unleased land permit—regulatory action**
- 2 Each of the following is *regulatory action* when taken against a
- 3 permit-holder:
- 4 (a) imposing a condition on, or amending a condition on, the
- 5 permit;
- 6 (b) suspending the permit for a stated period or until a stated thing
- 7 happens;
- 8 (c) cancelling the permit;
- 9 (d) cancelling the permit and disqualifying the person from
- 10 applying for a public unleased land permit of that kind for a
- 11 stated period or until a stated thing happens.
- 12 **81 Public unleased land permit—taking regulatory action**
- 13 (1) If the director-general proposes to take regulatory action in relation
- 14 to a permit-holder, the director-general must give the permit-holder
- 15 a written notice (a *show cause notice*) stating—
- 16 (a) details of the proposed regulatory action; and
- 17 (b) the grounds for the proposed regulatory action; and
- 18 (c) that the permit-holder may, not later than 14 days after the day
- 19 the permit-holder is given the notice, give a written submission
- 20 to the director-general about the proposed regulatory action.
- 21 (2) In deciding whether to take the proposed regulatory action, the
- 22 director-general must consider any submission given to the
- 23 director-general in accordance with the show cause notice.
- 24 (3) If the director-general believes on reasonable grounds that a ground
- 25 for regulatory action has been established in relation to the
- 26 permit-holder, the director-general may—
- 27 (a) take the regulatory action stated in the show cause notice; or

- 1 (b) if the proposed regulatory action is the cancellation and
2 disqualification mentioned in section 80 (d)—
- 3 (i) cancel the permit as mentioned in section 80 (c); or
4 (ii) suspend the person's permit as mentioned in
5 section 80 (b); or
6 (iii) impose a condition on, or amend a condition on, the
7 permit as mentioned in section 80 (a); or
- 8 (c) if the proposed regulatory action is the cancellation of the
9 person's permit as mentioned in section 80 (c)—
- 10 (i) suspend the person's permit as mentioned in
11 section 80 (b); or
12 (ii) impose a condition on, or amend a condition on, the
13 permit as mentioned in section 80 (a); or
- 14 (d) if the proposed regulatory action is the suspension of the
15 person's permit as mentioned in section 80 (b)—
- 16 (i) suspend the permit for a shorter period; or
17 (ii) impose a condition on, or amend a condition on, the
18 permit as mentioned in section 80 (a).
- 19 (4) Regulatory action under this section takes effect on—
- 20 (a) the day the permit-holder is given written notice of the
21 decision; or
22 (b) if the written notice states a later date of effect—that date.

- 1 **82 Public unleased land permit—immediate suspension**
- 2 (1) This section applies if—
- 3 (a) the director-general gives a show cause notice under section 81
- 4 to a permit-holder; and
- 5 (b) having regard to the grounds stated in the notice, the
- 6 director-general believes on reasonable grounds that the
- 7 person’s permit should be suspended immediately in the
- 8 interests of public safety.
- 9 (2) The director-general must give the permit-holder a written notice
- 10 (an *immediate suspension notice*) suspending the person’s permit.
- 11 (3) The suspension of a public unleased land permit under this section
- 12 takes effect when the immediate suspension notice is given to the
- 13 permit-holder.
- 14 (4) The suspension of a public unleased land permit under this section
- 15 ends—
- 16 (a) if regulatory action is taken against the person under
- 17 section 81—at the earlier of the following times:
- 18 (i) when the regulatory action takes effect;
- 19 (ii) 30 days after the day the immediate suspension notice is
- 20 given to the person; or
- 21 (b) if regulatory action is not taken against the person under
- 22 section 81—at the earlier of the following times:
- 23 (i) when the person is given written notice of the
- 24 director-general’s decision not to take regulatory action;
- 25 (ii) 30 days after the day the immediate suspension notice is
- 26 given to the person.

1 **83 Public unleased land permit—effect of suspension**

- 2 (1) A suspended permit does not authorise the carrying on of any
3 activity under the permit during the suspension.
- 4 (2) If the director-general suspends a public unleased land permit, the
5 permit-holder is, during the suspension—
- 6 (a) taken not to hold the permit; and
- 7 (b) disqualified from applying for a public unleased land permit.

8 **84 Offence—fail to return amended, suspended or cancelled**
9 **permits**

- 10 (1) A person commits an offence if—
- 11 (a) the person is a permit-holder; and
- 12 (b) the permit is amended, suspended or cancelled under this
13 division; and
- 14 (c) the person fails to return the permit to the director-general as
15 soon as practicable (but not later than 7 days) after the day the
16 person is given a reviewable decision notice under section 128
17 (Reviewable decision notices).

18 Maximum penalty: 10 penalty units.

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

20 **85 Action by director-general in relation to amended or**
21 **suspended permit**

- 22 (1) This section applies if—
- 23 (a) a public unleased land permit is amended or suspended under
24 this part; and
- 25 (b) the permit is returned to the director-general.

- 1 (2) For an amended permit, the director-general must—
2 (a) return the amended permit to the permit-holder; or
3 (b) give the permit-holder a replacement permit that includes the
4 amendment.
- 5 (3) If a public unleased land permit is suspended under this part and the
6 suspension ends before the end of the term of the permit, the
7 director-general must return the permit to the permit-holder.

8 **Division 3.10 Public unleased land permit register**

9 **86 Public unleased land permit register**

- 10 (1) The director-general must keep a register of public unleased land
11 permits (the *permit register*).
- 12 (2) The register must include the following details for each permit:
13 (a) the name of the permit-holder;
14 (b) the location of the permitted public unleased land;
15 (c) the permitted activity;
16 (d) the permitted times;
17 (e) the term of the permit;
18 (f) the conditions on the permit;
19 (g) anything else prescribed by regulation.
- 20 (3) A public unleased land permit may include anything else the
21 director-general considers relevant.
- 22 (4) The register may be kept in any form, including electronically, that
23 the director-general decides.
- 24 (5) The register may be kept in 1 or more parts, as the director-general
25 considers appropriate.

1 **87** **Correction and keeping up-to-date register**

2 (1) The director-general may correct a mistake, error or omission in the
3 permit register.

4 (2) The director-general may change a detail included in the register to
5 keep the register up-to-date.

1 **Division 4.2** **Authorised people**

2 **89** **Authorised people**

3 (1) The director-general may appoint a public servant as an authorised
4 person for this Act.

5 *Note 1* For the making of appointments (including acting appointments), see
6 the Legislation Act, pt 19.3.

7 *Note 2* In particular, an appointment may be made by naming a person or
8 nominating the occupant of a position (see Legislation Act, s 207).

9 (2) Also, an investigator under the *Fair Trading (Australian Consumer*
10 *Law) Act 1992* is an authorised person for this Act.

11 **90** **Identity cards**

12 (1) This section applies in relation to an authorised person appointed
13 under section 89 (1).

14 *Note* An authorised person who is an investigator is issued with an identity
15 card under the *Fair Trading (Australian Consumer Law) Act 1992*, s 37.

16 (2) The director-general must give an authorised person an identity card
17 stating the person's name and that the person is an authorised
18 person.

19 (3) The identity card must show—

20 (a) a recent photograph of the authorised person; and

21 (b) the card's date of issue and expiry; and

22 (c) anything else prescribed by regulation.

- 1 (4) A person commits an offence if the person—
2 (a) stops being an authorised person; and
3 (b) does not return the person's identity card to the
4 director-general as soon as practicable (but not later than
5 7 days) after the day the person stops being an authorised
6 person.

7 Maximum penalty: 1 penalty unit.

- 8 (5) Subsection (3) does not apply to a person if the person's identity
9 card has been—

- 10 (a) lost or stolen; or
11 (b) destroyed by someone else.

12 *Note* The defendant has an evidential burden in relation to the matters
13 mentioned in s (5) (see Criminal Code, s 58).

- 14 (6) An offence against this section is a strict liability offence.

15 **91 Power not to be exercised before identity card shown**

- 16 (1) This section applies in relation to an authorised person appointed
17 under section 89 (1).

18 *Note* For an authorised person who is an investigator, see the *Fair Trading*
19 *(Australian Consumer Law) Act 1992*, s 38 (Power not to be exercised
20 before identity card shown).

- 21 (2) The authorised person may exercise a power under a territory law in
22 relation to a person only if the authorised person first shows the
23 person the authorised person's identity card.

1 **Division 4.3** **Directions etc**

2 **Subdivision 4.3.1** **General directions**

3 **92** **Direction to give name and address**

4 (1) This section applies if a police officer or authorised person believes
5 on reasonable grounds that a person—

6 (a) has committed, is committing or is about to commit an offence
7 against this Act; or

8 (b) may be able to assist in the investigation of an offence against
9 this Act.

10 *Note* A reference to an Act includes a reference to the statutory instruments
11 made or in force under the Act, including any regulation (see
12 Legislation Act, s 104).

13 (2) The police officer or authorised person may direct the person to give
14 the police officer or authorised person, immediately, any of the
15 following personal details:

16 (a) the person's full name;

17 (b) the person's home address.

18 *Note* Power to make the direction includes power to amend or repeal the
19 direction (see Legislation Act, s 46).

20 (3) The person may ask the authorised person to produce the authorised
21 person's identity card for inspection by the person.

22 (4) If the police officer or authorised person believes on reasonable
23 grounds that a personal detail given by a person in response to a
24 direction under subsection (2) is false or misleading, the police
25 officer or authorised person may direct the person to produce
26 evidence immediately of the correctness of the detail.

1 (5) If an authorised officer gives a direction under this section to a
2 person, the officer must tell the person that it is an offence if the
3 person fails to comply with the direction.

4 **93 Offence—fail to comply with direction to give name and**
5 **address**

6 (1) A person commits an offence if the person—
7 (a) is subject to a direction under section 92 (2); and
8 (b) fails to comply with the direction.

9 Maximum penalty: 5 penalty units.

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

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

13 (3) This section does not apply to a person if the authorised person did
14 not produce the authorised person's identity card for inspection by
15 the person if asked.

16 *Note* The defendant has an evidential burden in relation to the matters
17 mentioned in s (3) (see Criminal Code, s 58).

18 (4) This section does not apply to a person if the police officer or
19 authorised person did not, before giving the direction, warn the
20 person that failure to comply with the direction is an offence.

21 *Note* The defendant has an evidential burden in relation to the matters
22 mentioned in s (4) (see Criminal Code, s 58).

- 1 **94 Direction to produce approval, permit or insurance policy**
- 2 (1) A police officer or authorised person may direct—
- 3 (a) an approval-holder to produce the approval; or
- 4 (b) a permit-holder to produce—
- 5 (i) the permit; and
- 6 (ii) if the permit includes a financial assurance condition
- 7 requiring the permit-holder to hold a stated kind of
- 8 insurance policy—the insurance policy.
- 9 *Note* It is an offence to make a false or misleading statement or give false or
- 10 misleading information (see Criminal Code, pt 3.4).
- 11 (2) The direction must be in writing and state—
- 12 (a) the approval, permit or policy to be produced; and
- 13 (b) where and to whom the approval, permit or policy is to be
- 14 produced; and
- 15 (c) when the direction must be complied with.
- 16 *Note* Power to make the direction includes power to amend or repeal the
- 17 direction (see Legislation Act, s 46).
- 18 (3) The police officer or authorised person may do 1 or more of the
- 19 following:
- 20 (a) inspect the approval, permit or policy produced;
- 21 (b) make copies of, or take extracts from the approval, permit or
- 22 policy produced;
- 23 (c) seize and remove the approval, permit or policy produced if the
- 24 officer or person believes on reasonable grounds that it may
- 25 provide evidence of an offence against this Act.

- 1 (4) In this section:
2 ***approval-holder*** means a person who holds—
3 (a) closed road approval; or
4 (b) a work approval; or
5 (c) a sign approval.

6 **95 Offence—fail to comply with direction to produce**
7 **approval, permit or insurance policy**

- 8 (1) A person commits an offence if the person—
9 (a) is subject to a direction under section 94; and
10 (b) fails to comply with the direction.
11 Maximum penalty: 10 penalty units.
12 (2) An offence against this section is a strict liability offence.
13 (3) This section does not apply to a person if the person has a
14 reasonable excuse for failing to comply with the direction.

15 *Note* The defendant has an evidential burden in relation to the matters
16 mentioned in s (3) (see Criminal Code, s 58).

17 **96 Direction to leave permitted public unleased land**

- 18 (1) This section applies if a police officer or authorised person believes
19 on reasonable grounds that—
20 (a) a person is using an area of public unleased land at a particular
21 time; and
22 (b) someone else (the ***permit-holder***) holds a public unleased land
23 permit to exclusively use the area at the time; and
24 (c) the person is using the area without the consent of the
25 permit-holder.

1 (2) The police officer or authorised person may direct the person to
2 leave the area of permitted public unleased land during the
3 permitted times.

4 *Note* Power to make the direction includes power to amend or repeal the
5 direction (see Legislation Act, s 46).

6 (3) A direction must be in writing and state—

7 (a) the area of permitted public unleased land; and

8 (b) the permitted times.

9 *Note* Power to make the direction includes power to amend or repeal the
10 direction (see Legislation Act, s 46).

11 (4) If a police officer or authorised officer gives a direction to a person,
12 the officer must tell the person that it is an offence if the person fails
13 to comply with the direction.

14 **97 Offence—fail to comply with direction to leave permitted**
15 **public unleased land**

16 (1) A person commits an offence if the person—

17 (a) is subject to a direction under section 96 (2); and

18 (b) fails to comply with the direction.

19 Maximum penalty: 5 penalty units.

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

21 (3) This section does not apply to a person if the police officer or
22 authorised person did not, before giving the direction, warn the
23 person that failure to comply with the direction is an offence.

24 *Note* The defendant has an evidential burden in relation to the matters
25 mentioned in s (3) (see Criminal Code, s 58).

- 1 **98 Direction to remove objects from public unleased land**
- 2 (1) This section applies if a person uses public unleased land by placing
- 3 an object on the public unleased land.
- 4 *Note* *Use*, public unleased land—see s 41.
- 5 (2) However, this section does not apply if—
- 6 (a) the placement is authorised under an approval or public
- 7 unleased land permit under this Act; or
- 8 **Example—approval that may authorise placement**
- 9 1 closed road approval
- 10 2 work approval
- 11 *Note* An example is part of the Act, is not exhaustive and may extend,
- 12 but does not limit, the meaning of the provision in which it
- 13 appears (see Legislation Act, s 126 and s 132).
- 14 (b) the placement is authorised under another territory law; or
- 15 (c) if the object is a vehicle—the vehicle is parked on a road or
- 16 road related area in a way that does not contravene the *Road*
- 17 *Transport (Safety and Traffic Management) Act 1999*.
- 18 *Note* A reference to an Act includes a reference to the statutory
- 19 instruments made or in force under the Act, including any
- 20 regulation (see Legislation Act, s 104).
- 21 (3) A police officer or authorised person may direct (a **removal**
- 22 **direction**) the person to remove the object.
- 23 *Note* Power to make the direction includes power to amend or repeal the
- 24 direction (see Legislation Act, s 46).
- 25 (4) A removal direction must be in writing and state—
- 26 (a) the public unleased land; and
- 27 (b) the object to be removed; and

- 1 (c) when the direction must be complied with (the *due date*), being
2 a day at least—
- 3 (i) if the object is a vehicle—2 days after the direction is
4 given to the person; or
- 5 (ii) in any other case—7 days after the direction is given to
6 the person; and
- 7 (d) that, if the object is not removed by the due date—
- 8 (i) the person may be committing an offence under
9 section 101 (Offence—fail to comply with director-
10 general’s direction); and
- 11 (ii) the object may be removed and disposed of under
12 section 105 (Removal of objects by Territory) and
13 section 106 (Disposal of objects by Territory).
- 14 (5) A removal direction may be given to a person by securely attaching
15 the direction to the object in a conspicuous place.
- 16 (6) To remove any doubt, a removal direction given to a person in the
17 way mentioned in subsection (5) is taken to be given to the person
18 on the day the direction is attached to the object.
- 19 (7) In this section:
- 20 *park*, a vehicle—see the *Road Transport (Safety and Traffic*
21 *Management) Regulation 2000*, section 3B.
- 22 *road*—see the *Road Transport (Safety and Traffic Management)*
23 *Act 1999*, dictionary.
- 24 *road related area*—see the *Road Transport (Safety and Traffic*
25 *Management) Act 1999*, dictionary.

1 **99 Offence—fail to comply with removal direction**

2 (1) A person commits an offence if the person—

3 (a) is subject to a removal direction; and

4 (b) fails to comply with the direction.

5 Maximum penalty: 10 penalty units.

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

7 **Subdivision 4.3.2 Urgent action**

8 **100 Director-general's directions**

9 (1) This section applies if the director-general believes on reasonable
10 grounds that there is, or is likely to be—

11 (a) either—

12 (i) a breach of a public unleased land permit; or

13 (ii) another contravention of this Act; and

14 (b) the breach or other contravention is causing, or is likely to
15 cause—

16 (i) undue disturbance, inconvenience or offence to people
17 lawfully at adjacent or nearby places; or

18 (ii) undue risk to people or property.

19 *Note* A reference to an Act includes a reference to the statutory instruments
20 made or in force under the Act, including any regulation (see
21 Legislation Act, s 104).

22 (2) The director-general may direct (a *director-general's direction*) 1 or
23 more of the following people to take action to prevent the breach or
24 other contravention:

25 (a) a permit-holder;

26 (b) an employee of a permit holder;

1 (c) a person working at the permitted place.

2 **Example—director-general’s direction**

3 to reduce loud noise coming from the permitted public unleased land

4 *Note* An example is part of the Act, is not exhaustive and may extend, but
5 does not limit, the meaning of the provision in which it appears (see
6 Legislation Act, s 126 and s 132).

7 (3) A director-general’s direction must—

8 (a) be in writing; and

9 (b) either—

10 (i) state—

11 (A) the action to be taken; and

12 (B) when the direction must be complied with; or

13 (ii) state—

14 (A) the conduct not to be undertaken; and

15 (B) how long the direction is in force.

16 (4) A director-general’s direction must not state a day or time for
17 compliance that is earlier than the day or time the person is given
18 the director-general’s direction.

19 *Note* Power to make the direction includes power to amend or repeal the
20 direction (see Legislation Act, s 46).

1 **101 Offence—fail to comply with director-general’s direction**

- 2 (1) A person commits an offence if—
- 3 (a) the person is subject to a director-general’s direction; and
- 4 (b) the person fails to take reasonable steps to comply with the
- 5 direction.
- 6 (2) An offence against this section is a strict liability offence.
- 7 Maximum penalty: 20 penalty units

8 **102 Emergency closure of permitted place**

- 9 (1) A senior police officer may order a permit-holder to close a
- 10 permitted place (an *emergency closure order*) if the officer believes
- 11 on reasonable grounds that—
- 12 (a) a breach of this Act has happened, or is likely to happen; and
- 13 (b) the closure of the place is necessary to prevent or reduce undue
- 14 risk to people or property.
- 15 (2) If an emergency closure order is made under subsection (1), a police
- 16 officer must, in writing, tell the permit-holder—
- 17 (a) the name of the senior police officer making the order; and
- 18 (b) when the order starts; and
- 19 (c) when the order ends.
- 20 *Note* An emergency closure notice for the emergency closure order must be
- 21 given to the permit-holder as soon as practicable after the order is made
- 22 (see s 103).
- 23 (3) If an emergency closure order is in force for a permitted place, the
- 24 permit is suspended for the period of the order.

1 **103 Emergency closure notice**

2 (1) If a senior police officer makes an emergency closure order for a
3 permitted place, the officer must, as soon as practicable, give a
4 notice (an *emergency closure notice*) to the permit-holder.

5 (2) An emergency closure notice must—

6 (a) be in writing; and

7 (b) state—

8 (i) the date of issue of the notice; and

9 (ii) when the order starts; and

10 (iii) when the order ends; and

11 (iv) the breach of this Act that the senior police officer
12 believes has happened or is likely to happen; and

13 (v) the grounds for the officer's belief; and

14 (c) be signed by the senior police officer.

15 (3) The senior police officer must also—

16 (a) keep a record of the emergency closure notice in the police
17 records; and

18 (b) give a copy of the notice to the director-general.

19 **104 Offence—fail to comply with emergency closure order**

20 (1) A person commits an offence if—

21 (a) the person is a permit-holder; and

22 (b) an emergency closure order is in force for the person; and

23 (c) the person fails to comply with the emergency closure order.

24 Maximum penalty: 30 penalty units.

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

1 **Division 4.4 Removal and disposal of objects on**
2 **public unleased land by Territory**

3 **105 Removal of objects by Territory**

4 (1) This section applies if—

5 (a) a person—

6 (i) is subject to a removal direction for an object; and

7 *Note Removal direction*—see s 98 (3).

8 (ii) fails to comply with the direction; or

9 (b) an object is on public unleased land and an authorised person
10 reasonably believes that the object is—

11 (i) abandoned; or

12 (ii) causing an obstruction or hazard for people on or near the
13 public unleased land.

14 *Note* If an authorised person reasonably believes that a vehicle on
15 public unleased land is abandoned or causing an obstruction or
16 hazard, the authorised person may give the owner a removal
17 direction for the vehicle.

18 (2) An authorised person may move the object to a retention area.

19 **106 Disposal of objects by Territory**

20 (1) If an object is moved to a retention area under section 105—

21 (a) the object is taken to be uncollected goods under the
22 *Uncollected Goods Act 1996*; and

23 (b) the director-general is taken to be the possessor of the goods
24 for that Act; and

25 (c) the director-general may dispose of the goods under that Act,
26 part 3 (Disposal of uncollected goods); and

- 1 (d) for that Act, section 26 (2) (a) (Claim by owner before
2 disposal) and section 30 (1) (a) (Proceeds of sale), the
3 reasonable costs incurred by the director-general in complying
4 with that Act are taken to include the cost of removing the
5 object from the public unleased land to the retention area.
- 6 (2) However, if the object is a vehicle—
- 7 (a) the director-general must give the registered operator of the
8 vehicle a written notice (a *retention notice*) stating—
- 9 (i) that the vehicle has been moved to a retention area; and
10 (ii) when and where the vehicle may be collected; and
11 (iii) that, if the registered operator does not collect the vehicle
12 within 7 days after the retention notice is given to the
13 registered operator, the vehicle may be disposed of under
14 the *Uncollected Goods Act 1996*; and
- 15 (b) the vehicle is taken to be uncollected goods under
16 subsection (1) (a) only if the vehicle has not been collected
17 within 7 days after the day the retention notice is given to the
18 registered operator.

19 **Division 4.5 Powers of authorised people**

20 **107 Power to enter premises**

- 21 (1) For this Act, an authorised person may—
- 22 (a) at any reasonable time, enter premises that the public is entitled
23 to use or that are open to the public (whether or not on
24 payment of money); or
- 25 (b) at any time when the premises is open for business, enter the
26 premises; or
- 27 (c) at any time, enter premises with the occupier's consent; or

- 1 (d) enter premises in accordance with a public unleased land
2 permit condition; or
- 3 (e) enter premises in accordance with a search warrant; or
- 4 (f) at any time, enter premises if the authorised person believes on
5 reasonable grounds that the circumstances are so serious and
6 urgent that immediate entry to the premises without the
7 authority of a search warrant is necessary.
- 8 (2) However, subsection (1) (a) and (b) do not authorise entry into a
9 part of premises that is being used only for residential purposes.
- 10 (3) An authorised person may, without the consent of the occupier of
11 premises, enter land around the premises to ask for consent to enter
12 the premises.
- 13 (4) To remove any doubt, an authorised person may enter premises
14 under subsection (1) without payment of an entry fee or other
15 charge.
- 16 (5) In this section:
- 17 *at any reasonable time* includes at any time when the public is
18 entitled to use the premises, or when the premises are open to or
19 used by the public (whether or not on payment of money).

20 **108 Production of identity card**

- 21 (1) An authorised person must not remain at premises entered under this
22 part if the authorised person does not produce his or her identity
23 card when asked by the occupier.
- 24 (2) A police officer must not remain at premises entered under this part
25 if the officer does not produce evidence that the officer is a police
26 officer when asked by the occupier.

- 1 **109 Consent to entry**
- 2 (1) When seeking the consent of an occupier of premises to enter
3 premises under section 107 (1) (c), an authorised person must—
- 4 (a) either—
- 5 (i) if the person is an authorised person—produce his or her
6 identity card; or
- 7 (ii) if the person is a police officer—produce evidence that he
8 or she is a police officer; and
- 9 (b) tell the occupier—
- 10 (i) the purpose of the entry; and
- 11 (ii) that anything found and seized under this part may be
12 used in evidence in court; and
- 13 (iii) that consent may be refused.
- 14 (2) If the occupier consents, the authorised person must ask the occupier
15 to sign a written acknowledgment (an *acknowledgment of*
16 *consent*)—
- 17 (a) that the occupier was told—
- 18 (i) the purpose of the entry; and
- 19 (ii) that anything found and seized under this part may be
20 used in evidence in court; and
- 21 (iii) that consent may be refused; and
- 22 (b) that the occupier consented to the entry; and
- 23 (c) stating the time and date when consent was given.
- 24 (3) If the occupier signs an acknowledgment of consent, the authorised
25 person must immediately give a copy to the occupier.

- 1 (4) A court must find that the occupier did not consent to entry to the
2 premises by the authorised person under this part if—
3 (a) the question arises in a proceeding in the court whether the
4 occupier consented to the entry; and
5 (b) an acknowledgment of consent is not produced in evidence;
6 and
7 (c) it is not proved that the occupier consented to the entry.

8 **110 General powers on entry to premises**

- 9 (1) An authorised person who enters premises under this part may, for
10 this Act, do 1 or more of the following in relation to the premises or
11 anything at the premises:
12 (a) inspect or examine;
13 (b) take measurements or conduct tests;
14 (c) take samples;
15 (d) take photographs, films, or audio, video or other recordings;
16 (e) require the occupier, or anyone at the premises, to give the
17 authorised person reasonable help to exercise a power under
18 this part.

19 *Note* The Legislation Act, s 170 and s 171 deal with the application of the
20 privilege against self incrimination and client legal privilege.

- 21 (2) A person must take reasonable steps to comply with a requirement
22 made of the person under subsection (1) (e).

23 Maximum penalty: 20 penalty units.

- 1 **111 Power to seize things**
- 2 (1) An authorised person who enters premises under this part with the
3 occupier’s consent may seize anything at the premises if—
- 4 (a) the authorised person is satisfied on reasonable grounds that
5 the thing is connected with an offence against this Act; and
- 6 (b) seizure of the thing is consistent with the purpose of the entry
7 told to the occupier when seeking the occupier’s consent.
- 8 (2) An authorised person who enters premises under a warrant under
9 this part may seize anything at the premises that the authorised
10 person is authorised to seize under the warrant.
- 11 (3) An authorised person who enters premises under this part (whether
12 with the occupier’s consent, under a warrant or otherwise) may seize
13 anything at the premises if satisfied on reasonable grounds that—
- 14 (a) the thing is connected with an offence against this Act; and
- 15 (b) the seizure is necessary to prevent the thing from being—
- 16 (i) concealed, lost or destroyed; or
- 17 (ii) used to commit, continue or repeat the offence.
- 18 (4) Also, an authorised person who enters premises under this part
19 (whether with the occupier’s consent, under a warrant or otherwise)
20 may seize anything at the premises if satisfied on reasonable
21 grounds that the thing poses a risk to the health or safety of people
22 or of damage to property or the environment.
- 23 (5) The powers of an authorised person under subsections (3) and (4)
24 are additional to any powers of the authorised person under
25 subsections (1) or (2) or any other territory law.

- 1 (6) Having seized a thing, an authorised person may—
2 (a) remove the thing from the premises where it was seized
3 (the *place of seizure*) to another place; or
4 (b) leave the thing at the place of seizure but restrict access to it.
5 (7) A person commits an offence if—
6 (a) the person interferes with a seized thing, or anything
7 containing a seized thing, to which access has been restricted
8 under subsection (6); and
9 (b) the person does not have an authorised person’s approval to
10 interfere with the thing.
11 Maximum penalty: 20 penalty units.
12 (8) An offence against this section is a strict liability offence.

13 Division 4.6 Search warrants

14 112 Warrants generally

- 15 (1) An authorised person may apply to a magistrate for a warrant to
16 enter premises.
17 (2) The application must be sworn and state the grounds on which the
18 warrant is sought.
19 (3) The magistrate may refuse to consider the application until the
20 authorised person gives the magistrate all the information the
21 magistrate requires about the application in the way the magistrate
22 requires.
23 (4) The magistrate may issue a warrant only if satisfied there are
24 reasonable grounds for suspecting—
25 (a) there is a particular thing or activity connected with an offence
26 against this Act; and

- 1 (b) the thing or activity—
2 (i) is, or is being engaged in, at the premises; or
3 (ii) may be, or may be engaged in, at the premises within the
4 next 7 days.
- 5 (5) The warrant must state—
6 (a) that an authorised person may, with any necessary assistance
7 and force, enter the premises and exercise the authorised
8 person's powers under this part; and
9 (b) the offence for which the warrant is issued; and
10 (c) the things that may be seized under the warrant; and
11 (d) the hours when the premises may be entered; and
12 (e) the date, within 7 days after the day of the warrant's issue, the
13 warrant ends.

14 **113 Warrants—application made other than in person**

- 15 (1) An authorised person may apply for a warrant by phone, fax, email,
16 radio or other form of communication if the authorised person
17 considers it necessary because of—
18 (a) urgent circumstances; or
19 (b) other special circumstances.
- 20 (2) Before applying for the warrant, the authorised person must prepare
21 an application stating the grounds on which the warrant is sought.
- 22 (3) The authorised person may apply for the warrant before the
23 application is sworn.
- 24 (4) After issuing the warrant, the magistrate must immediately fax a
25 copy to the authorised person if it is practicable to do so.

- 1 (5) If it is not practicable to fax a copy to the authorised person—
2 (a) the magistrate must tell the authorised person—
3 (i) the terms of the warrant; and
4 (ii) the date and time the warrant was issued; and
5 (b) the authorised person must complete a form of warrant (the
6 *warrant form*) and write on it—
7 (i) the magistrate's name; and
8 (ii) the date and time the magistrate issued the warrant; and
9 (iii) the warrant's terms.
- 10 (6) The faxed copy of the warrant, or the warrant form properly
11 completed by the authorised person, authorises the entry and the
12 exercise of the authorised person's powers under this part.
- 13 (7) The authorised person must, at the first reasonable opportunity, send
14 to the magistrate—
15 (a) the sworn application; and
16 (b) if the authorised person completed a warrant form—the
17 completed warrant form.
- 18 (8) On receiving the documents, the magistrate must attach them to the
19 warrant.
- 20 (9) A court must find that a power exercised by the authorised person
21 was not authorised by a warrant under this section if—
22 (a) the question arises in a proceeding in the court whether the
23 exercise of power was authorised by a warrant; and
24 (b) the warrant is not produced in evidence; and
25 (c) it is not proved that the exercise of power was authorised by a
26 warrant under this section.

1 **114 Search warrants—announcement before entry**

- 2 (1) An authorised person must, before anyone enters premises under a
3 search warrant—
- 4 (a) announce that the authorised person is authorised to enter the
5 premises; and
- 6 (b) give anyone at the premises an opportunity to allow entry to
7 the premises; and
- 8 (c) if the occupier of the premises, or someone else who
9 apparently represents the occupier, is present at the premises—
10 identify himself or herself to the person.
- 11 (2) The authorised person is not required to comply with subsection (1)
12 if the authorised person believes on reasonable grounds that
13 immediate entry to the premises is required to ensure—
- 14 (a) the safety of anyone (including the authorised person or any
15 person assisting); or
- 16 (b) that the effective execution of the warrant is not frustrated.

17 **115 Details of search warrant to be given to occupier etc**

18 If the occupier of premises, or someone else who apparently
19 represents the occupier, is present at the premises while a search
20 warrant is being executed, the authorised person or a person
21 assisting must make available to the person—

- 22 (a) a copy of the warrant; and
- 23 (b) a document setting out the rights and obligations of the person.

24 **116 Occupier entitled to be present during search etc**

- 25 (1) If the occupier of premises, or someone else who apparently
26 represents the occupier, is present at the premises while a search
27 warrant is being executed, the person is entitled to observe the
28 search being conducted.

- 1 (2) However, the person is not entitled to observe the search if—
2 (a) to do so would impede the search; or
3 (b) the person is under arrest, and allowing the person to observe
4 the search being conducted would interfere with the objectives
5 of the search.
- 6 (3) This section does not prevent 2 or more areas of the premises being
7 searched at the same time.

8 **Division 4.7 Return and forfeiture of things seized**

9 **117 Receipt for things seized**

- 10 (1) As soon as practicable after an authorised person seizes a thing
11 under this part, the authorised person must give a receipt for it to the
12 person from whom it was seized.
- 13 (2) If, for any reason, it is not practicable to comply with subsection (1),
14 the authorised person must leave the receipt, secured conspicuously,
15 at the place of seizure under section 111 (Power to seize things).
- 16 (3) A receipt under this section must include the following:
17 (a) a description of the thing seized;
18 (b) an explanation of why the thing was seized;
19 (c) the authorised person's name, and how to contact the
20 authorised person;
21 (d) if the thing is moved from the premises where it is seized—
22 where the thing is to be taken.
- 23 *Note* If a form is approved under s 131 for this provision, the form must be
24 used.

- 1 **118 Moving things to another place for examination or**
2 **processing under search warrant**
- 3 (1) A thing found at premises entered under a search warrant may be
4 moved to another place for examination or processing to decide
5 whether it may be seized under the warrant if—
- 6 (a) both of the following apply:
- 7 (i) there are reasonable grounds for believing that the thing is
8 or contains something to which the warrant relates;
- 9 (ii) it is significantly more practicable to do so having regard
10 to the timeliness and cost of examining or processing the
11 thing at another place and the availability of expert
12 assistance; or
- 13 (b) the occupier of the premises agrees in writing.
- 14 (2) The thing may be moved to another place for examination or
15 processing for not longer than 72 hours.
- 16 (3) An authorised person may apply to a magistrate for an extension of
17 time if the authorised person believes on reasonable grounds that the
18 thing cannot be examined or processed within 72 hours.
- 19 (4) The authorised person must give notice of the application to the
20 occupier of the premises, and the occupier is entitled to be heard on
21 the application.
- 22 (5) If a thing is moved to another place under this section, the
23 authorised person must, if practicable—
- 24 (a) tell the occupier of the premises the address of the place where,
25 and time when, the examination or processing will be carried
26 out; and
- 27 (b) allow the occupier or the occupier’s representative to be
28 present during the examination or processing.

- 1 (6) The provisions of this part relating to the issue of search warrants
2 apply, with any necessary changes, to the giving of an extension
3 under this section.

4 **119 Access to things seized**

5 A person who would, apart from the seizure, be entitled to inspect a
6 thing seized under this part may—

- 7 (a) inspect it; and
8 (b) if it is a document—take extracts from it or make copies of it.

9 **120 Return of things seized**

10 (1) A thing seized under this part must be returned to its owner, or
11 reasonable compensation must be paid to the owner by the Territory
12 for the loss of the thing, unless—

13 (a) a prosecution for an offence against a territory law in
14 connection with the thing is begun within 1 year after the day
15 the seizure is made and the thing is required to be produced in
16 evidence in the prosecution; or

17 (b) an application for the forfeiture of the seized thing is made to a
18 court under the *Confiscation of Criminal Assets Act 2003* or
19 another territory law within 1 year after the day the seizure is
20 made; or

21 (c) all proceedings in relation to the offence with which the seizure
22 was connected have ended and the court has not made an order
23 about the thing.

24 (2) However, this section does not apply to a thing—

25 (a) if the director-general believes on reasonable grounds that the
26 only practical use of the thing in relation to the premises where
27 it was seized would be an offence against this Act; or

28 (b) if possession of it by its owner would be an offence.

1 **121 Forfeiture of seized things**

- 2 (1) This section applies if—
- 3 (a) anything seized under this part has not been returned under
4 section 120; and
- 5 (b) an application for disallowance of the seizure under
6 section 123—
- 7 (i) has not been made within 10 days after the day of the
8 seizure; or
- 9 (ii) has been made within the 10-day period, but the
10 application has been refused or withdrawn before a
11 decision in relation to the application had been made.
- 12 (2) If this section applies to the seized thing—
- 13 (a) it is forfeited to the Territory; and
- 14 (b) it may be sold, destroyed or otherwise disposed of as the
15 director-general directs.

16 **122 Power to destroy unsafe things**

- 17 (1) This section applies to anything inspected or seized under this part
18 by an authorised person if the authorised person is satisfied on
19 reasonable grounds that the thing poses a risk to the health or safety
20 of people or of damage to property or the environment.
- 21 (2) The authorised person may direct a person in charge of the premises
22 where the thing is to destroy or otherwise dispose of the thing.
- 23 (3) The direction may state 1 or more of the following:
- 24 (a) how the thing must be destroyed or otherwise disposed of;
- 25 (b) how the thing must be kept until it is destroyed or otherwise
26 disposed of;

- 1 (c) the period within which the thing must be destroyed or
2 otherwise disposed of.
- 3 (4) A person in charge of the premises where the thing is commits an
4 offence if the person contravenes a direction given to the person
5 under subsection (2).
- 6 Maximum penalty: 20 penalty units.
- 7 (5) Alternatively, if the thing has been seized under this part, the
8 authorised person may destroy or otherwise dispose of the thing.
- 9 (6) Costs incurred by the Territory in relation to the disposal of a thing
10 under subsection (5) are a debt owing to the Territory by, and are
11 recoverable together and separately from, the following people:
- 12 (a) the person who owned the thing;
- 13 (b) each person in control of the premises where the thing was.
- 14 *Note* An amount owing under a law may be recovered as a debt in a court of
15 competent jurisdiction or the ACAT (see Legislation Act, s 177).
- 16 (7) An offence against this section is a strict liability offence.

17 **123 Application for order disallowing seizure**

- 18 (1) A person claiming to be entitled to anything seized under this part
19 may apply to the Magistrates Court within 10 days after the day of
20 the seizure for an order disallowing the seizure.
- 21 (2) The application may be heard only if the applicant has served a copy
22 of the application on the director-general.
- 23 (3) The director-general is entitled to appear as respondent at the
24 hearing of the application.

1 **124 Order for return of seized thing**

- 2 (1) This section applies if a person claiming to be entitled to anything
3 seized under this part applies to the Magistrates Court under
4 section 123 for an order disallowing the seizure.
- 5 (2) The Magistrates Court must make an order disallowing the seizure if
6 satisfied that—
- 7 (a) the applicant would, apart from the seizure, be entitled to the
8 return of the seized thing; and
- 9 (b) the thing is not connected with an offence against this Act; and
- 10 (c) possession of the thing by the person would not be an offence.
- 11 (3) The Magistrates Court may also make an order disallowing the
12 seizure if satisfied there are exceptional circumstances justifying the
13 making of the order.
- 14 (4) If the Magistrates Court makes an order disallowing the seizure, the
15 court may make 1 or more of the following ancillary orders:
- 16 (a) an order directing the director-general to return the thing to the
17 applicant or to someone else who appears to be entitled to it;
- 18 (b) if the thing cannot be returned or has depreciated in value
19 because of the seizure—an order directing the Territory to pay
20 reasonable compensation;
- 21 (c) an order about the payment of costs in relation to the
22 application.

1 **Division 4.8 Enforcement—miscellaneous**

2 **125 Damage etc to be minimised**

- 3 (1) In the exercise, or purported exercise, of a function under this part,
4 an authorised person must take all reasonable steps to ensure that the
5 person causes as little inconvenience, detriment and damage as
6 practicable.
- 7 (2) If an authorised person damages anything in the exercise or
8 purported exercise of a function under this part, the authorised
9 person must give written notice of the particulars of the damage to
10 the person the authorised person believes on reasonable grounds is
11 the owner of the thing.
- 12 (3) The notice must state that—
- 13 (a) the person may claim compensation from the Territory if the
14 person suffers loss or expense because of the damage; and
- 15 (b) compensation may be claimed and ordered in a proceeding for
16 compensation brought in a court of competent jurisdiction; and
- 17 (c) the court may order the payment of reasonable compensation
18 for the loss or expense only if satisfied it is just to make the
19 order in the circumstances of the particular case.
- 20 (4) If the damage happens at premises entered under this part in the
21 absence of the occupier, the notice may be given by leaving it,
22 secured conspicuously, at the premises.

23 **126 Compensation for exercise of enforcement powers**

- 24 (1) A person may claim compensation from the Territory if the person
25 suffers loss or expense because of the exercise, or purported
26 exercise, of a function under this part by an authorised person.
- 27 (2) Compensation may be claimed and ordered in a proceeding for—
- 28 (a) compensation brought in a court of competent jurisdiction; or

- 1 (b) an offence against this Act brought against the person making
2 the claim for compensation.
- 3 (3) A court may order the payment of reasonable compensation for the
4 loss or expense only if satisfied it is just to make the order in the
5 circumstances of the particular case.
- 6 (4) A regulation may prescribe matters that may, must or must not be
7 taken into account by the court in considering whether it is just to
8 make the order.

1 **Part 5** **Notification and review of**
2 **decisions**

3 **127** **What is a *reviewable decision*?—pt 5**

4 In this part:

5 *reviewable decision* means a decision mentioned in
6 schedule 1, column 3 under a provision of this Act mentioned in
7 column 2 in relation to the decision.

8 **128** **Reviewable decision notices**

9 If the director-general makes a reviewable decision, the
10 director-general must give a reviewable decision notice to each
11 entity mentioned in schedule 1, column 4 in relation to the decision.

12 *Note 1* The director-general must also take reasonable steps to give a
13 reviewable decision notice to any other person whose interests are
14 affected by the decision (see *ACT Civil and Administrative Tribunal*
15 *Act 2008*, s 67A).

16 *Note 2* The requirements for a reviewable decision notice are prescribed under
17 the *ACT Civil and Administrative Tribunal Act 2008*.

18 **129** **Applications for review**

19 The following may apply to the ACAT for a review of a reviewable
20 decision:

21 (a) an entity mentioned in schedule 1, column 4 in relation to the
22 decision;

23 (b) any other person whose interests are affected by the decision.

24 *Note* If a form is approved under the *ACT Civil and Administrative Tribunal*
25 *Act 2008* for the application, the form must be used.

1 **Part 6** **Miscellaneous**

2 **130** **Determination of fees etc**

- 3 (1) The Minister may determine—
- 4 (a) fees for this Act; and
- 5 (b) the annual percentage rate at which interest payable under
- 6 section 66 (4) (Financial assurance condition—recovery of
- 7 extra costs) is to be calculated; and
- 8 (c) the annual percentage rate at which interest accruing under
- 9 section 67 (a) (Financial assurance condition—money held by
- 10 Territory) is to be calculated.

11 *Note* The Legislation Act contains provisions about the making of

12 determinations and regulations relating to fees, charges and other

13 amounts (see pt 6.3).

- 14 (2) A determination is a disallowable instrument.

15 *Note* A disallowable instrument must be notified, and presented to the

16 Legislative Assembly, under the Legislation Act.

17 **131** **Approved forms**

- 18 (1) The director-general may approve forms for this Act.
- 19 (2) If the director-general approves a form for a particular purpose, the
- 20 approved form must be used for that purpose.

21 *Note* For other provisions about forms, see the Legislation Act, s 255.

- 22 (3) An approved form is a notifiable instrument.

23 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **Part 20** **Transitional**

2 **200** **Definitions—pt 20**

3 In this part:

4 *commencement day* means the day the *Public Unleased Land*
5 *Act 2011* commences.

6 **201** **Permissions to use closed road to be closed road**
7 **approvals**

8 (1) This section applies if, immediately before the commencement day,
9 a person holds a permission to use a road closed under the *Roads*
10 *and Public Places Act 1937*, section 4 (Temporary closing of roads).

11 (2) The permission is, on the commencement day, taken to be a closed
12 road approval—

13 (a) in the same terms as the permission; and

14 (b) subject to the same conditions as the permission.

15 (3) The closed road approval—

16 (a) is taken to expire on the day stated in the permission; and

17 (b) must not be amended, transferred or renewed.

18 **202** **Permissions to interfere etc be work approvals**

19 (1) This section applies if, immediately before the commencement day,
20 a person holds a permission—

21 (a) to interfere with a public place or other thing under the *Roads*
22 *and Public Places Act 1937*, section 7 (Damage to or
23 interference with public places and property on them); or

24 (b) to make an excavation in a public place under the *Roads and*
25 *Public Places Act 1937*, section 8 (Construction of culverts etc
26 in public places); or

- 1 (c) under the *Roads and Public Places Act 1937*, section 9
2 (Permission to place culverts etc across, and to interfere with
3 the surfaces of, public places) to make or place a culvert,
4 bridge, crossing or drain across a watertable, watercourse or
5 footpath in, or to open up or break the surface of, any public
6 place.
- 7 (2) The permission is, on the commencement day, taken to be a work
8 approval—
- 9 (a) in the same terms as the permission; and
10 (b) subject to the same conditions as the permission.
- 11 (3) The work approval—
- 12 (a) is taken to expire on the day stated in the permission; and
13 (b) must not be amended, transferred or renewed.

14 **203 Permissions to exhibit advertisements to be sign**
15 **approvals**

- 16 (1) This section applies if, immediately before the commencement day,
17 a person holds a permission to exhibit an advertisement or notice
18 under the *Roads and Public Places Act 1937*, section 12 (Exhibition
19 of advertisements or notices).
- 20 (2) The permission is, on the commencement day, taken to be a sign
21 approval—
- 22 (a) in the same terms as the permission; and
23 (b) subject to the same conditions as the permission.
- 24 (3) The sign approval—
- 25 (a) is taken to expire on the day stated in the permission; and
26 (b) must not be amended, transferred or renewed.

1 **204 Old permits to be public unleased land permits**

2 (1) This section applies if, immediately before the commencement day,
3 a person holds a permit (an *old permit*) under the *Roads and Public*
4 *Places Act 1937*.

5 (2) The old permit is, on the commencement day, taken to be a public
6 unleased land permit—

7 (a) in the same terms as the old permit; and

8 (b) subject to the same conditions as the old permit.

9 (3) The public unleased land permit—

10 (a) is taken to expire on the day stated in the old permit; and

11 (b) must not be amended, transferred or renewed.

12 **205 Expiry—pt 20**

13 This part expires 2 years after the day it commences.

14 *Note* Transitional provisions are kept in the Act for a limited time.
15 A transitional provision is repealed on its expiry but continues to have
16 effect after its repeal (see Legislation Act, s 88).

1 Schedule 1 Reviewable decisions

2 (see pt 5)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	12 (4)	refuse to issue closed road approval	applicant for approval
2	12 (5)	impose condition on closed road approval	applicant for approval
3	15 (2)	issue drainage direction	person directed
4	19 (4)	refuse to issue work approval	applicant for approval
5	19 (5)	impose condition on work approval	applicant for approval
6	21 (2)	issue repair damage direction	person directed
7	25 (4)	refuse to issue sign approval	applicant for approval
8	25 (6)	impose condition on sign approval	applicant for approval
9	31 (2)	issue plant pruning direction	person directed
10	34 (2)	issue plant removal direction	person directed
11	57 (2)	refuse to issue public unleased land permit	applicant for permit
12	57 (3)	issue public unleased land permit—impose condition	permit-holder
13	68 (1)	amend public unleased land permit	permit-holder
14	70 (2)	refuse to amend public unleased land permit	permit-holder
15	70 (3)	amend public unleased land permit—impose or amend condition	permit-holder
16	72 (2)	refuse to transfer public unleased land permit	permit-holder proposed new permit-holder
17	72 (3)	transfer public unleased land permit—impose or amend condition	proposed new permit-holder
18	74 (2)	refuse to renew public unleased land permit	permit-holder

column 1 item	column 2 section	column 3 decision	column 4 entity
19	74 (3)	renew public unleased land permit— impose or amend condition	permit-holder
20	81 (3)	take regulatory action	permit-holder
21	82 (2)	immediately suspend public unleased land permit	permit-holder
22	98 (3)	issue removal direction	person directed
23	100 (2)	issue director-general's direction	person directed

1 **Schedule 2 Consequential amendments**

2 (see s 133)

3 **Part 2.1 Building Act 2004**

4 **[2.1] Dictionary, definition of *land*, paragraph (b)**

5 *substitute*

6 (b) land that is the subject of a public unleased land permit under
7 the *Public Unleased Land Act 2011*; and

8 **[2.2] Dictionary, definition of *owner*, paragraph (d)**

9 *substitute*

10 (d) if the land is subject to a public unleased land permit under the
11 *Public Unleased Land Act 2011*—the permit-holder; or

12 **Part 2.2 Crimes Act 1900**

13 **[2.3] Section 119 (3), definition of *public road***

14 *substitute*

15 *public road*—see the *Public Unleased Land Act 2011*, section 9.

16 **Part 2.3 Domestic Animals Act 2000**

17 **[2.4] Dictionary, definition of *public place*, paragraph (a)**

18 *substitute*

19 (a) means public unleased land; and

- 1 **[2.5] Dictionary, new definition of *public unleased land***
2 *insert*
3 *public unleased land*—see the *Public Unleased Land Act 2011*,
4 section 8.

5 **Part 2.4 Gungahlin Drive Extension**
6 **Authorisation Regulation 2004**

- 7 **[2.6] Section 4 (c)**
8 *substitute*
9 (c) the *Public Unleased Land Act 2011*;

10 **Part 2.5 Hawkers Act 2003**

- 11 **[2.7] Section 4 (a) (ii)**
12 *substitute*
13 (ii) a public unleased land permit under the *Public Unleased*
14 *Land Act 2011*; or

- 15 **[2.8] Section 23 heading**
16 *substitute*

17 **23 Temporary amendment or suspension of licence—Public**
18 **Unleased Land Act**

- 19 **[2.9] Section 23 (1) (a) and (b)**
20 *substitute*
21 (a) a closed road under the *Public Unleased Land Act 2011*,
22 section 11 (Director-general may temporarily close public
23 roads); or

- 1 (b) subject to a work approval under the *Public Unleased Land*
2 *Act 2011*, section 19 (Approval to carry out work on public
3 unleased land).

4 **[2.10] Section 26 (2)**

5 *substitute*

- 6 (2) This section does not apply to the amendment or suspension of a
7 licence under section 23 (Temporary amendment or suspension of
8 licence—Public Unleased Land Act).

9 **[2.11] Section 40 (1) (b)**

10 *substitute*

- 11 (b) an authorised person appointed under the *Public Unleased*
12 *Land Act 2011*, section 89 (1) (Authorised people);

13 **[2.12] Section 42 (6), definition of *identity card*, new**
14 **paragraph (aa)**

15 *insert*

- 16 (aa) for an authorised person mentioned in section 40 (1) (b)—an
17 identity card issued under the *Public Unleased Land Act 2011*,
18 section 90 (2); or

19 **Part 2.6 Liquor Regulation 2010**

20 **[2.13] Section 6 (2) (d)**

21 *substitute*

- 22 (d) each outdoor dining area at the premises, including whether a
23 public unleased land permit or unleased land licence is in force
24 for the area.

1 **[2.14] Schedule 1, section 1.9 (3) and (4)**

2 *substitute*

3 (3) If an outdoor dining area at licensed premises is located on unleased
4 territory land, the licensee must—

5 (a) hold—

6 (i) a public unleased land permit for the area; or

7 (ii) an unleased land licence for the area; and

8 (b) keep a copy of the public unleased land permit or unleased
9 land licence at the licensed premises.

10 (4) If a public unleased land permit or unleased land licence ceases to
11 be in force for an outdoor dining area at licensed premises, the
12 licensee must apply to the commissioner for amendment of the
13 licence under the Act, section 39 (Licence—amendment for change
14 to floor plan of licensed premises).

15 **[2.15] Dictionary, definition of *public place permit* and note**

16 *substitute*

17 *public unleased land permit*, for an outdoor dining area, means a
18 public unleased land permit under the *Public Unleased Land*
19 *Act 2011* authorising a licensee to use the area for outdoor dining.

1 **Part 2.7** **Planning and Development Act**
2 **2007**

3 **[2.16] Section 7 (1), definition of *development*, paragraph (g)**

4 *substitute*

- 5 (g) putting up, attaching or displaying a sign or advertising
6 material other than in accordance with—
7 (i) a licence issued under this Act; or
8 (ii) a sign approval under the *Public Unleased Land*
9 *Act 2011*, section 25 (Approval to place sign on public
10 unleased land); or
11 (iii) a public unleased land permit under the *Public Unleased*
12 *Land Act 2011*.

13 **[2.17] Section 134 (6)**

14 *substitute*

- 15 (6) Also, the authorised use of the land, building or structure stops
16 being exempt from requiring development approval if—
17 (a) the use was authorised by—
18 (i) a licence under this Act; or
19 (ii) a sign approval or work approval under the *Public*
20 *Unleased Land Act 2011*; or
21 (iii) a public unleased land permit under the *Public Unleased*
22 *Land Act 2011*; and
23 (b) the licence, approval or permit—
24 (i) has expired and has not been renewed on an application
25 to renew the licence or permit made within 6 months
26 after the day of expiry; or
27 (ii) ends other than by expiring.

1 **[2.18] Section 134 (8), definition of *authorised use*,**
2 **paragraph (a) (iii) and (iv)**

3 *substitute*

4 (iii) a sign approval or work approval under the *Public*
5 *Unleased Land Act 2011*;

6 (iv) a public unleased land permit under the *Public Unleased*
7 *Land Act 2011*;

8 (v) a provision of chapter 15 (Transitional); and

9 **[2.19] Section 204 (1) (b) (iii) and (iv)**

10 *substitute*

11 (iii) a sign approval or work approval under the *Public*
12 *Unleased Land Act 2011*; or

13 (iv) a public unleased land permit under the *Public Unleased*
14 *Land Act 2011*; or

15 (v) section 247; and

16 **[2.20] Section 204 (3) (b)**

17 *substitute*

18 (b) the use is authorised by a relevant authorisation and the
19 relevant authorisation ends—

20 (i) whether on expiry or otherwise; and

21 (ii) even if renewed; or

22 **[2.21] Section 204 (4)**

23 *substitute*

24 (4) The use of the land, or building or structure, is lawful while
25 authorised by a lease for the land, a licence, an approval, a permit or
26 section 247, despite any other provision of this Act.

1 **[2.22] Section 204 (5), new definition of *relevant authorisation***

2 *insert*

3 *relevant authorisation* means—

- 4 (a) a licence under this Act; or
5 (b) a sign approval or work approval under the *Public Unleased*
6 *Land Act 2011*; or
7 (c) a public unleased land permit under the *Public Unleased Land*
8 *Act 2011*.

9 **[2.23] Section 305 (a) and (b)**

10 *substitute*

- 11 (a) the person holds a sign approval, work approval, or public
12 unleased land permit, to use the area under the *Public*
13 *Unleased Land Act 2011*; and
14 (b) the person uses the area in accordance with the approval or
15 permit; and

16 **[2.24] Schedule 2, item 5**

17 *substitute*

5	using unleased territory land in a way that is not authorised by— (a) a licence under this Act; or (b) a sign approval or work approval under the <i>Public Unleased Land Act 2011</i> ; or (c) a public unleased land permit under the <i>Public Unleased Land Act 2011</i>	60 penalty units
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1 **Part 2.8** **Planning and Development**
2 **Regulation 2008**

3 **[2.25] Section 29 (h)**

4 *substitute*

5 (h) that 1 of the following is granted in relation to the occupation
6 or use of the land:

7 (i) a licence under the Act;

8 (ii) a sign approval or work approval under the *Public*
9 *Unleased Land Act 2011*;

10 (iii) a public unleased land permit under the *Public Unleased*
11 *Land Act 2011*;

12 **[2.26] Schedule 1, section 1.67, note 3**

13 *substitute*

14 *Note 3* Other laws, including the *Public Unleased Land Act 2011*, deal with
15 placement of signs.

16 **[2.27] Schedule 1, section 1.68**

17 *substitute*

18 **1.68 Moveable signs on public unleased land**

19 (1) The display of a moveable sign on public unleased land if—

20 (a) the sign does not impede public access to a place (including
21 public unleased land); and

22 (b) the surface area of any side of the sign is not more than 1.5m²;
23 and

24 (c) the vertical distance from the top of any side of the sign to the
25 bottom of the side is not more than 1.5m; and

1 (d) the display of the sign complies with the prescribed general
2 exemption criteria that are applicable to the development.

3 *Note 1 Prescribed general exemption criteria*—see s 1.66.

4 *Note 2* Other laws, including the *Public Unleased Land Act 2011*, deal with
5 placement of signs.

6 (2) In this section:

7 *moveable sign* means a sign that is not fixed to a building or
8 structure.

9 *public unleased land*—see the *Public Unleased Land Act 2011*,
10 section 8.

11 **[2.28] Schedule 1, section 1.69, note 3**

12 *substitute*

13 *Note 3* Other laws, including the *Public Unleased Land Act 2011*, deal with
14 placement of signs.

15 **[2.29] Schedule 1, section 1.104 (1), note 3**

16 *substitute*

17 *Note 3* If unleased land is affected by the landscape gardening, a licence under
18 the Act or a public unleased land permit under the *Public Unleased*
19 *Land Act 2011* may be required.

20 **Part 2.9 Surveyors Act 2007**

21 **[2.30] Dictionary, new definitions**

22 *insert*

23 *public road*—see the *Public Unleased Land Act 2011*, section 9.

24 *public unleased land*—see the *Public Unleased Land Act 2011*,
25 section 8.

1 **[2.31] Dictionary, definition of *survey*, paragraph (c)**

2 *substitute*

3 (c) defining, redefining or marking the boundaries of an area of
4 public unleased land or a public road; or

5 **Part 2.10 Tree Protection Act 2005**

6 **[2.32] Section 19 (1) (d) (iv)**

7 *substitute*

8 (iv) a plant pruning direction under the *Public Unleased Land*
9 *Act 2011*, section 31 (Direction to prune tree etc
10 overhanging public unleased land); or

11 (v) a plant removal direction under the *Public Unleased*
12 *Land Act 2011*, section 34 (Direction to remove tree etc
13 endangering public on public unleased land); or

14 **Part 2.11 Trespass on Territory Land Act**
15 **1932**

16 **[2.33] Sections 8A and 8B**

17 *omit*

18 **[2.34] Section 8C (1) (c)**

19 *omit*

1 **Part 2.12 Uncollected Goods Act 1996**

2 **[2.35] Section 14 (2) (b)**

3 *substitute*

4 (b) an object that is on the land in accordance with a public
5 unleased land permit under the *Public Unleased Land*
6 *Act 2011*; or

7 **Part 2.13 Unit Titles Act 2001**

8 **[2.36] Section 20 (1) (d)**

9 *omit*

10 a public place

11 *substitute*

12 public unleased land

13 **[2.37] Division 4.3 heading**

14 *substitute*

15 **Division 4.3 Encroachments on public unleased**
16 **land**

17 **[2.38] Section 37A heading**

18 *substitute*

19 **37A Effect of registration of units plan with encroachment on**
20 **public unleased land**

1 **[2.39] Section 37A (1) (b)**

2 *substitute*

3 (b) the plan shows an encroachment on public unleased land by an
4 attachment to a building on the parcel.

5 **[2.40] Dictionary, definition of *public place***

6 *substitute*

7 *public unleased land*—see the *Public Unleased Land Act 2011*,
8 section 8.

9 **Part 2.14 Unit Titles Regulation 2001**

10 **[2.41] Section 2E (1) (h)**

11 *substitute*

12 (h) if a work approval for the development is required under
13 the *Public Unleased Land Act 2011*, section 19 (Approval
14 to carry out work on public unleased land)—a copy of the
15 approval;

1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • ACAT
- 7 • Act
- 8 • corporation
- 9 • Corporations Act
- 10 • daily newspaper
- 11 • director-general (see s 163)
- 12 • police officer
- 13 • reviewable decision notice
- 14 • working day.

15 *activity information notice*, for part 3 (Public unleased land
16 permits)—see section 51 (Suitability of activities—further
17 information about activity).

18 *additional approval notice*, for part 3 (Public unleased land
19 permits)—see section 52 (2) (Suitability of activities—other
20 approvals).

21 *authorised person* means an authorised person mentioned in
22 section 89 (Authorised people).

23 *closed road*—see section 11 (1) (Director-general may temporarily
24 close public roads).

25 *closed road approval*—see section 12 (1) (Approval to use closed
26 road).

27 *connected*, for part 4 (Enforcement)—see section 88.

28 *damage* a protected tree, for division 2.6 (Trees and other plants
29 affecting public unleased land)—see section 30.

- 1 ***director-general's direction***—see section 100 (2).
- 2 ***drainage direction***—see section 15 (2) (Directions to construct
3 surface water drains).
- 4 ***emergency closure order***—see section 102 (1) (Emergency closure
5 of permitted place).
- 6 ***financial assurance condition***, on a public unleased land permit—
7 see section 60.
- 8 ***ground for regulatory action***, against a permit-holder, for
9 division 3.9 (Public unleased land permits—regulatory action)—see
10 section 79.
- 11 ***influential person***, for a corporation, for part 3 (Public unleased
12 land permits)—see section 42.
- 13 ***inspection notice***, for part 3 (Public unleased land permits)—see
14 section 56 (2) (Suitability of activities—inspection of object).
- 15 ***location plan***, for part 3 (Public unleased land permits)—see
16 section 45 (Public unleased land permit—application).
- 17 ***movable signs code of practice***—see section 27 (Movable signs
18 code of practice).
- 19 ***object*** includes any item of movable personal property.
- 20 ***occupier***—
- 21 (a) of leased territory land, for division 2.7 (Graffiti visible from
22 public unleased land)—see section 37; and
- 23 (b) of premises, for part 4 (Enforcement)—see section 88.
- 24 ***offence***, for part 4 (Enforcement)—see section 88.
- 25 ***on***, public unleased land, includes in, at or across the public
26 unleased land.

- 1 **owner**—
- 2 (a) of land, means the lessee of the land; and
- 3 (b) of a vehicle, includes anyone who has a legal right to move the
- 4 vehicle.
- 5 **permit** means a public unleased land permit.
- 6 **permit-holder** means a person who is the holder of a permit.
- 7 **permit register**, for division 3.10 (Public unleased land permit
- 8 register)—see section 86 (1).
- 9 **permitted activity**—see section 40 (What is a *public unleased land*
- 10 *permit*?).
- 11 **permitted public unleased land**—see section 40 (What is a *public*
- 12 *unleased land permit*?).
- 13 **permitted time**—see section 40 (What is a *public unleased land*
- 14 *permit*?).
- 15 **personal information notice**, for part 3 (Public unleased land
- 16 permits)—see section 48 (Suitability of people—further information
- 17 about people).
- 18 **plant pruning direction**—see section 31 (Direction to prune tree etc
- 19 overhanging public unleased land).
- 20 **plant removal direction**—see section 34 (Direction to remove tree
- 21 etc endangering public on unleased land).
- 22 **premises** includes land, structure, vehicle or boat.
- 23 **public consultation notice**, for part 3 (Public unleased land
- 24 permits)—see section 53 (2) (Suitability of activities—public
- 25 consultation).
- 26 **public consultation period**, for part 3 (Public unleased land
- 27 permits)—see section 53 (3) (a) (iv) (Suitability of activities—
- 28 public consultation).

1 **public consultation submission notice**, for part 3 (Public unleased
2 land permits)—see section 54 (2) (Suitability of activities—public
3 consultation submissions).

4 **public road**—see section 9.

5 **public unleased land**—see section 8.

6 **public unleased land permit**—see section 40.

7 **registered operator**—see the *Road Transport (Vehicle Registration)*
8 *Act 1999*, dictionary.

9 *Note* A reference to the registered operator includes each registered operator
10 (see *Road Transport (Vehicle Registration) Act 1999*, s 29).

11 **registered tree**, for division 2.6 (Trees and other plants affecting
12 public unleased land)—see section 30.

13 **regulatory action**—see section 80.

14 **removal direction**—see section 98 (3) (Direction to remove objects
15 from public unleased land).

16 **repair damage direction**—see section 21 (2) (Directions to repair
17 damage to public unleased land).

18 **retention area**, for division 4.4 (Removal and disposal of objects on
19 public unleased land by Territory)—see the *Uncollected Goods*
20 *Act 1996*, dictionary.

21 **reviewable decision**, for part 5 (Notification and review of
22 decisions)—see section 127.

23 **risk management plan notice**, for part 3 (Public unleased land
24 permits)—see section 55 (2) (Suitability of activities—risk
25 management plan).

26 **show cause period**, for part 3 (Public unleased land permits)—see
27 section 54 (3) (b) (ii) (Suitability of activities—public consultation
28 submissions).

29 **sign**, on public unleased land—see section 24.

- 1 ***sign approval***—see section 25 (1) (Approval to place sign on public
2 unleased land).
- 3 ***suitability information***—
- 4 (a) about a person—see section 47; and
- 5 (b) about an activity—see section 50.
- 6 ***suitable activity***, for a public unleased land permit—see section 49.
- 7 ***suitable person***, to hold a public unleased land permit—see
8 section 46.
- 9 ***tree protection approval***, for division 2.6 (Trees and other plants
10 affecting public unleased land)—see section 30.
- 11 ***use***, public unleased land, for part 3 (Public unleased land
12 permits)—see section 41.
- 13 ***vehicle***—see the *Road Transport (General) Act 1999*, dictionary.
- 14 ***warrant***, for part 4 (Enforcement)—see section 88.
- 15 ***work***, on public unleased land—see section 18.
- 16 ***work approval***—see section 19.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 December 2011.

2 Notification

Notified under the Legislation Act on 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
