

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Territory and Municipal Services)

Public Unleased Land Bill 2012

Contents

	Page
Part 1	
Preliminary	
1 Name of Act	2
2 Commencement	2
3 Dictionary	2
4 Notes	3
5 Offences against Act—application of Criminal Code etc	3
6 Object of Act	3
7 Application of Act to Territory	3
8 Meaning of <i>public unleased land</i>	4
9 Meaning of <i>public road</i>	4

Part 2 Managing and protecting public unleased land

Division 2.1 Public roads

10	Director-general may fix or change public road levels	5
11	Director-general may temporarily close public roads	5
12	Approval to use closed road	6
13	Offence—use closed road without approval	7
14	Director-general may make temporary public roads	7

Division 2.2 Drainage affecting public unleased land

15	Directions to construct surface water drains	8
16	Offence—fail to comply with drainage direction	9
17	Construction of drains by Territory	9

Division 2.3 Work on public unleased land

18	Meaning of <i>work</i> on public unleased land	10
19	Approval to carry out work on public unleased land	10
20	Offence—carry out work on public unleased land without approval	12

Division 2.4 Damage to public unleased land

21	Directions to repair damage to public unleased land	12
22	Offence—fail to comply with repair damage direction	13
23	Repair of damage by Territory	13

Division 2.5 Signs on public unleased land

24	Meaning of <i>sign</i> on public unleased land	14
25	Approval to place sign on public unleased land	14
26	Offence—place sign on public unleased land without approval	15
27	Movable signs code of practice	16
28	Offence—fail to comply with code of practice	16
29	Territory indemnified regarding movable signs	17

Division 2.6 Trees and other plants affecting public unleased land

30	Definitions—div 2.6	17
31	Direction to prune tree etc overhanging public unleased land	18
32	Offence—fail to comply with plant pruning direction	19
33	Pruning of tree etc by Territory	19

	Page
34	Direction to remove tree etc endangering public on public unleased land 20
35	Offence—fail to comply with plant removal direction 21
36	Removal of tree etc by Territory 21
Division 2.7	Graffiti visible from public unleased land
37	Meaning of <i>occupier</i> of leased territory land—div 2.7 22
38	Graffiti removal from property on leased territory land 22
39	Graffiti removal—liability of the Territory 23
Part 3	Public unleased land permits
Division 3.1	Important concepts
40	What is a <i>public unleased land permit</i> ? 24
41	When does a person <i>use</i> public unleased land?—pt 3 24
42	Who is an <i>influential person</i> for a corporation?—pt 3 25
Division 3.2	Public unleased land permits—offences
43	Offence—use public unleased land without permit 26
44	Offence—fail to comply with condition of permit 27
Division 3.3	Public unleased land permits—application
45	Public unleased land permit—application 27
Division 3.4	Public unleased land permits—suitability of people
46	Who is a <i>suitable person</i> to hold a public unleased land permit? 29
47	What is <i>suitability information</i> about a person? 29
48	Suitability of people—further information about people 30
Division 3.5	Public unleased land permits—suitability of activities
49	What is a <i>suitable activity</i> for a public unleased land permit? 31
50	What is <i>suitability information</i> about an activity? 32
51	Suitability of activities—further information about activity 33
52	Suitability of activities—other approvals 34
53	Suitability of activities—public consultation 34
54	Suitability of activities—public consultation submissions 36
55	Suitability of activities—risk management plan 36
56	Suitability of activities—inspection of object 37

	Page
Division 3.6 Public unleased land permits—decision	
57 Public unleased land permit—decision on application	38
58 Public unleased land permit—form	40
59 Public unleased land permit—term	40
Division 3.7 Public unleased land permits—financial assurance conditions	
60 Meaning of <i>financial assurance condition</i>	41
61 Financial assurance condition—imposition	41
62 Financial assurance condition—show cause	42
63 Financial assurance condition—permit cancellation	43
64 Financial assurance condition—claim or realisation	43
65 Financial assurance condition—notice before claim or realisation	44
66 Financial assurance condition—recovery of extra costs	45
67 Financial assurance condition—money held by Territory	46
Division 3.8 Public unleased land permits—amendment, transfer, renewal, etc	
68 Public unleased land permit—amendment initiated by director-general	47
69 Public unleased land permit—application to amend permit	48
70 Public unleased land permit—decision on application to amend permit	49
71 Public unleased land permit—application to transfer permit	51
72 Public unleased land permit—decision on application to transfer permit	51
73 Public unleased land permit—application for renewal of permit	53
74 Public unleased land permit—decision on application for renewal of permit	53
75 Public unleased land permit—replacing when lost, stolen or destroyed	55
76 Public unleased land permit—surrender	56
77 Offence—fail to notify change of name or address	56
78 Public unleased land permit—director-general to change name and address	57
Division 3.9 Public unleased land permits—regulatory action	
79 Public unleased land permit—grounds for regulatory action	57
80 Public unleased land permit—regulatory action	58
81 Public unleased land permit—taking regulatory action	58
82 Public unleased land permit—immediate suspension	59

	Page
83 Public unleased land permit—effect of suspension	60
84 Offence—fail to return amended, suspended or cancelled permits	61
85 Action by director-general in relation to amended or suspended permit	61
Division 3.10 Public unleased land permit register	
86 Public unleased land permit register	62
87 Correction and keeping up-to-date register	62
 Part 4 Enforcement	
Division 4.1 General	
88 Definitions—pt 4	63
Division 4.2 Authorised people	
89 Authorised people	63
90 Identity cards	64
91 Power not to be exercised before identity card shown	65
Division 4.3 Directions etc	
Subdivision 4.3.1 General directions	
92 Direction to give name and address	65
93 Offence—fail to comply with direction to give name and address	66
94 Direction to produce approval, permit or insurance policy	67
95 Offence—fail to comply with direction to produce approval, permit or insurance policy	68
96 Direction to leave permitted public unleased land	68
97 Offence—fail to comply with direction to leave permitted public unleased land	69
98 Direction to remove objects from public unleased land	70
99 Offence—fail to comply with removal direction	71
Subdivision 4.3.2 Urgent action	
100 Director-general's directions	72
101 Offence—fail to comply with director-general's direction	73
102 Emergency closure of permitted place	74
103 Emergency closure notice	74
104 Offence—fail to comply with emergency closure order	75

	Page
Division 4.4 Removal and disposal of objects on public unleased land by Territory	
105 Removal of objects by Territory	76
106 Disposal of objects by Territory	76
Division 4.5 Powers of authorised people	
107 Power to enter premises	77
108 Production of identity card	78
109 Consent to entry	79
110 General powers on entry to premises	80
111 Power to seize things	81
Division 4.6 Search warrants	
112 Warrants generally	82
113 Warrants—application made other than in person	83
114 Search warrants—announcement before entry	84
115 Details of search warrant to be given to occupier etc	85
116 Occupier entitled to be present during search etc	85
Division 4.7 Return and forfeiture of things seized	
117 Receipt for things seized	86
118 Moving things to another place for examination or processing under search warrant	86
119 Access to things seized	87
120 Return of things seized	88
121 Forfeiture of seized things	88
122 Power to destroy unsafe things	89
123 Application for order disallowing seizure	90
124 Order for return of seized thing	90
Division 4.8 Enforcement—miscellaneous	
125 Damage etc to be minimised	91
126 Compensation for exercise of enforcement powers	92
Part 5 Notification and review of decisions	
127 What is a <i>reviewable decision</i> ?—pt 5	93
128 Reviewable decision notices	93

	Page
129 Applications for review	93
Part 6 Miscellaneous	
130 Determination of fees etc	94
131 Approved forms	94
132 Regulation-making power	94
133 Legislation amended—sch 2	95
134 Legislation repealed	95
Part 20 Transitional	
200 Definitions—pt 20	96
201 Permissions to use closed road to be closed road approvals	96
202 Permissions to interfere etc be work approvals	96
203 Permissions to exhibit advertisements to be sign approvals	97
204 Old permits to be public unleased land permits	98
205 Expiry—pt 20	98
Schedule 1 Reviewable decisions	99
Schedule 2 Consequential amendments	101
Part 2.1 Building Act 2004	101
Part 2.2 Crimes Act 1900	101
Part 2.3 Domestic Animals Act 2000	101
Part 2.4 Gungahlin Drive Extension Authorisation Regulation 2004	102
Part 2.5 Hawkers Act 2003	102
Part 2.6 Liquor Regulation 2010	103
Part 2.7 Planning and Development Act 2007	105
Part 2.8 Planning and Development Regulation 2008	108
Part 2.9 Surveyors Act 2007	110
Part 2.10 Tree Protection Act 2005	110

Contents

	Page
Part 2.11	
Trespass on Territory Land Act 1932	111
Part 2.12	
Uncollected Goods Act 1996	111
Part 2.13	
Unit Titles Act 2001	111
Part 2.14	
Unit Titles Regulation 2001	112
 Dictionary	 113

2012

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Territory and Municipal Services)

Public Unleased Land Bill 2012

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 2012*.

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)).

4 Notes

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

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

5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

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

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

Note 2 *Penalty units*

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

6 Object of Act

The main objects of this Act are to—

- (a) protect the amenity and natural value of public unleased land;
and
- (b) facilitate the use of public unleased land.

7 Application of Act to Territory

(1) The following sections do not bind the Territory:

- (a) section 16 (Offence—fail to comply with drainage direction);
- (b) section 20 (Offence—carry out work on public unleased land without approval);
- (c) section 22 (Offence—fail to comply with repair damage direction).

- 1 (2) This section has effect despite the [Legislation Act](#), section 121
2 (Binding effect of Acts).

3 **8 Meaning of *public unleased land***

4 In this Act:

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

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

8 **9 Meaning of *public road***

9 In this Act:

10 *public road* means any street, road, lane, thoroughfare, footpath, or
11 place that is—

- 12 (a) territory land; and
13 (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.

22 **11** **Director-general may temporarily close public roads**

- 23 (1) The director-general may temporarily close a public road (a *closed*
24 *road*).

- 1 (2) However, before closing a public road, the director-general must—
- 2 (a) publish in a daily newspaper, at least 7 days before the road is
- 3 to be closed, a notice about the proposal to close the road; and
- 4 (b) display a notice about the proposal to close the road in a
- 5 conspicuous place at the road.
- 6 (3) Subsection (2) does not apply in urgent circumstances.

7 **12 Approval to use closed road**

- 8 (1) A person may apply to the director-general for approval (a *closed*
- 9 *road approval*) to use a closed road.

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 closed road should not be used; or
- 21 (ii) how the closed road should be used.
- 22 (3) In deciding whether to issue an approval, the director-general must
- 23 consider—
- 24 (a) whether the use would be likely to—
- 25 (i) cause undue risk to people or property; or
- 26 (ii) damage the road; and
- 27 (b) any submissions received under subsection (2).

1 (4) The director-general may issue an approval only if reasonably
2 satisfied that use of the road in accordance with the approval would
3 not be likely to cause unacceptable risk to people, property or the
4 road.

5 (5) An approval may be subject to any condition that the
6 director-general reasonably believes is necessary for the
7 management or protection of the road.

8 **13 Offence—use closed road without approval**

- 9 (1) A person commits an offence if the person—
10 (a) uses a closed road; and
11 (b) does not hold a closed road approval authorising the use of the
12 closed road.

13 Maximum penalty: 10 penalty units.

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

15 **14 Director-general may make temporary public roads**

- 16 (1) This section applies if the director-general—
17 (a) temporarily closes a public road under section 11
18 (Director-general may temporarily close public roads); and
19 (b) considers that it is necessary to make a temporary road for use
20 while the road is closed.

- 21 (2) The director-general may make a temporary public road.

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

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

- 1 (5) The Territory is liable for any damage caused in making the
2 temporary public road, other than any minor damage that is
3 incidental to the making of the temporary public road.

4 **Division 2.2 Drainage affecting public unleased**
5 **land**

6 **15 Directions to construct surface water drains**

- 7 (1) This section applies if surface water from land—
8 (a) overflows into public unleased land; and
9 (b) damages the public unleased land.
10 (2) The director-general may direct (a *drainage direction*) the land
11 owner to do 1 or more of the following:
12 (a) repair the damage;
13 (b) construct stated drains.
14 (3) A drainage direction must be in writing and state—
15 (a) if damage is to be repaired—
16 (i) the public unleased land; and
17 (ii) the damage to be repaired; and
18 (b) if a drain is to be constructed—
19 (i) the location of the drain; and
20 (ii) the size of the drain; and
21 (iii) that the owner must maintain the drain in good condition;
22 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
24 (b) if damage to public unleased land has not been repaired as
25 directed—
26 (i) repair the damage; and

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

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

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

Division 2.3 Work on public unleased land

18 Meaning of *work* on public unleased land

In this Act:

work, on public unleased land, includes—

- (a) any interference with Territory property on the public unleased land; and
- (b) construction work carried out on the public unleased land.

19 Approval to carry out work on public unleased land

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

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

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

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

- (a) give a copy of the application to each entity the director-general considers should be consulted about the application; and
- (b) tell each entity that they may give a written submission to the director-general, not later than 15 working days after receiving the copy of the application, about—
 - (i) why the work should not be carried out; or

- 1 (ii) how the work should be carried out.
- 2 (3) In deciding whether to issue an approval, the director-general must
3 consider—
- 4 (a) whether the work would be likely to—
- 5 (i) cause undue disturbance, inconvenience or offence to
6 people lawfully on or near the public unleased land; or
- 7 (ii) cause undue risk to people or property; or
- 8 (iii) damage the public unleased land; and
- 9 (b) any submissions received under subsection (2).
- 10 (4) The director-general may issue an approval only if reasonably
11 satisfied that carrying out the work in accordance with the approval
12 would not be likely to—
- 13 (a) unacceptably affect people lawfully on or near the public
14 unleased land; and
- 15 (b) cause unacceptable risk to people, property or the public
16 unleased land.
- 17 (5) An approval may be subject to any condition that the
18 director-general reasonably believes is necessary to—
- 19 (a) eliminate an effect or risk mentioned in subsection (4); or
- 20 (b) if the effect or risk cannot be eliminated—minimise the effect
21 or risk.

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).

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

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

Maximum penalty: 10 penalty units.

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

Division 2.4 Damage to public unleased land

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

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

Example—Territory property on public unleased land

- 1 boundary mark
- 2 public notice

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

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

Example—approval that may authorise damage

- 1 closed road approval
- 2 work approval

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

Division 2.5 Signs on public unleased land

24 Meaning of *sign* on public unleased land

In this Act—

sign, on public unleased land, includes—

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

25 Approval to place sign on public unleased land

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

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

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

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

- (a) give a copy of the application to each entity the director-general considers should be consulted about the application; and
- (b) tell each entity that they may give a written submission to the director-general, not later than 15 working days after receiving the copy of the application, about—
 - (i) why the sign should not be placed on the public unleased land; or
 - (ii) how the sign should be placed on the public unleased 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.

22 **26 Offence—place sign on public unleased land without**
23 **approval**

- 24 (1) A person commits an offence if the person—
- 25 (a) places a sign on public unleased land; and

- 1 (b) does not hold a sign approval authorising the placing of the
2 sign on the public unleased land.

3 Maximum penalty: 10 penalty units.

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

5 **27 Movable signs code of practice**

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

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

10 (a) the construction of movable signs on public unleased land;

11 (b) the size of movable signs on public unleased land;

12 (c) the location of movable signs on public unleased land;

13 (d) the words or images that may be displayed on movable signs
14 on public unleased land;

15 (e) the number of movable signs that may be placed on public
16 unleased land;

17 (f) the kind of insurance policy that a person placing a movable
18 sign on public unleased land must hold.

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

20 *Note* A disallowable instrument must be notified, and presented to the
21 Legislative Assembly, under the [Legislation Act](#).

22 **28 Offence—fail to comply with code of practice**

- 23 (1) A person commits an offence if—

24 (a) the person places a movable sign on public unleased land; and

(b) either—

(i) the person fails to comply with the movable signs code of practice; or

(ii) the sign does not comply with the movable signs code of practice.

Maximum penalty:

(a) if the failure relates to insurance—50 penalty units; or

(b) if the failure does not relate to insurance—10 penalty units.

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

29 Territory indemnified regarding movable signs

A person who places a movable sign on public unleased land is liable to indemnify the Territory for any liability the Territory incurs as a result of the movable sign being on the public unleased land.

Division 2.6 Trees and other plants affecting public unleased land

30 Definitions—div 2.6

In this division:

damage a protected tree—see the [Tree Protection Act 2005](#), section 12.

registered tree—see the [Tree Protection Act 2005](#), section 9.

tree protection approval means an approval under the [Tree Protection Act 2005](#)—

(a) section 25 (Decision on approval application); or

(b) section 29 (Approval in urgent circumstances or for minor works).

31 Direction to prune tree etc overhanging public unleased land

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

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

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

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

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

(4) The plant pruning direction must—

- (a) be in writing; and
- (b) state the public unleased land; and
- (c) identify the tree or other plant; and
- (d) state how the tree or plant must be pruned; and
- (e) state when the direction must be complied with, being a day at least 7 days after the direction is given to the occupier; and
- (f) if subsection (3) applies to the tree or other plant—be accompanied by the tree protection approval.

Note Power to make the direction includes power to amend or repeal the direction (see [Legislation Act](#), s 46).

32 Offence—fail to comply with plant pruning direction

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

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

(b) fails to comply with the direction.

Maximum penalty: 5 penalty units.

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

33 Pruning of tree etc by Territory

(1) This section applies if an occupier—

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

(b) fails to comply with the direction.

(2) The director-general may—

(a) enter onto the land mentioned in the plant pruning direction, with the assistance that the director-general considers necessary; and

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

(b) prune the tree or other plant as mentioned in the plant pruning direction; and

(c) recover the reasonable costs of the pruning from the occupier.

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

1 **34 Direction to remove tree etc endangering public on public**
2 **unleased land**

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

6 **Example—tree or plant endangering safety of person on public unleased**
7 **land**

8 tree obstructing vision of drivers on public road

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

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

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

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

- 20 (4) The plant removal direction must—

- 21 (a) be in writing; and
22 (b) state the public unleased land; and
23 (c) identify the tree or other plant; and
24 (d) state when the direction must be complied with, being a day at
25 least 5 days after the direction is given to the occupier; and
26 (e) if subsection (3) applies to the tree or other plant—be
27 accompanied by the tree protection approval.

28 *Note* Power to make the direction includes power to amend or repeal the
29 direction (see [Legislation Act](#), s 46).

1 **35 Offence—fail to comply with plant removal direction**

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

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

4 (b) fails to comply with the direction.

5 Maximum penalty: 50 penalty units.

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

7 **36 Removal of tree etc by Territory**

8 (1) This section applies if an occupier—

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

10 (b) fails to comply with the direction.

11 (2) The director-general may—

12 (a) enter onto the land mentioned in the plant removal direction,
13 with the assistance that the director-general considers
14 necessary; and

15 (b) remove the tree or other plant; and

16 (c) recover the reasonable costs of the pruning from the occupier.

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

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

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

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

In this division:

occupier, of leased territory land, includes—

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

38 Graffiti removal from property on leased territory land

- (1) This section applies to graffiti on property on leased territory land if the graffiti is visible from public unleased land.
- (2) An authorised person may remove the graffiti with the consent of the occupier of the land.
- (3) An authorised person may remove the graffiti without the consent of the occupier of the land if an authorised person has, immediately before the graffiti removal work is to be carried out, taken reasonable steps to tell the occupier that the work is to be carried out.
- (4) However, graffiti removal work under subsection (3) must be carried out only from public unleased land.
- (5) After graffiti removal work under subsection (2) or (3) has been carried out, an authorised person must tell the occupier of the land, in writing—
 - (a) that the work has been carried out; and
 - (b) about the effect of section 39.

- 1 **39 Graffiti removal—liability of the Territory**
- 2 (1) The cost of graffiti removal work under section 38 is payable by the
- 3 Territory.
- 4 (2) The Territory is liable for any damage caused to the property in
- 5 carrying out graffiti removal work, other than any minor damage
- 6 that is incidental to the removal of the graffiti.
- 7 **Examples—minor incidental damage**
- 8 1 minor discoloration of the surface from which the graffiti is removed
- 9 2 minor variations in the colour and application of paintwork
- 10 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 11 does not limit, the meaning of the provision in which it appears (see
- 12 [Legislation Act](#), s 126 and s 132).
- 13 (3) The Territory is not liable for any failure to completely remove any
- 14 graffiti.
- 15 (4) To remove any doubt, the Territory is not required to—
- 16 (a) carry out any graffiti removal work; or
- 17 (b) restore any property to its former state before graffiti was
- 18 applied to it.

Part 3 Public unleased land permits

Division 3.1 Important concepts

40 What is a *public unleased land permit*?

In this Act:

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

- (a) at a stated time (the *permitted time*); and
- (b) for a stated activity (the *permitted activity*).

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

(1) In this part:

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

Examples—using public unleased land

- 1 placing tables and chairs on the footpath outside a cafe
- 2 placing a construction skip on a footpath
- 3 placing a charity bin on a footpath
- 4 holding markets on unleased land
- 5 holding a concert in a park
- 6 holding a wedding in a park
- 7 parking a car in a park

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

- (2) However, the Minister may declare that an activity on public unleased land is, or is not, *use* of the public unleased land for this part.

Example

An activity that excludes some members of the public from the land may be declared to not be ‘use’ if carried on in certain circumstances or at a particular time.

- (3) A declaration is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

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

- (1) In this part:

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

- (a) an executive officer of the corporation;
- (b) a person who may exercise a relevant power in relation to the corporation;
- (c) a related corporation;
- (d) an executive officer of a related corporation.

- (2) In this section:

related corporation means a related body corporate under the [Corporations Act](#).

relevant power, for a corporation, means a power—

- (a) to take part in a directorial, managerial or executive decision for the corporation; or
- (b) to elect or appoint a person as an executive officer in the corporation; or
- (c) to exercise a significant influence in relation to the conduct of the corporation.

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

43 Offence—use public unleased land without permit

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

(a) uses public unleased land; and

(b) does not hold a public unleased land permit authorising the use.

Maximum penalty: 20 penalty units.

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

(3) This section does not apply to a person if the person—

(a) holds a work approval or sign approval for the public unleased land; and

(b) uses the public unleased land in accordance with the approval.

(4) This section does not apply to a person if the person—

(a) holds a licence under the *Planning and Development Act 2007*, section 303, to occupy or use the public unleased land; and

(b) occupies or uses the public unleased land in accordance with the licence.

(5) This section does not apply to a person who parks a vehicle on public unleased land if—

(a) the person holds a licence under the *Hawkers Act 2003* to use the vehicle to sell goods or services in the public unleased land; and

(b) the person is carrying on the business of a hawker under that 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—
- 10 30 penalty 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
- 23 (c) include complete details of suitability information about—
- 24 (i) the applicant; and

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

Division 3.4 Public unleased land permits—suitability of people

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

- (1) In this Act:

suitable person, to hold a public unleased land permit, means a person who the director-general is satisfied is a suitable person to hold the permit.
- (2) In deciding whether a person is a suitable person to hold a public unleased land permit, the director-general must consider each of the following:
 - (a) suitability information about the person;
 - (b) any information given to the director-general under section 48 (Suitability of people—further information about people).

47 What is *suitability information* about a person?

In this Act:

suitability information, about a person, means information about the following:

- (a) any conviction of, or finding of guilt against, the person for an offence against 1 or more of the following:
- (i) this Act;
 - (ii) a law of another jurisdiction corresponding, or substantially corresponding, to this Act;

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

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

Example

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

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

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

Example

A person has had an application refused for a licence under the [Planning and Development Act 2007](#), s 303, to occupy or use an area of unleased land.

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

48 Suitability of people—further information about people

- (1) This section applies if the director-general is making a decision about whether a person is a suitable person to hold a public unleased land permit.
- (2) The director-general may, by written notice given to the person (a *personal information notice*), require the person to give the director-general stated information about 1 or more of the following people, not later than a stated reasonable time:
- (a) the person;
- (b) if the person is a corporation—an influential person for the 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);

25 (e) any submission about the activity received by the
26 director-general under—

27 (i) section 53 (Suitability of activities—public consultation);
28 or

- 1 (ii) section 54 (Suitability of activities—public consultation
- 2 submissions);
- 3 (f) any risk management plan given to the director-general under
- 4 section 55 (Suitability of activities—risk management plan);
- 5 (g) the results of any inspection of an object by the
- 6 director-general under section 56 (Suitability of activities—
- 7 inspection of object).

8 **50 What is *suitability information* about an activity?**

9 In this Act:

10 *suitability information*, about an activity, means information about

11 the following:

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

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

17 **51 Suitability of activities—further information about activity**

- 18 (1) This section applies if the director-general is making a decision
19 about whether an activity is a suitable activity for a public unleased
20 land permit.
- 21 (2) The director-general may, by written notice given to the applicant
22 (an **activity information notice**), require the applicant to give the
23 director-general stated information about the activity, not later than
24 a stated reasonable time.
- 25 (3) The director-general need not decide whether an activity is a
26 suitable activity for a public unleased land permit if—
- 27 (a) the director-general has given the applicant an activity
28 information notice; and
- 29 (b) the applicant does not comply with the notice.

52 Suitability of activities—other approvals

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

53 Suitability of activities—public consultation

- (1) This section applies if the director-general is—
- (a) making a decision about whether an activity is a suitable activity for a public unleased land permit; and
 - (b) satisfied that carrying on the activity on the public unleased land in accordance with the permit is likely to have significant impact on people lawfully at adjacent or nearby places.

- 1 (2) The director-general may, by written notice given to the applicant (a
2 ***public consultation notice***), require the applicant to—
- 3 (a) display a sign about the application on the public unleased
4 land; and
- 5 (b) publish a notice about the application in a daily newspaper.
- 6 (3) The sign and notice must—
- 7 (a) state—
- 8 (i) the times for the public unleased land permit; and
- 9 (ii) the activity for the public unleased land permit; and
- 10 (iii) that anyone may give a written submission to the
11 director-general about how the use of the public unleased
12 land in accordance with the proposed permit may have
13 significant impact on someone lawfully at adjacent or
14 nearby places; and
- 15 (iv) that submissions may be given to the director-general
16 only during the 15 working days after the date of the sign
17 or notice (the ***public consultation period***); and
- 18 (b) comply with the requirements prescribed by regulation.
- 19 (4) A person who gives the director-general a submission about an
20 application may, in writing, withdraw the submission at any time
21 before the application is decided.
- 22 (5) The director-general need not decide an application for a public
23 unleased land permit if—
- 24 (a) the director-general has given the applicant a public
25 consultation notice; and
- 26 (b) the applicant does not comply with the notice.

54 Suitability of activities—public consultation submissions

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

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

- (2) The director-general must give the applicant written notice of the proposed decision (a ***public consultation submission notice***).

- (3) The notice must—

- (a) include a copy of the submission; and
- (b) state that—
 - (i) the applicant may give a written submission to the director-general showing cause why the activity should not be considered unsuitable for the public unleased land permit; and
 - (ii) the applicant's submission may be given to the director-general only during the 20 working days (the ***show cause period***) after the date of the notice.

55 Suitability of activities—risk management plan

- (1) This section applies if the director-general is—
- (a) making a decision about whether an activity is a suitable activity for a public unleased land permit; and
 - (b) satisfied that carrying on the activity on the public unleased land in accordance with the public unleased land permit is likely to cause undue risk to people or property.

- 1 (2) The director-general may, by written notice given to the applicant
2 (a ***risk management plan notice***), require the applicant to prepare a
3 risk management plan for the public unleased land permit.
- 4 (3) The risk management plan must—
- 5 (a) identify the risks to people and property; and
- 6 (b) detail the procedures, practices and arrangements for
7 eliminating or minimising the risks.
- 8 (4) The director-general need not decide an application for a public
9 unleased land permit if—
- 10 (a) the director-general has given the applicant a risk management
11 plan notice; and
- 12 (b) the applicant does not comply with the notice.

13 **56 Suitability of activities—inspection of object**

- 14 (1) This section applies if—
- 15 (a) the director-general is making a decision about whether an
16 activity is suitable for a public unleased land permit; and
- 17 (b) the activity involves placing an object on public unleased land.
- 18 (2) The director-general may, by written notice given to the applicant
19 (an ***inspection notice***), require the applicant to allow the
20 director-general to inspect the object within a stated reasonable
21 time.
- 22 (3) The director-general need not decide whether an activity is a
23 suitable activity for a public unleased land permit if—
- 24 (a) the director-general has given the applicant an inspection
25 notice; and
- 26 (b) the applicant does not comply with the notice.

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

57 Public unleased land permit—decision on application

- (1) This section applies if the director-general receives an application for a public unleased land permit.
- (2) The director-general may issue the public unleased land permit to the applicant only if reasonably satisfied that—
- (a) the applicant is a suitable person to hold the public unleased land permit; and
 - (b) if the applicant is a corporation—each influential person for the applicant is a suitable person to hold the public unleased land permit; and
 - (c) the activity is a suitable activity for the public unleased land permit.

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

- (3) A public unleased land permit may be subject to any condition that the director-general reasonably believes is necessary to meet the objectives of this Act.

Examples—conditions

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

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

- (4) The director-general must, not later than the required time—
- (a) decide the application; and
 - (b) tell the applicant about the decision on the application.

(5) In this section:

required time means the latest of the following:

- (a) if the director-general gives the applicant a personal information notice under section 48—28 days after the director-general receives the stated information;
- (b) if the director-general gives the applicant an activity information notice under section 51—28 days after the director-general receives the information;
- (c) if the director-general gives the applicant an additional approval notice under section 52—28 days after the director-general receives the approval, licence, permit or other authority;
- (d) if the director-general gives the applicant a public consultation notice under section 53 and receives a submission during the public consultation period—28 days after the director-general receives the submission;
- (e) if the director-general gives the applicant a public consultation submission notice under section 54 and receives a submission during the show cause period—28 days after the director-general receives the submission;
- (f) if the director-general gives the applicant a risk management plan notice under section 55—28 days after the director-general receives the risk management plan;
- (g) if the director-general gives the applicant an inspection notice under section 56—28 days after the director-general inspects the object;
- (h) 28 days after the day the director-general receives the application.

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

- 1 **58 Public unleased land permit—form**
- 2 (1) A public unleased land permit must—
- 3 (a) be in writing; and
- 4 (b) include the following information:
- 5 (i) the name of the permit-holder;
- 6 (ii) the location of the permitted public unleased land;
- 7 (iii) the permitted activity;
- 8 (iv) the permitted times;
- 9 (v) the term of the permit;
- 10 (vi) the conditions on the permit;
- 11 (vii) anything else prescribed by regulation.
- 12 (2) A public unleased land permit may include anything else the
- 13 director-general considers relevant.
- 14 **59 Public unleased land permit—term**
- 15 (1) A public unleased land permit starts on the day stated in the permit.
- 16 (2) The director-general must not issue a public unleased land permit
- 17 for longer than 2 years.
- 18 (3) A public unleased land permit expires on the day stated in the
- 19 permit.

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

60 Meaning of *financial assurance condition*

In this Act:

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

61 Financial assurance condition—imposition

(1) The director-general may impose a financial assurance condition on a public unleased land permit if satisfied that it is justified having regard to—

- (a) the likelihood that the permitted activity will cause serious or material damage to the permitted public unleased land; and
- (b) the likelihood that action will need to be taken in the future to repair the damage; and
- (c) the financial assurance considerations (if any); and

Note Financial assurance considerations—see s (5).

(d) any other relevant matter.

(2) A financial assurance must be in the form of—

- (a) a bank guarantee; or
- (b) a bond; or
- (c) an insurance policy; or
- (d) if the director-general reasonably believes that, in the circumstances, the forms of assurance in paragraphs (a), (b) and (c) are not appropriate—another form of security that the director-general considers appropriate.

- 1 (3) The director-general must not require financial assurance of an
2 amount greater than the total amount that the director-general
3 reasonably believes is needed to repair the damage that could result
4 from the activity.
- 5 (4) A financial assurance must be given for the period stated in the
6 condition on the public unleased land permit.
- 7 (5) The Minister may determine matters to be considered by the
8 director-general in deciding whether to impose financial assurance
9 conditions on public unleased land permits (*financial assurance*
10 *considerations*).
- 11 (6) A determination is a disallowable instrument.
- 12 *Note* A disallowable instrument must be notified, and presented to the
13 Legislative Assembly, under the [Legislation Act](#).

14 **62 Financial assurance condition—show cause**

- 15 (1) If the director-general proposes to impose a financial assurance
16 condition on a public unleased land permit, the director-general
17 must give the applicant or permit-holder written notice of the
18 intention to impose the condition.
- 19 (2) The notice must state—
- 20 (a) the grounds for the proposed condition; and
- 21 (b) the amount and form of the proposed financial assurance; and
- 22 (c) that the applicant or permit-holder may give a written
23 submission to the director-general showing cause why the
24 proposed condition should not be imposed; and
- 25 (d) that submissions may be given to the director-general only
26 during the 20 working days (the *show cause period*) after the
27 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).

22 **64 Financial assurance condition—claim or realisation**

- 23 (1) This section applies if—
- 24 (a) the director-general issues a public unleased land permit
25 subject to a financial assurance condition; and

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

12 **65 Financial assurance condition—notice before claim or**
13 **realisation**

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

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

7 **66 Financial assurance condition—recovery of extra costs**

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

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

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

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

67 Financial assurance condition—money held by Territory

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

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

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

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

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

- (d) the amount of the original amount and accrued interest that remains unclaimed by the director-general under section 64 must be paid by the Territory to the permit-holder if—

- (i) the financial assurance is no longer required by the director-general; or

(ii) the public unleased land permit is—

(A) surrendered under section 76 (Public unleased land permit—surrender); or

(B) cancelled under section 81 (Public unleased land permit—taking regulatory action).

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

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

(1) The director-general may, by written notice (an *amendment notice*) given to a permit-holder, amend the public unleased land permit if satisfied that—

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

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

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

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

(2) However, the director-general may amend the public unleased land permit only if—

(a) the director-general has given the permit-holder written notice (a *proposal notice*) of the proposed amendment; and

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

12 **69 Public unleased land permit—application to amend**
13 **permit**

- 14 (1) A permit-holder may apply to the director-general to amend the
15 public unleased land permit.

16 *Note 1* If a form is approved under s 131 for an application, the form must be
17 used.

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

- 19 (2) A permit-holder must apply to the director-general for amendment
20 of the permit if the permit-holder is a corporation and someone else
21 (the *new influential person*) is to become an influential person for
22 the permit-holder.

- 23 (3) The application must—

- 24 (a) be in writing; and

- (b) if the permit-holder is a corporation and someone else is to become an influential person for the permit-holder—include complete details of suitability information about the new influential person.

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

Note 2 Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

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

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

70 Public unleased land permit—decision on application to amend permit

- (1) This section applies if the director-general receives an application to amend a public unleased land permit under section 69.
- (2) The director-general may amend the permit only if satisfied that—
- (a) the permit-holder is a suitable person to hold the permit as amended; and
- (b) if the permit-holder is a corporation—each influential person for the permit-holder is a suitable person to hold the permit as amended; and
- (c) the permitted activity is a suitable activity for the permit as amended.

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

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

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

- 1 (4) The director-general must, not later than the required time—
2 (a) decide the application for amendment; and
3 (b) tell the permit-holder about the decision on the application.
4 (5) In this section:
5 *required time* means the latest of the following:
6 (a) if the director-general gives the applicant a personal
7 information notice under section 48—28 days after the
8 director-general receives the stated information;
9 (b) if the director-general gives the applicant an activity
10 information notice under section 51—28 days after the
11 director-general receives the information;
12 (c) if the director-general gives the applicant an additional
13 approval notice under section 52—28 days after the
14 director-general receives the approval, licence, permit or other
15 authority;
16 (d) if the director-general gives the applicant a public consultation
17 notice under section 53 and receives a submission during the
18 public consultation period—28 days after the director-general
19 receives the submission;
20 (e) if the director-general gives the applicant a public consultation
21 submission notice under section 54 and receives a submission
22 during the show cause period—28 days after the
23 director-general receives the submission;
24 (f) if the director-general gives the applicant a risk management
25 plan notice under section 55—28 days after the
26 director-general receives the risk management plan;
27 (g) if the director-general gives the applicant an inspection notice
28 under section 56—28 days after the director-general inspects
29 the object;

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

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

71 Public unleased land permit—application to transfer permit

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

(2) The application must—

(a) be in writing; and

(b) include complete details of suitability information about—

(i) the proposed new permit-holder; and

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

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

Note 2 Giving false or misleading information is an offence against the [Criminal Code](#), s 338.

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

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

72 Public unleased land permit—decision on application to transfer permit

(1) This section applies if the director-general receives an application to transfer a public unleased land permit under section 71.

(2) The director-general may transfer the public unleased land permit to the proposed new permit-holder only if satisfied that each of the following people is a suitable person to hold the permit:

(a) the proposed new permit-holder;

(b) if the proposed new permit-holder is a corporation—each influential person for the proposed new permit-holder;

Note **Suitable person**, to hold a public unleased land permit—see s 46.

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

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

(a) decide the application for transfer; and

(b) tell the permit-holder about the decision on the application.

(5) In this section:

required time means the latest of the following:

(a) if the director-general gives the applicant a personal information notice under section 48—28 days after the director-general receives the stated information;

(b) 28 days after the day the director-general receives the application.

Note Failure to transfer a public unleased land permit within the required time is taken to be a decision not to transfer the public unleased land permit (see [ACT Civil and Administrative Tribunal Act 2008](#), s 12).

73 Public unleased land permit—application for renewal of permit

- (1) A permit-holder may apply to the director-general to renew the public unleased land permit for a period not longer than 2 years.

Note 1 If a form is approved under s 131 for an application, the form must be used.

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

- (2) The application must be—

(a) in writing; and

(b) received by the director-general at least 30 days before the permit expires.

- (3) However, the director-general may extend the time for making an application.

Note A permit-holder may apply to the director-general for the time to be extended, and the director-general may extend the time, even though the time has ended (see [Legislation Act](#), s 151C).

- (4) If a permit-holder applies to renew a public unleased land permit under this section, the permit remains in force until the application is decided.

74 Public unleased land permit—decision on application for renewal of permit

- (1) This section applies if the director-general receives an application for renewal of a public unleased land permit under section 73.

- (2) The director-general may renew the public unleased land permit only if satisfied that—

(a) the permit-holder continues to be a suitable person to hold the 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;

- (d) if the director-general gives the applicant a public consultation notice under section 53 and receives a submission during the public consultation period—28 days after the director-general receives the submission;
- (e) if the director-general gives the applicant a public consultation submission notice under section 54 and receives a submission during the show cause period—28 days after the director-general receives the submission;
- (f) if the director-general gives the applicant a risk management plan notice under section 55—28 days after the director-general receives the risk management plan;
- (g) if the director-general gives the applicant an inspection notice under section 56—28 days after the director-general inspects the object;
- (h) 28 days after the day the director-general receives the application.

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

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

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

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

Note 2 The [Statutory Declarations Act 1959](#) (Cwlth) applies to the making of statutory declarations under ACT laws.

76 Public unleased land permit—surrender

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

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

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

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

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

77 Offence—fail to notify change of name or address

- (1) A person commits an offence if—
- (a) the person is a permit-holder; and
 - (b) the person's name or address changes; and
 - (c) the person does not, within 30 days after the change, give the director-general—
 - (i) written notice of the change; and
 - (ii) the permit.

Maximum penalty: 1 penalty unit.

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

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

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

Division 3.9 Public unleased land permits—regulatory action

79 Public unleased land permit—grounds for regulatory action

- (1) Each of the following is a *ground for regulatory action* against a permit-holder:
- (a) the permit-holder gave information to the director-general in relation to an application for the issue, amendment, transfer or renewal of the permit that was false or misleading in a material particular;
- Note* Giving false or misleading information is also an offence against the [Criminal Code](#), s 338.
- (b) the permit-holder contravened a condition of the permit.
- (2) In this section:
- permit-holder* includes, if the person is a corporation, each executive officer of the corporation.

80 Public unleased land permit—regulatory action

Each of the following is *regulatory action* when taken against a permit-holder:

- (a) imposing a condition on, or amending a condition on, the permit;
- (b) suspending the permit for a stated period or until a stated thing happens;
- (c) cancelling the permit;
- (d) cancelling the permit and disqualifying the person from applying for a public unleased land permit of that kind for a stated period or until a stated thing happens.

81 Public unleased land permit—taking regulatory action

- (1) If the director-general proposes to take regulatory action in relation to a permit-holder, the director-general must give the permit-holder a written notice (a *show cause notice*) stating—
 - (a) details of the proposed regulatory action; and
 - (b) the grounds for the proposed regulatory action; and
 - (c) that the permit-holder may, not later than 14 days after the day the permit-holder is given the notice, give a written submission to the director-general about the proposed regulatory action.
- (2) In deciding whether to take the proposed regulatory action, the director-general must consider any submission given to the director-general in accordance with the show cause notice.
- (3) If the director-general believes on reasonable grounds that a ground for regulatory action has been established in relation to the permit-holder, the director-general may—
 - (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.

23 **82 Public unleased land permit—immediate suspension**

24 (1) This section applies if—

25 (a) the director-general gives a show cause notice under section 81
26 to a permit-holder; and

- 1 (b) having regard to the grounds stated in the notice, the
2 director-general believes on reasonable grounds that the
3 person's permit should be suspended immediately in the
4 interests of public safety.
- 5 (2) The director-general must give the permit-holder a written notice
6 (an *immediate suspension notice*) suspending the person's permit.
- 7 (3) The suspension of a public unleased land permit under this section
8 takes effect when the immediate suspension notice is given to the
9 permit-holder.
- 10 (4) The suspension of a public unleased land permit under this section
11 ends—
- 12 (a) if regulatory action is taken against the person under
13 section 81—at the earlier of the following times:
- 14 (i) when the regulatory action takes effect;
- 15 (ii) 30 days after the day the immediate suspension notice is
16 given to the person; or
- 17 (b) if regulatory action is not taken against the person under
18 section 81—at the earlier of the following times:
- 19 (i) when the person is given written notice of the
20 director-general's decision not to take regulatory action;
- 21 (ii) 30 days after the day the immediate suspension notice is
22 given to the person.
- 23 **83 Public unleased land permit—effect of suspension**
- 24 (1) A suspended permit does not authorise the carrying on of any
25 activity under the permit during the suspension.
- 26 (2) If the director-general suspends a public unleased land permit, the
27 permit-holder is, during the suspension—
- 28 (a) taken not to hold the permit; and

1 (b) disqualified from applying for a public unleased land permit.

2 **84 Offence—fail to return amended, suspended or cancelled**
3 **permits**

4 (1) A person commits an offence if—

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

6 (b) the permit is amended, suspended or cancelled under this
7 division; and

8 (c) the person fails to return the permit to the director-general as
9 soon as practicable (but not later than 7 days) after the day the
10 person is given a reviewable decision notice under section 128
11 (Reviewable decision notices).

12 Maximum penalty: 10 penalty units.

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

14 **85 Action by director-general in relation to amended or**
15 **suspended permit**

16 (1) This section applies if—

17 (a) a public unleased land permit is amended or suspended under
18 this part; and

19 (b) the permit is returned to the director-general.

20 (2) For an amended permit, the director-general must—

21 (a) return the amended permit to the permit-holder; or

22 (b) give the permit-holder a replacement permit that includes the
23 amendment.

24 (3) If a public unleased land permit is suspended under this part and the
25 suspension ends before the end of the term of the permit, the
26 director-general must return the permit to the permit-holder.

Division 3.10 Public unleased land permit register

86 Public unleased land permit register

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

87 Correction and keeping up-to-date register

- (1) The director-general may correct a mistake, error or omission in the permit register.
- (2) The director-general may change a detail included in the register to keep the register up-to-date.

Part 4 Enforcement

Division 4.1 General

88 Definitions—pt 4

In this part:

connected—a thing is *connected* with an offence if—

- (a) the offence has been committed in relation to it; or
- (b) it will provide evidence of the commission of the offence; or
- (c) it was used, is being used, or is intended to be used, to commit the offence.

occupier, of premises, includes—

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

offence includes an offence that there are reasonable grounds for believing has been, is being, or will be, committed.

warrant means a warrant issued under division 4.6 (Search warrants).

Division 4.2 Authorised people

89 Authorised people

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

Note 1 For the making of appointments (including acting appointments), see the [Legislation Act](#), pt 19.3.

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

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

3 **90 Identity cards**

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

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

- 8 (2) The director-general must give an authorised person an identity card
9 stating the person's name and that the person is an authorised
10 person.

- 11 (3) The identity card must show—

- 12 (a) a recent photograph of the authorised person; and
13 (b) the card's date of issue and expiry; and
14 (c) anything else prescribed by regulation.

- 15 (4) A person commits an offence if the person—

- 16 (a) stops being an authorised person; and
17 (b) does not return the person's identity card to the
18 director-general as soon as practicable (but not later than
19 7 days) after the day the person stops being an authorised
20 person.

21 Maximum penalty: 1 penalty unit.

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

- 24 (a) lost or stolen; or
25 (b) destroyed by someone else.

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

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

2 **91 Power not to be exercised before identity card shown**

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

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

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

11 **Division 4.3 Directions etc**

12 **Subdivision 4.3.1 General directions**

13 **92 Direction to give name and address**

- 14 (1) This section applies if a police officer or authorised person believes
15 on reasonable grounds that a person—

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

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

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

- 23 (2) The police officer or authorised person may direct the person to give
24 the police officer or authorised person, immediately, any of the
25 following personal details:

26 (a) the person's full name;

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

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

6 **94 Direction to produce approval, permit or insurance policy**

- 7 (1) A police officer or authorised person may direct—
8 (a) an approval-holder to produce the approval; or
9 (b) a permit-holder to produce—
10 (i) the permit; and
11 (ii) if the permit includes a financial assurance condition
12 requiring the permit-holder to hold a stated kind of
13 insurance policy—the insurance policy.

14 *Note* It is an offence to make a false or misleading statement or give false or
15 misleading information (see [Criminal Code](#), pt 3.4).

- 16 (2) The direction must be in writing and state—
17 (a) the approval, permit or policy to be produced; and
18 (b) where and to whom the approval, permit or policy is to be
19 produced; and
20 (c) when the direction must be complied with.

21 *Note* Power to make the direction includes power to amend or repeal the
22 direction (see [Legislation Act](#), s 46).

- 23 (3) The police officer or authorised person may do 1 or more of the
24 following:
25 (a) inspect the approval, permit or policy produced;
26 (b) make copies of, or take extracts from the approval, permit or
27 policy produced;

1 (c) the person is using the area without the consent of the
2 permit-holder.

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

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

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

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

10 (b) the permitted times.

11 *Note* Power to make the direction includes power to amend or repeal the
12 direction (see [Legislation Act](#), s 46).

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

16 **97 Offence—fail to comply with direction to leave permitted**
17 **public unleased land**

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

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

20 (b) fails to comply with the direction.

21 Maximum penalty: 5 penalty units.

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

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

26 *Note* The defendant has an evidential burden in relation to the matters
27 mentioned in s (3) (see [Criminal Code](#), s 58).

98 Direction to remove objects from public unleased land

- (1) This section applies if a person uses public unleased land by placing an object on the public unleased land.

Note *Use*, public unleased land—see s 41.

- (2) However, this section does not apply if—

- (a) the placement is authorised under an approval or public unleased land permit under this Act; or

Example—approval that may authorise placement

1 closed road approval

2 work approval

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

- (b) the placement is authorised under another territory law; or

- (c) if the object is a vehicle—the vehicle is parked on a road or road related area in a way that does not contravene the [Road Transport \(Safety and Traffic Management\) Act 1999](#).

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see [Legislation Act](#), s 104).

- (3) A police officer or authorised person may direct (a **removal direction**) the person to remove the object.

Note Power to make the direction includes power to amend or repeal the direction (see [Legislation Act](#), s 46).

- (4) A removal direction must be in writing and state—

- (a) the public unleased land; and

- (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
10 director-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.
- 26 **99 Offence—fail to comply with removal direction**
- 27 (1) A person commits an offence if the person—
- 28 (a) is subject to a removal direction; and

- 1 (b) fails to comply with the direction.
2 Maximum penalty: 10 penalty units.
3 (2) An offence against this section is a strict liability offence.

4 **Subdivision 4.3.2 Urgent action**

5 **100 Director-general's directions**

- 6 (1) This section applies if the director-general believes on reasonable
7 grounds that there is, or is likely to be—
8 (a) either—
9 (i) a breach of a public unleased land permit; or
10 (ii) another contravention of this Act; and
11 (b) the breach or other contravention is causing, or is likely to
12 cause—
13 (i) undue disturbance, inconvenience or offence to people
14 lawfully at adjacent or nearby places; or
15 (ii) undue risk to people or property.
16 *Note* A reference to an Act includes a reference to the statutory instruments
17 made or in force under the Act, including any regulation (see
18 [Legislation Act](#), s 104).
19 (2) The director-general may direct (a *director-general's direction*) 1 or
20 more of the following people to take action to prevent the breach or
21 other contravention:
22 (a) a permit-holder;
23 (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).

21 **101 Offence—fail to comply with director-general’s direction**

22 (1) A person commits an offence if—

23 (a) the person is subject to a director-general’s direction; and

24 (b) the person fails to take reasonable steps to comply with the
25 direction.

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

2 Maximum penalty: 20 penalty units

3 **102 Emergency closure of permitted place**

4 (1) A senior police officer may order a permit-holder to close a
5 permitted place (an ***emergency closure order***) if the officer believes
6 on reasonable grounds that—

7 (a) a breach of this Act has happened, or is likely to happen; and

8 (b) the closure of the place is necessary to prevent or reduce undue
9 risk to people or property.

10 (2) If an emergency closure order is made under subsection (1), a police
11 officer must, in writing, tell the permit-holder—

12 (a) the name of the senior police officer making the order; and

13 (b) when the order starts; and

14 (c) when the order ends.

15 *Note* An emergency closure notice for the emergency closure order must be
16 given to the permit-holder as soon as practicable after the order is made
17 (see s 103).

18 (3) If an emergency closure order is in force for a permitted place, the
19 permit is suspended for the period of the order.

20 **103 Emergency closure notice**

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

24 (2) An emergency closure notice must—

25 (a) be in writing; and

- 1 (b) state—
- 2 (i) the date of issue of the notice; and
- 3 (ii) when the order starts; and
- 4 (iii) when the order ends; and
- 5 (iv) the breach of this Act that the senior police officer
- 6 believes has happened or is likely to happen; and
- 7 (v) the grounds for the officer's belief; and
- 8 (c) be signed by the senior police officer.
- 9 (3) The senior police officer must also—
- 10 (a) keep a record of the emergency closure notice in the police
- 11 records; and
- 12 (b) give a copy of the notice to the director-general.
- 13 **104 Offence—fail to comply with emergency closure order**
- 14 (1) A person commits an offence if—
- 15 (a) the person is a permit-holder; and
- 16 (b) an emergency closure order is in force for the person; and
- 17 (c) the person fails to comply with the emergency closure order.
- 18 Maximum penalty: 30 penalty units.
- 19 (2) An offence against this section is a strict liability offence.

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

105 Removal of objects by Territory

(1) This section applies if—

(a) a person—

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

Note Removal direction—see s 98 (3).

(ii) fails to comply with the direction; or

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

(i) abandoned; or

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

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

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

106 Disposal of objects by Territory

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

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

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

(c) the director-general may dispose of the goods under that Act, 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.

(4) A court must find that the occupier did not consent to entry to the premises by the authorised person under this part if—

(a) the question arises in a proceeding in the court whether the occupier consented to the entry; and

(b) an acknowledgment of consent is not produced in evidence; and

(c) it is not proved that the occupier consented to the entry.

110 General powers on entry to premises

(1) An authorised person who enters premises under this part may, for this Act, do 1 or more of the following in relation to the premises or anything at the premises:

(a) inspect or examine;

(b) take measurements or conduct tests;

(c) take samples;

(d) take photographs, films, or audio, video or other recordings;

(e) require the occupier, or anyone at the premises, to give the authorised person reasonable help to exercise a power under this part.

Note The [Legislation Act](#), s 170 and s 171 deal with the application of the privilege against self incrimination and client legal privilege.

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

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.
- 26 (6) Having seized a thing, an authorised person may—
- 27 (a) remove the thing from the premises where it was seized
- 28 (the *place of seizure*) to another place; or

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

10 **Division 4.6 Search warrants**

11 **112 Warrants generally**

- 12 (1) An authorised person may apply to a magistrate for a warrant to
- 13 enter premises.
- 14 (2) The application must be sworn and state the grounds on which the
- 15 warrant is sought.
- 16 (3) The magistrate may refuse to consider the application until the
- 17 authorised person gives the magistrate all the information the
- 18 magistrate requires about the application in the way the magistrate
- 19 requires.
- 20 (4) The magistrate may issue a warrant only if satisfied there are
- 21 reasonable grounds for suspecting—
- 22 (a) there is a particular thing or activity connected with an offence
- 23 against this Act; and
- 24 (b) the thing or activity—
- 25 (i) is, or is being engaged in, at the premises; or
- 26 (ii) may be, or may be engaged in, at the premises within the
- 27 next 7 days.

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

10 **113 Warrants—application made other than in person**

- 11 (1) An authorised person may apply for a warrant by phone, fax, email,
- 12 radio or other form of communication if the authorised person
- 13 considers it necessary because of—
- 14 (a) urgent circumstances; or
- 15 (b) other special circumstances.
- 16 (2) Before applying for the warrant, the authorised person must prepare
- 17 an application stating the grounds on which the warrant is sought.
- 18 (3) The authorised person may apply for the warrant before the
- 19 application is sworn.
- 20 (4) After issuing the warrant, the magistrate must immediately fax a
- 21 copy to the authorised person if it is practicable to do so.
- 22 (5) If it is not practicable to fax a copy to the authorised person—
- 23 (a) the magistrate must tell the authorised person—
- 24 (i) the terms of the warrant; and
- 25 (ii) the date and time the warrant was issued; and

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

23 **114 Search warrants—announcement before entry**

- 24 (1) An authorised person must, before anyone enters premises under a
25 search warrant—
- 26 (a) announce that the authorised person is authorised to enter the
27 premises; and

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

12 **115 Details of search warrant to be given to occupier etc**

13 If the occupier of premises, or someone else who apparently
14 represents the occupier, is present at the premises while a search
15 warrant is being executed, the authorised person or a person
16 assisting must make available to the person—

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

19 **116 Occupier entitled to be present during search etc**

- 20 (1) If the occupier of premises, or someone else who apparently
21 represents the occupier, is present at the premises while a search
22 warrant is being executed, the person is entitled to observe the
23 search being conducted.
- 24 (2) However, the person is not entitled to observe the search if—
- 25 (a) to do so would impede the search; or
- 26 (b) the person is under arrest, and allowing the person to observe
27 the search being conducted would interfere with the objectives
28 of the search.

- 1 (3) This section does not prevent 2 or more areas of the premises being
2 searched at the same time.

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

4 **117 Receipt for things seized**

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

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

20 **118 Moving things to another place for examination or**
21 **processing under search warrant**

- 22 (1) A thing found at premises entered under a search warrant may be
23 moved to another place for examination or processing to decide
24 whether it may be seized under the warrant if—
- 25 (a) both of the following apply:
- 26 (i) there are reasonable grounds for believing that the thing is
27 or contains something to which the warrant relates;

- 1 (ii) it is significantly more practicable to do so having regard
2 to the timeliness and cost of examining or processing the
3 thing at another place and the availability of expert
4 assistance; or
- 5 (b) the occupier of the premises agrees in writing.
- 6 (2) The thing may be moved to another place for examination or
7 processing for not longer than 72 hours.
- 8 (3) An authorised person may apply to a magistrate for an extension of
9 time if the authorised person believes on reasonable grounds that the
10 thing cannot be examined or processed within 72 hours.
- 11 (4) The authorised person must give notice of the application to the
12 occupier of the premises, and the occupier is entitled to be heard on
13 the application.
- 14 (5) If a thing is moved to another place under this section, the
15 authorised person must, if practicable—
- 16 (a) tell the occupier of the premises the address of the place where,
17 and time when, the examination or processing will be carried
18 out; and
- 19 (b) allow the occupier or the occupier's representative to be
20 present during the examination or processing.
- 21 (6) The provisions of this part relating to the issue of search warrants
22 apply, with any necessary changes, to the giving of an extension
23 under this section.

24 **119 Access to things seized**

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

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

1 **120** **Return of things seized**

- 2 (1) A thing seized under this part must be returned to its owner, or
3 reasonable compensation must be paid to the owner by the Territory
4 for the loss of the thing, unless—
- 5 (a) a prosecution for an offence against a territory law in
6 connection with the thing is begun within 1 year after the day
7 the seizure is made and the thing is required to be produced in
8 evidence in the prosecution; or
- 9 (b) an application for the forfeiture of the seized thing is made to a
10 court under the *Confiscation of Criminal Assets Act 2003* or
11 another territory law within 1 year after the day the seizure is
12 made; or
- 13 (c) all proceedings in relation to the offence with which the seizure
14 was connected have ended and the court has not made an order
15 about the thing.
- 16 (2) However, this section does not apply to a thing—
- 17 (a) if the director-general believes on reasonable grounds that the
18 only practical use of the thing in relation to the premises where
19 it was seized would be an offence against this Act; or
- 20 (b) if possession of it by its owner would be an offence.

21 **121** **Forfeiture of seized things**

- 22 (1) This section applies if—
- 23 (a) anything seized under this part has not been returned under
24 section 120; and
- 25 (b) an application for disallowance of the seizure under
26 section 123—
- 27 (i) has not been made within 10 days after the day of the
28 seizure; or

1 (ii) has been made within the 10-day period, but the
2 application has been refused or withdrawn before a
3 decision in relation to the application had been made.

4 (2) If this section applies to the seized thing—

5 (a) it is forfeited to the Territory; and

6 (b) it may be sold, destroyed or otherwise disposed of as the
7 director-general directs.

8 **122 Power to destroy unsafe things**

9 (1) This section applies to anything inspected or seized under this part
10 by an authorised person if the authorised person is satisfied on
11 reasonable grounds that the thing poses a risk to the health or safety
12 of people or of damage to property or the environment.

13 (2) The authorised person may direct a person in charge of the premises
14 where the thing is to destroy or otherwise dispose of the thing.

15 (3) The direction may state 1 or more of the following:

16 (a) how the thing must be destroyed or otherwise disposed of;

17 (b) how the thing must be kept until it is destroyed or otherwise
18 disposed of;

19 (c) the period within which the thing must be destroyed or
20 otherwise disposed of.

21 (4) A person in charge of the premises where the thing is commits an
22 offence if the person contravenes a direction given to the person
23 under subsection (2).

24 Maximum penalty: 20 penalty units.

25 (5) Alternatively, if the thing has been seized under this part, the
26 authorised person may destroy or otherwise dispose of the thing.

(6) Costs incurred by the Territory in relation to the disposal of a thing under subsection (5) are a debt owing to the Territory by, and are recoverable together and separately from, the following people:

(a) the person who owned the thing;

(b) each person in control of the premises where the thing was.

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

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

123 Application for order disallowing seizure

(1) A person claiming to be entitled to anything seized under this part may apply to the Magistrates Court within 10 days after the day of the seizure for an order disallowing the seizure.

(2) The application may be heard only if the applicant has served a copy of the application on the director-general.

(3) The director-general is entitled to appear as respondent at the hearing of the application.

124 Order for return of seized thing

(1) This section applies if a person claiming to be entitled to anything seized under this part applies to the Magistrates Court under section 123 for an order disallowing the seizure.

(2) The Magistrates Court must make an order disallowing the seizure if satisfied that—

(a) the applicant would, apart from the seizure, be entitled to the return of the seized thing; and

(b) the thing is not connected with an offence against this Act; and

(c) possession of the thing by the person would not be an offence.

- 1 (3) The Magistrates Court may also make an order disallowing the
2 seizure if satisfied there are exceptional circumstances justifying the
3 making of the order.
- 4 (4) If the Magistrates Court makes an order disallowing the seizure, the
5 court may make 1 or more of the following ancillary orders:
- 6 (a) an order directing the director-general to return the thing to the
7 applicant or to someone else who appears to be entitled to it;
- 8 (b) if the thing cannot be returned or has depreciated in value
9 because of the seizure—an order directing the Territory to pay
10 reasonable compensation;
- 11 (c) an order about the payment of costs in relation to the
12 application.

13 **Division 4.8 Enforcement—miscellaneous**

14 **125 Damage etc to be minimised**

- 15 (1) In the exercise, or purported exercise, of a function under this part,
16 an authorised person must take all reasonable steps to ensure that the
17 person causes as little inconvenience, detriment and damage as
18 practicable.
- 19 (2) If an authorised person damages anything in the exercise or
20 purported exercise of a function under this part, the authorised
21 person must give written notice of the particulars of the damage to
22 the person the authorised person believes on reasonable grounds is
23 the owner of the thing.
- 24 (3) The notice must state that—
- 25 (a) the person may claim compensation from the Territory if the
26 person suffers loss or expense because of the damage; and
- 27 (b) compensation may be claimed and ordered in a proceeding for
28 compensation brought in a court of competent jurisdiction; and

1 (c) the court may order the payment of reasonable compensation
2 for the loss or expense only if satisfied it is just to make the
3 order in the circumstances of the particular case.

4 (4) If the damage happens at premises entered under this part in the
5 absence of the occupier, the notice may be given by leaving it,
6 secured conspicuously, at the premises.

7 **126 Compensation for exercise of enforcement powers**

8 (1) A person may claim compensation from the Territory if the person
9 suffers loss or expense because of the exercise, or purported
10 exercise, of a function under this part by an authorised person.

11 (2) Compensation may be claimed and ordered in a proceeding for—

12 (a) compensation brought in a court of competent jurisdiction; or

13 (b) an offence against this Act brought against the person making
14 the claim for compensation.

15 (3) A court may order the payment of reasonable compensation for the
16 loss or expense only if satisfied it is just to make the order in the
17 circumstances of the particular case.

18 (4) A regulation may prescribe matters that may, must or must not be
19 taken into account by the court in considering whether it is just to
20 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.

Part 6 Miscellaneous

130 Determination of fees etc

(1) The Minister may determine—

- (a) fees for this Act; and
- (b) the annual percentage rate at which interest payable under section 66 (4) (Financial assurance condition—recovery of extra costs) is to be calculated; and
- (c) the annual percentage rate at which interest accruing under section 67 (a) (Financial assurance condition—money held by Territory) is to be calculated.

Note The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees, charges and other amounts (see pt 6.3).

(2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

131 Approved forms

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

Note For other provisions about forms, see the [Legislation Act](#), s 255.

(3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

132 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

1 **133 Legislation amended—sch 2**

2 This Act amends the legislation mentioned in schedule 2.

3 **134 Legislation repealed**

4 (1) The *Roads and Public Places Act 1937* (A1937-24) is repealed.

5 (2) All legislative instruments under the *Roads and Public Places*
6 *Act 1937* are repealed.

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 2012* 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).

Schedule 1 Reviewable decisions

(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	61 (1)	impose financial assurance condition on public unleased land permit	permit-holder
14	66	decision to claim a financial assurance	permit-holder
15	68 (1)	amend public unleased land permit	permit-holder
16	70 (2)	refuse to amend public unleased land permit	permit-holder
17	70 (3)	amend public unleased land permit—impose or amend condition	permit-holder
18	72 (2)	refuse to transfer public unleased land permit	permit-holder proposed new permit-holder

Schedule 1

Reviewable decisions

column 1 item	column 2 section	column 3 decision	column 4 entity
19	72 (3)	transfer public unleased land permit— impose or amend condition	proposed new permit-holder
20	74 (2)	refuse to renew public unleased land permit	permit-holder
21	74 (3)	renew public unleased land permit— impose or amend condition	permit-holder
22	81 (3)	take regulatory action	permit-holder
23	82 (2)	immediately suspend public unleased land permit	permit-holder
24	98 (3)	issue removal direction	person directed
25	100 (2)	issue director-general's direction	person directed

Schedule 2 Consequential amendments

(see s 133)

Part 2.1 Building Act 2004

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

substitute

- (b) land that is the subject of a public unleased land permit under the *Public Unleased Land Act 2012*; and

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

substitute

- (d) if the land is subject to a public unleased land permit under the *Public Unleased Land Act 2012*—the permit-holder; or

Part 2.2 Crimes Act 1900

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

substitute

public road—see the *Public Unleased Land Act 2012*, section 9.

Part 2.3 Domestic Animals Act 2000

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

substitute

- (a) means public unleased land; and

[2.5] Dictionary, new definition of *public unleased land*

insert

public unleased land—see the *Public Unleased Land Act 2012*, section 8.

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

[2.6] Section 4 (c)

substitute

(c) the *Public Unleased Land Act 2012*;

Part 2.5 Hawkers Act 2003

[2.7] Section 4 (a) (ii)

substitute

(ii) a public unleased land permit under the *Public Unleased Land Act 2012*; or

[2.8] Section 23 heading

substitute

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

[2.9] Section 23 (1) (a) and (b)

substitute

(a) a closed road under the *Public Unleased Land Act 2012*, section 11 (Director-general may temporarily close public roads); or

- 1 (b) subject to a work approval under the *Public Unleased Land*
2 *Act 2012*, 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 2012*, 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 2012*,
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 2012* 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 2012*, 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 2012*.

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 2012*; or

21 (iii) a public unleased land permit under the *Public Unleased*
22 *Land Act 2012*; 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

1 (ii) ends other than by expiring.

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

4 *substitute*

5 (iii) a sign approval or work approval under the *Public*
6 *Unleased Land Act 2012*;

7 (iv) a public unleased land permit under the *Public Unleased*
8 *Land Act 2012*;

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

10 **[2.19] Section 204 (1) (b) (iii) and (iv)**

11 *substitute*

12 (iii) a sign approval or work approval under the *Public*
13 *Unleased Land Act 2012*; or

14 (iv) a public unleased land permit under the *Public Unleased*
15 *Land Act 2012*; or

16 (v) section 247; and

17 **[2.20] Section 204 (3) (b)**

18 *substitute*

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

21 (i) whether on expiry or otherwise; and

22 (ii) even if renewed; or

1 **[2.21] Section 204 (4)**

2 *substitute*

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

6 **[2.22] Section 204 (5), new definition of *relevant authorisation***

7 *insert*

8 ***relevant authorisation*** means—

- 9 (a) a licence under this Act; or
10 (b) a sign approval or work approval under the *Public Unleased*
11 *Land Act 2012*; or
12 (c) a public unleased land permit under the *Public Unleased Land*
13 *Act 2012*.

14 **[2.23] Section 305 (a) and (b)**

15 *substitute*

- 16 (a) the person holds a sign approval, work approval, or public
17 unleased land permit, to use the area under the *Public*
18 *Unleased Land Act 2012*; and
19 (b) the person uses the area in accordance with the approval or
20 permit; and

[2.24] Schedule 2, item 5

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 2012</i> ; or (c) a public unleased land permit under the <i>Public Unleased Land Act 2012</i>	60 penalty units
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Part 2.8 Planning and Development Regulation 2008

[2.25] Section 29 (h)

substitute

- (h) that 1 of the following is granted in relation to the occupation or use of the land:
- (i) a licence under the Act;
 - (ii) a sign approval or work approval under the *Public Unleased Land Act 2012*;
 - (iii) a public unleased land permit under the *Public Unleased Land Act 2012*;

[2.26] Schedule 1, section 1.67, note 3

substitute

Note 3 Other laws, including the *Public Unleased Land Act 2012*, deal with placement of signs.

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

2 *substitute*

3 **1.68 Moveable signs on public unleased land**

- 4 (1) The display of a moveable sign on public unleased land if—
- 5 (a) the sign does not impede public access to a place (including
- 6 public unleased land); and
- 7 (b) the surface area of any side of the sign is not more than 1.5m²;
- 8 and
- 9 (c) the vertical distance from the top of any side of the sign to the
- 10 bottom of the side is not more than 1.5m; and
- 11 (d) the display of the sign complies with the prescribed general
- 12 exemption criteria that are applicable to the development.

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

14 *Note 2* Other laws, including the *Public Unleased Land Act 2012*, deal with

15 placement of signs.

- 16 (2) In this section:

17 *moveable sign* means a sign that is not fixed to a building or

18 structure.

19 *public unleased land*—see the *Public Unleased Land Act 2012*,

20 section 8.

21 **[2.28] Schedule 1, section 1.69, note 3**

22 *substitute*

23 *Note 3* Other laws, including the *Public Unleased Land Act 2012*, deal with

24 placement of signs.

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

2 *substitute*

3 *Note 3* If unleased land is affected by the landscape gardening, a licence under
4 the Act or a public unleased land permit under the *Public Unleased*
5 *Land Act 2012* may be required.

6 **Part 2.9 Surveyors Act 2007**

7 **[2.30] Dictionary, new definitions**

8 *insert*

9 *public road*—see the *Public Unleased Land Act 2012*, section 9.

10 *public unleased land*—see the *Public Unleased Land Act 2012*,
11 section 8.

12 **[2.31] Dictionary, definition of survey, paragraph (c)**

13 *substitute*

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

16 **Part 2.10 Tree Protection Act 2005**

17 **[2.32] Section 19 (1) (d) (iv)**

18 *substitute*

19 (iv) a plant pruning direction under the *Public Unleased Land*
20 *Act 2012*, section 31 (Direction to prune tree etc
21 overhanging public unleased land); or

22 (v) a plant removal direction under the *Public Unleased*
23 *Land Act 2012*, section 34 (Direction to remove tree etc
24 endangering public on public unleased land); or

1 **Part 2.11 Trespass on Territory Land Act**
2 **1932**

3 **[2.33] Sections 8A and 8B**

4 *omit*

5 **[2.34] Section 8C (1) (c)**

6 *omit*

7 **Part 2.12 Uncollected Goods Act 1996**

8 **[2.35] Section 14 (2) (b)**

9 *substitute*

10 (b) an object that is on the land in accordance with a public
11 unleased land permit under the *Public Unleased Land*
12 *Act 2012*; or

13 **Part 2.13 Unit Titles Act 2001**

14 **[2.36] Section 20 (1) (d)**

15 *omit*

16 a public place

17 *substitute*

18 public unleased land

1	[2.37]	Division 4.3 heading
2		<i>substitute</i>
3	Division 4.3	Encroachments on public unleased
4		land
5	[2.38]	Section 37A heading
6		<i>substitute</i>
7	37A	Effect of registration of units plan with encroachment on
8		public unleased land
9	[2.39]	Section 37A (1) (b)
10		<i>substitute</i>
11		(b) the plan shows an encroachment on public unleased land by an
12		attachment to a building on the parcel.
13	[2.40]	Dictionary, definition of <i>public place</i>
14		<i>substitute</i>
15		<i>public unleased land</i> —see the <i>Public Unleased Land Act 2012</i> ,
16		section 8.
17	Part 2.14	Unit Titles Regulation 2001
18	[2.41]	Section 2E (1) (h)
19		<i>substitute</i>
20		(h) if a work approval for the development is required under
21		the <i>Public Unleased Land Act 2012</i> , section 19 (Approval
22		to carry out work on public unleased land)—a copy of the
23		approval;

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- Act
- corporation
- [Corporations Act](#)
- daily newspaper
- director-general (see s 163)
- police officer
- reviewable decision notice
- working day.

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

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

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

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

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

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

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

director-general's direction—see section 100 (2).

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

(b) of a vehicle, includes anyone who has a legal right to move the vehicle.

permit means a public unleased land permit.

permit-holder means a person who is the holder of a permit.

permit register, for division 3.10 (Public unleased land permit register)—see section 86 (1).

permitted activity—see section 40 (What is a *public unleased land permit*?).

permitted public unleased land—see section 40 (What is a *public unleased land permit*?).

permitted time—see section 40 (What is a *public unleased land permit*?).

personal information notice, for part 3 (Public unleased land permits)—see section 48 (Suitability of people—further information about people).

plant pruning direction—see section 31 (Direction to prune tree etc overhanging public unleased land).

plant removal direction—see section 34 (Direction to remove tree etc endangering public on unleased land).

premises includes land, structure, vehicle or boat.

public consultation notice, for part 3 (Public unleased land permits)—see section 53 (2) (Suitability of activities—public consultation).

public consultation period, for part 3 (Public unleased land permits)—see section 53 (3) (a) (iv) (Suitability of activities—public consultation).

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

- 1 **public road**—see section 9.
- 2 **public unleased land**—see section 8.
- 3 **public unleased land permit**—see section 40.
- 4 **registered operator**—see the [Road Transport \(Vehicle Registration\)](#)
5 [Act 1999](#), dictionary.
- 6 *Note* A reference to the registered operator includes each registered operator
7 (see [Road Transport \(Vehicle Registration\) Act 1999](#), s 29).
- 8 **registered tree**, for division 2.6 (Trees and other plants affecting
9 public unleased land)—see section 30.
- 10 **regulatory action**—see section 80.
- 11 **removal direction**—see section 98 (3) (Direction to remove objects
12 from public unleased land).
- 13 **repair damage direction**—see section 21 (2) (Directions to repair
14 damage to public unleased land).
- 15 **retention area**, for division 4.4 (Removal and disposal of objects on
16 public unleased land by Territory)—see the [Uncollected Goods](#)
17 [Act 1996](#), dictionary.
- 18 **reviewable decision**, for part 5 (Notification and review of
19 decisions)—see section 127.
- 20 **risk management plan notice**, for part 3 (Public unleased land
21 permits)—see section 55 (2) (Suitability of activities—risk
22 management plan).
- 23 **show cause period**, for part 3 (Public unleased land permits)—see
24 section 54 (3) (b) (ii) (Suitability of activities—public consultation
25 submissions).
- 26 **sign**, on public unleased land—see section 24.
- 27 **sign approval**—see section 25 (1) (Approval to place sign on public
28 unleased land).

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

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 29 November 2012.

2 Notification

Notified under the [Legislation Act](#) on 2012.

3 Republications of amended laws

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

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