

2014

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Sport and Recreation)

Public Pools Bill 2014

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THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Sport and Recreation)

Public Pools Bill 2014

A Bill for

An Act relating to public pools, 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 Pools Act 2014*.

4 **2 Commencement**

5 This Act commences on the day after its notification day.

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

8 **3 Dictionary**

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

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

13 For example, the signpost definition '*low-alcohol liquor*—see the
14 [Liquor Act 2010](#), dictionary.' means that the term 'low-alcohol liquor'
15 is defined in that dictionary and the definition applies to this Act.

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

20 **4 Notes**

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

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

1 **5 Offences against Act—application of Criminal Code etc**

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

3 *Note 1 Criminal Code*

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

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

10 *Note 2 Penalty units*

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

13 **6 Application of Act**

14 This Act applies to a category 1 facility.

15 *Note Category 1 facility*—see s 7.

1 **Part 2 Key concepts**

2 **7 Meaning of *category 1 facility***

3 In this Act:

4 ***category 1 facility***—

5 (a) means a pool facility that is—

6 (i) owned by the Territory; and

7 (ii) open to or used by the public (whether or not on payment
8 of money); and

9 (b) includes a pool facility managed under a facility management
10 agreement.

11 *Note Facility management agreement*—see the dictionary.

12 **8 Meaning of *operator***

13 (1) In this Act:

14 ***operator***, of a pool facility—

15 (a) means the person who, alone or with someone else, manages or
16 controls the pool facility; and

17 (b) includes—

18 (i) a person for the time being managing or controlling the
19 pool facility; and

20 (ii) a person managing or controlling the pool facility in
21 accordance with a facility management agreement; and

1 (iii) any other person prescribed by regulation; but

2 *Note* Power to make a regulation in relation to a matter includes
3 power to make provision in relation to a class of matter
4 (see [Legislation Act](#), s 48 (2)).

5 (c) does not include a person excluded from this definition by
6 regulation.

7 (2) If there is more than 1 operator of a pool facility, it is sufficient
8 compliance with a requirement of this Act if—

9 (a) any of the operators exercises the functions of an operator
10 under this Act; and

11 (b) any notice or other document required to be given to the
12 operator under this Act is given to any of the operators.

13 **9 Meaning of *pool***

14 In this Act:

15 *pool*—

16 (a) means an artificial structure or vessel that is—

17 (i) capable of being filled with water; and

18 (ii) used or intended to be used for swimming, diving,
19 wading, paddling or any other recreational water activity;
20 and

21 (iii) unable to be emptied by overturning the structure or
22 vessel; but

23 (b) does not include—

24 (i) a bath tub or other vessel used for cleaning the body; or

25 (ii) an artificial structure or vessel prescribed by regulation.

- 1 **10** **Meaning of *pool facility***
- 2 In this Act:
- 3 ***pool facility***—
- 4 (a) means 1 or more pools; and
- 5 (b) includes any 1 or more of the following:
- 6 (i) the plant associated with each pool;
- 7 (ii) the concourse for each pool;
- 8 (iii) the toilets, change rooms and similar facilities associated
- 9 with each pool;
- 10 (iv) lighting;
- 11 (v) a fence and any other structure that—
- 12 (A) excludes access to a pool; or
- 13 (B) forms a boundary around 1 or more pools;
- 14 (vi) premises used for administration in relation to each pool;
- 15 (vii) any other structure, building or plant necessary for the
- 16 operation of each pool; but
- 17 (c) does not include—
- 18 (i) if the pool is located within a gymnasium or recreational
- 19 centre—the areas of the recreational centre not associated
- 20 with the pool; or
- 21 (ii) a facility prescribed by regulation.

- 1 **11 Exemption of pool facility or person from Act**
- 2 (1) The Minister may exempt a pool facility or person from this Act.
- 3 *Note 1* A reference to an Act includes a reference to a provision of an Act (see
- 4 [Legislation Act](#), s 7 (3)).
- 5 *Note 2* A reference to an Act includes a reference to the statutory instruments
- 6 made or in force under the Act, including any regulation (see
- 7 [Legislation Act](#), s 104).
- 8 *Note 3* Power to make a statutory instrument (including exemptions) includes
- 9 power to make different provision in relation to different matters or
- 10 different classes of matters, and to make an instrument that applies
- 11 differently by reference to stated exceptions or factors (see
- 12 [Legislation Act](#), s 48).
- 13 (2) In deciding whether to exempt a pool facility or person from this
- 14 Act, the Minister must take into account any criteria prescribed by
- 15 regulation.
- 16 (3) An exemption may be conditional.
- 17 (4) An exemption has no effect—
- 18 (a) to the extent that it is inconsistent with a regulation; or
- 19 (b) during any period in which a condition of the exemption is not
- 20 complied with.
- 21 (5) An exemption is a disallowable instrument.
- 22 *Note* A disallowable instrument must be notified, and presented to the
- 23 Legislative Assembly, under the [Legislation Act](#).

- 1 **Part 3** **Pool facilities administration—**
2 **minimum requirements,**
3 **standards and guidelines**
- 4 **Division 3.1** **Pool operators and staff**
- 5 **12** **Qualifications, skills and training**
- 6 (1) The director-general may determine minimum qualifications, skills
7 and training requirements for operators, employees, people engaged
8 under contract or volunteers at a pool facility.
- 9 (2) A determination may make provision in relation to the following:
- 10 (a) the kinds of qualifications, training, skills or experience
11 required by—
- 12 (i) operators of pool facilities; and
- 13 (ii) in accordance with their functions—employees, people
14 engaged under contract or volunteers at a pool facility;
- 15 **Examples**
- 16 • swimming instructor
17 • swimming coach
18 • lifeguard
- 19 *Note* An example is part of the Act, is not exhaustive and may
20 extend, but does not limit, the meaning of the provision in
21 which it appears (see [Legislation Act](#), s 126 and s 132).
- 22 (b) ongoing professional development and training requirements;
- 23 (c) compliance with requirements under the *Working With*
24 *Vulnerable People (Background Checking) Act 2011*;

1 (d) requirements about record keeping relating to qualifications,
2 training, skills or experience.

3 *Note 1* Power to make a statutory instrument (including a determination) about
4 a particular matter does not limit power to make a statutory instrument
5 about any other matter (see [Legislation Act](#), s 44 (3)).

6 *Note 2* Power to make a statutory instrument (including a determination)
7 includes power to make different provision in relation to different
8 matters or different classes of matters, and to make an instrument that
9 applies differently by reference to stated exceptions or factors (see
10 [Legislation Act](#), s 48).

11 (3) A determination is a notifiable instrument.

12 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

13 *Note 2* A determination may apply, adopt or incorporate a law of another
14 jurisdiction or instrument, as in force from time to time (see s 56).

15 **Division 3.2 Standards**

16 **13 Operations and management—Ministerial standards**

17 (1) The Minister may determine standards in relation to the operation or
18 management of a pool facility.

19 (2) Before determining a standard, the Minister must—

20 (a) consult with people or organisations that conduct an activity or
21 are engaged in the industry to which the standard relates; and

22 (b) invite written submissions on the standard.

23 (3) The Minister must consider any submission made under
24 subsection (2) before determining the standard.

25 (4) A determination is a disallowable instrument.

26 *Note 1* A disallowable instrument must be notified, and presented to the
27 Legislative Assembly, under the [Legislation Act](#).

28 *Note 2* A determination may apply, adopt or incorporate a law of another
29 jurisdiction or instrument, as in force from time to time (see s 56).

1 **14 Operational matters**

2 (1) The director-general may determine standards in relation to the
3 following operational matters at a pool facility:

- 4 (a) occupancy loading;
5 (b) pool loading;
6 (c) water safety initiatives;
7 (d) safety rules and requirements;
8 (e) adult supervision of a child;
9 (f) supervision of patrons by pool facility staff;
10 (g) customer service charters;

11 **Examples**

- 12 1 standard of service patrons can expect at pool facility
13 2 obligations of patrons attending pool facility
14 3 feedback and complaint processes

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

- 18 (h) mandatory safety equipment;
19 (i) mandatory or recommended best practice signage in relation to
20 a pool facility, including meeting any AS, AS/NZS or
21 international standards for safety signs;
22 (j) record keeping in relation to the operation and management of
23 a pool facility.

24 (2) Before determining a standard, the director-general must—

- 25 (a) consult with people or organisations that conduct an activity or
26 are engaged in the industry to which the standard relates; and
27 (b) invite written submissions on the standard.

1 (3) The director-general must consider any submission made under
2 subsection (2) before determining the standard.

3 (4) A determination is a notifiable instrument.

4 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

5 *Note 2* A determination may apply, adopt or incorporate a law of another
6 jurisdiction or instrument, as in force from time to time (see s 56).

7 **15 Conditions of entry and removal**

8 (1) The director-general may determine standards in relation to
9 conditions of entry to, and requirements for removal from, a pool
10 facility.

11 (2) A standard may make provision in relation to the following:

12 (a) conditions of entry, including—

13 (i) health and hygiene requirements; and

14 (ii) the minimum age for entry without adult supervision; and

15 (iii) in relation to assistance animals;

16 (b) rules of behaviour, including behaviour that may cause a
17 person to be excluded or removed from a pool facility;

18 (c) procedures and grounds for excluding people, including in
19 relation to operational matters.

20 **Examples—pars (b) and (c)**

- 21 • possession of alcohol
- 22 • smoking
- 23 • exceeding occupancy or pool loading

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

1 (3) A determination is a notifiable instrument.

2 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

3 *Note 2* A determination may apply, adopt or incorporate a law of another
4 jurisdiction or instrument, as in force from time to time (see s 56).

5 **16 Signs**

6 (1) The director-general may determine standards in relation to signage
7 at a pool facility.

8 (2) A standard may make provision in relation to the following:

9 (a) minimum construction and design requirements for signs,
10 including words and images that may be displayed on signs;

11 (b) the size and location of signs;

12 (c) signs that are mandatory or reflect best practice;

13 (d) the form of a sign and how patrons may be notified of pool
14 facility conditions of entry and grounds for exclusion or
15 removal.

16 **Examples—form of a sign**

17 1 pamphlet containing conditions of entry and grounds for exclusion or
18 removal

19 2 copy of notifiable instrument displayed prominently at pool facility

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

23 (3) A determination is a notifiable instrument.

24 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

25 *Note 2* A determination may apply, adopt or incorporate a law of another
26 jurisdiction or instrument, as in force from time to time (see s 56).

1 **Division 3.3** **Pool fees**

2 **17** **Pool fee guidelines**

3 (1) This section applies to a category 1 facility if the facility is
4 exempted under section 55 (Exemption from fees).

5 (2) The Minister may issue guidelines for fees (the *pool fee guidelines*)
6 to be set by an operator of the facility.

7 (3) A pool fee guideline may make provision in relation to the
8 following:

9 (a) the pool facilities that are subject to the pool fee guidelines;

10 (b) the maximum fees that may be set;

11 (c) fees for different purposes or circumstances;

12 (d) fees based on the following:

13 (i) the age of patrons;

14 **Examples**

- 15 • child
- 16 • student
- 17 • senior

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

21 (ii) whether a patron is supervising a child or person requiring
22 care;

23 (iii) entry with a concession or disability card issued by the
24 Territory, a State or the Commonwealth;

25 (iv) combined memberships for pool facility use and other
26 recreational uses;

27 (v) community-based membership;

- 1 (vi) entry as a spectator only;
2 (vii) entry as a member of a swimming school, training squad
3 or other aquatic group;
4 (viii) the nature and scale of the activities being carried out at a
5 pool facility;
- 6 **Examples—nature of activities**
7 • pool hire for school carnival
8 • exclusive lane hire
- 9 (e) fees for lessons or coaching;
10 (f) fees for the sale or hire of articles and equipment;
11 (g) the way fees are notified;
12 (h) the circumstances in which fees may be waived or reduced;
13 (i) the review of the pool fee guidelines and timeframe for the
14 review;
15 (j) any matters the director-general may consider before the fees
16 are applied.

17 *Note* Power to make a statutory instrument (including a guideline) about a
18 particular matter does not limit power to make a statutory instrument
19 about any other matter (see [Legislation Act](#), s 44 (3)).

20 (4) A pool fee guideline is a notifiable instrument.

21 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

22 *Note 2* A pool fee guideline may apply, adopt or incorporate a law of another
23 jurisdiction or instrument, as in force from time to time (see s 56).

1 **Division 3.4** **Prohibited articles**

2 **18** **Meaning of *prohibited article***

3 In this Act:

4 *prohibited article* means a thing declared by the director-general to
5 be a prohibited article under section 19.

6 **19** **Declaration of prohibited articles**

7 (1) The director-general may declare a thing to be a prohibited article if
8 satisfied that the thing—

9 (a) is, or is likely to be—

10 (i) obscene or offensive; or

11 (ii) an undue risk to the health and safety of people at a
12 pool facility; or

13 (iii) a hazard at a pool facility; or

14 (b) is otherwise inappropriate at a pool facility.

15 **Examples—par (a)**

16 1 magazines or audio visual material with an ‘R’ classification

17 2 ceramic or glass item

18 **Example—par (b)**

19 high-power water pistol

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

- 1 (2) A declaration may state that a prohibited article must not—
2 (a) be sold or offered for sale at a pool facility; or
3 (b) be hired or offered for hire at a pool facility.

4 *Note* Power to make a statutory instrument (including a disallowable
5 instrument) includes power to make different provision in relation to
6 different matters or different classes of matters, and to make an
7 instrument that applies differently by reference to stated exceptions or
8 factors (see [Legislation Act](#), s 48).

- 9 (3) A declaration is a notifiable instrument.

10 *Note 1* A notifiable instrument must be notified under the [Legislation Act](#).

11 *Note 2* A declaration may apply, adopt or incorporate a law of another
12 jurisdiction or instrument, as in force from time to time (see s 56).

1 **Part 4** **Maintenance directions and pool**
2 **closure orders**

3 **Division 4.1** **Maintenance directions**

4 **20** **Pool facility not maintained**

5 (1) This section applies if the director-general is satisfied on reasonable
6 grounds that—

7 (a) an operator of a pool facility is not maintaining the pool
8 facility in good repair or condition; and

9 (b) the failure to maintain the pool facility is causing undue risk to
10 people, property or the environment.

11 (2) The director-general may direct the operator to maintain the pool
12 facility (a *maintenance direction*).

13 *Note 1* The director-general's decision to issue a maintenance direction is
14 reviewable by the ACAT (see s 50 and sch 1).

15 *Note 2* The director-general must give the operator a reviewable decision notice
16 in relation to the decision to issue a maintenance direction (see s 50).

17 (3) A maintenance direction must be in writing and state the action to
18 be taken to ensure the pool facility is maintained in a way that is
19 likely to prevent or reduce risk to people, property or the
20 environment and include the following:

21 (a) the details of the maintenance work required, or matters to be
22 rectified;

23 (b) when the maintenance direction must be complied with, being
24 a day at least 1 month after the day the maintenance direction
25 is given to the operator;

- 1 (c) if the maintenance required is extensive—
- 2 (i) that the pool facility be closed for a period
3 (a *stated period*) for maintenance work to be carried out;
4 and
- 5 (ii) the stated period the pool must be closed.
- 6 *Note* Power to make the direction includes power to amend or repeal the
7 direction (see [Legislation Act](#), s 46).
- 8 (4) A maintenance direction must also state that, if the maintenance
9 direction is not complied with, the pool facility may be closed under
10 section 21 if closure is the only viable option to prevent or reduce
11 undue risk to people, property or the environment.
- 12 (5) If a maintenance direction includes a stated period for the pool to be
13 closed, the maintenance direction must provide that—
- 14 (a) the stated period starts on a day at least 60 days after the day
15 the maintenance direction is given to the operator of the pool
16 facility; and
- 17 (b) as far as practicable, the stated period is during the off-peak
18 season.
- 19 (6) A stated period may end on a stated day or on the happening of a
20 stated event.

21 **Division 4.2 Emergency closure orders**

22 **21 Emergency closure of pool facility**

- 23 (1) The director-general may order an operator of a pool facility to close
24 the pool facility (an *emergency closure order*) if the
25 director-general believes on reasonable grounds that—
- 26 (a) the operator did not comply with a maintenance direction, and
27 the closure of the pool facility is the only viable option to
28 prevent or reduce undue risk to people, property or the
29 environment; or

- 1 (b) the immediate closure of a pool facility is the only viable
2 option to prevent or reduce undue risk to people, property or
3 the environment.
- 4 (2) If an emergency closure order is made under subsection (1), the
5 director-general must immediately, or as soon as practicable, give
6 written notice to the operator stating the following:
- 7 (a) the pool facility that must be closed by the operator;
8 (b) the grounds on which the order is given;
9 (c) the date of issue of the order;
10 (d) that the order starts on the day the order is given;
11 (e) when the order ends;
12 (f) that if the order is not complied with, the operator may be
13 committing an offence under section 22;
14 (g) that the operator may apply for the cancellation of the order
15 under section 23 and details about the application process.
- 16 *Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.
- 17 (3) For subsection (2) (e), the order may end on a stated day or on the
18 happening of a stated event.

19 **22 Offence—fail to comply with emergency closure order**

- 20 (1) A person commits an offence if the person—
21 (a) is subject to an emergency closure order; and
22 (b) the person fails to comply with the order.
- 23 Maximum penalty: 50 penalty units.
- 24 (2) An offence against this section is a strict liability offence.

1 **23 Cancellation of emergency closure order—application**

2 (1) An operator of a pool facility who is required to close the pool
3 facility by an emergency closure order may apply, in writing, not
4 later than 7 days after the day the order is given, to the
5 director-general for cancellation of the emergency closure order
6 stating reasons why the order should be cancelled.

7 (2) Before making a decision on the application, the director-general
8 must consider—

9 (a) the application; and

10 (b) the grounds on which the emergency closure order was given;
11 and

12 (c) the current state of the pool facility to which the order relates.

13 (3) The director-general may cancel the emergency closure order if
14 satisfied on reasonable grounds that the cancellation will not
15 endanger the health or safety of people or cause undue risk to
16 property or the environment.

17 *Note* The director-general's decision to refuse to cancel an emergency closure
18 order is reviewable by the ACAT (see s 50 and sch 1).

19 (4) The director-general must tell the operator of the decision and, if the
20 director-general refuses to cancel the emergency closure order, the
21 reasons for the refusal.

22 *Note* The director-general must also give the operator a reviewable decision
23 notice in relation to the decision to refuse to cancel an emergency
24 closure order (see s 50).

25 **24 Compensation—pool closure**

26 (1) This section applies if—

27 (a) a person was subject to a maintenance direction or an
28 emergency closure order requiring a pool facility to be closed;
29 and

- 1 (b) the person suffers loss or expense because of the direction or
2 order; and
- 3 (c) the person considers that there were insufficient grounds for
4 giving the direction or order.
- 5 (2) The person may apply, in writing, to the Minister for compensation,
6 setting out the reasons for the application.
- 7 (3) The Minister must—
- 8 (a) decide whether to pay any compensation to the person and, if
9 so, the amount of the compensation; and
- 10 (b) give the person written notice of the Minister's decision.
- 11 *Note* For how documents may be given, see the [Legislation Act](#),
12 pt 19.5.
- 13 (4) If the Minister is satisfied that there were insufficient grounds for
14 giving the direction or order, the Territory must pay the person the
15 reasonable compensation decided by the Minister.
- 16 (5) However, compensation is not payable to the person—
- 17 (a) in relation to any loss or expense suffered by the person
18 because of an act or omission of the person; or
- 19 (b) if the person caused or contributed to the circumstances that
20 caused the direction or order to be given; or
- 21 (c) if the direction or order was given in accordance with this Act
22 and in good faith.
- 23 *Note* A reference to an Act includes a reference to the statutory
24 instruments made or in force under the Act, including any
25 regulation (see [Legislation Act](#), s 104).
- 26 (6) If the Minister does not decide the application within 28 days after
27 the day the Minister receives the application, the Minister is taken to
28 have refused to pay compensation.

1 **Part 5** **Refusing entry and removal**
2 **powers**

3 **25** **Definitions—pt 5**

4 (1) In this part:

5 *authorised person*, in relation to a pool facility, means—

6 (a) the operator; or

7 (b) an employee of the operator; or

8 (c) a licensed security guard engaged by the operator.

9 *licensed security guard* means a person who holds a security
10 licence.

11 (2) In this section:

12 *security licence* means a licence under the [Security Industry](#)
13 [Act 2003](#) that authorises the licensee to carry out crowd control
14 under that Act, whether or not it authorises the licensee to do
15 anything else.

16 **26** **Authorised person may refuse entry**

17 (1) An authorised person may refuse entry to a pool facility to a child if
18 the child is—

19 (a) under the minimum age; and

20 (b) not accompanied by an adult.

21 (2) An authorised person may also refuse a person entry to a pool
22 facility if the authorised person believes on reasonable grounds
23 that—

24 (a) the person has committed, or is likely to commit, an offence
25 against this Act; or

1 (b) the person has contravened, or is likely to contravene a
2 condition of entry to the pool facility; or

3 (c) admitting the person will be inconsistent with a standard.

4 **Example—par (c)**

5 pool or occupancy loading exceeded

6 *Note 1* A reference to an Act includes a reference to the statutory
7 instruments made or in force under the Act, including any
8 regulation (see [Legislation Act](#), s 104).

9 *Note 2* An example is part of the Act, is not exhaustive and may extend,
10 but does not limit, the meaning of the provision in which it
11 appears (see [Legislation Act](#), s 126 and s 132).

12 (3) An authorised person may only refuse entry to a person under
13 subsection (2) (b) or (c) if the conditions of entry or standard, and
14 grounds for exclusion for contravening those conditions or to meet a
15 standard, are displayed or made available at the entry of the pool
16 facility.

17 (4) In this section:

18 *minimum age* means the minimum age mentioned in a standard
19 determined under section 15 (Conditions of entry and removal).

20 *standard* means a standard determined under division 3.2.

21 **27 Authorised person's directions**

22 (1) This section applies if an authorised person believes on reasonable
23 grounds that a person at a pool facility—

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

26 (b) has contravened, or is likely to contravene, a condition of entry
27 to the pool facility.

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

- 1 (2) The authorised person may direct the person—
2 (a) as reasonably necessary for—
3 (i) the good management of the pool facility; or
4 (ii) the safety and enjoyment of people at the pool facility; or
5 (b) to immediately leave the pool facility.

6 **Examples—when direction to leave may be given**

- 7 1 for drinking alcohol or smoking
8 2 for damaging infrastructure
9 3 for other behaviour that contravenes a condition of entry

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

- 13 (3) For subsection (1) (b), an authorised person may only give a
14 direction under subsection (2) (b) if the conditions of entry and
15 grounds for removing a person for contravening those conditions are
16 displayed or made available at the entry of the pool facility.
17 (4) If an authorised person gives a direction under subsection (2) (b) to
18 a person, the authorised person must tell the person that it is an
19 offence to fail to comply with the direction.
20 (5) A direction under subsection (2) (b) is effective whether or not the
21 person paid an entry fee to the pool facility.

22 **28 Authorised person's direction—operational reasons**

- 23 (1) An authorised person may direct a person at any time to
24 immediately leave a pool facility because the pool facility is
25 required for a specific purpose.

26 **Example**

27 a pool facility is to be used for a school carnival or other event

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

- 1 (2) If an authorised person directs a person to leave, the authorised
2 person must tell the person that it is an offence to fail to comply
3 with the direction.
- 4 (3) A direction under subsection (1) is effective whether or not the
5 person paid an entry fee to the pool facility.
- 6 (4) However, unless a sign is displayed at the entry of the pool facility
7 stating that the facility will be closed for a specific purpose, the
8 person who is directed to leave under subsection (1) is entitled to a
9 full refund of the person's entry fee.

10 **29 Disability—assistance animals**

- 11 (1) This section applies to a person who requires the aid of, and is
12 accompanied by, an assistance animal.
- 13 (2) The assistance animal may enter and remain at a pool facility only if
14 the animal is accompanying the person.
- 15 (3) The person must not cause or allow the assistance animal to enter or
16 remain in a pool.
- 17 (4) If an assistance animal enters a pool, an authorised person may
18 direct the person to remove the animal from the pool.
- 19 (5) If the person fails to comply with a direction under subsection (4),
20 the authorised person may direct the person to immediately leave
21 the pool facility.
- 22 (6) An authorised person may only give a direction under subsection (5)
23 if the conditions of entry in subsections (2) and (3), and the effect of
24 contravening those conditions, are displayed or made available at
25 the entry of the pool facility.
- 26 (7) If an authorised person gives a direction under subsection (5) to a
27 person, the authorised person must tell the person that it is an
28 offence to fail to comply with the direction.

1 (8) A direction under subsection (5) is effective whether or not the
2 person paid an entry fee to the pool facility.

3 **30 Offence—fail to comply with direction**

4 (1) A person commits an offence if the person—
5 (a) is subject to a direction to leave under section 27 (2) (b),
6 section 28 (1) or section 29 (5); and
7 (b) fails to comply with the direction.

8 Maximum penalty: 10 penalty units.

9 *Note* **Fail** includes refuse (see [Legislation Act](#), dict, pt 1).

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

11 (3) This section does not apply to a person if, before giving the
12 direction, the authorised person did not warn the person that failure
13 to comply with the direction is an offence.

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

16 (4) If a person commits an offence under subsection (1), a police officer
17 or licensed security guard may use such force as is reasonably
18 necessary to—

19 (a) apprehend and detain the person; or

20 (b) remove the person from, or stop the person from re-entering,
21 the pool facility.

22 (5) A police officer or licensed security guard exercising powers under
23 subsection (4) may act with such assistance as is reasonably
24 necessary from an authorised person.

25 (6) A person must not be detained under subsection (4) (a) for longer
26 than is reasonably necessary to remove the person from the pool
27 facility.

1 **Part 6** **Offences**

2 **31** **Infections**

- 3 (1) A person commits an offence if the person—
- 4 (a) is suffering from a skin, gastrointestinal or other infection that
- 5 is communicable in or around water; and
- 6 (b) enters or remains at a pool facility.

7 Maximum penalty: 5 penalty units.

- 8 (2) This section does not apply if the person has a medical certificate or
- 9 report from a doctor stating that the person is not a health risk to
- 10 other people at the pool facility.

11 **32** **Smoking prohibited**

- 12 (1) A person commits an offence if the person smokes in a pool facility.
- 13 Maximum penalty: 5 penalty units.
- 14 (2) An offence against this section is a strict liability offence.
- 15 (3) This section does not apply if the pool facility has no signage
- 16 indicating that the facility is smoke-free.

17 **33** **Consumption of liquor**

- 18 (1) A person commits an offence if the person—
- 19 (a) is at a pool facility; and
- 20 (b) consumes liquor or low-alcohol liquor.
- 21 Maximum penalty: 5 penalty units.
- 22 (2) An offence against this section is a strict liability offence.

1 **34 Possession of liquor**

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

3 (a) is at a pool facility; and

4 (b) possesses liquor or low-alcohol liquor.

5 Maximum penalty: 5 penalty units.

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

7 **35 Graffiti etc**

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

9 (a) marks any part of a pool facility; and

10 (b) is not authorised to mark the pool facility by the operator of the
11 pool facility.

12 Maximum penalty: 5 penalty units.

13 (2) In this section:

14 *mark* means write on, draw on or paint.

15 **36 Damaging infrastructure**

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

17 (a) is at a pool facility; and

18 (b) engages in conduct that damages or interferes with any
19 infrastructure of the pool facility; and

20 (c) is reckless about whether the conduct is likely to damage or
21 interfere with any infrastructure of the pool facility; and

22 (d) is not authorised by the operator of the pool facility to engage
23 in the conduct.

24 Maximum penalty: 10 penalty units.

- 1 (2) In this section:
- 2 *infrastructure* includes a lock, valve, tap, pipework, machinery,
- 3 apparatus, furniture, fittings, showers, toilets or changing rooms.

1 **Part 7 Enforcement**

2 **Division 7.1 Inspectors and identity cards**

3 **37 Inspectors**

- 4 (1) The director-general may appoint a public servant as an inspector
5 for this Act.

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

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

- 10 (2) Also, a police officer is an inspector for this Act.

11 **38 Identity cards**

- 12 (1) This section applies in relation to an inspector appointed under
13 section 37 (1).

- 14 (2) The director-general must give an inspector an identity card stating
15 the person's name and that the person is an inspector.

- 16 (3) The identity card must show—

- 17 (a) a recent photograph of the inspector; and
18 (b) the card's date of issue and expiry; and
19 (c) anything else prescribed by regulation.

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

- 21 (a) stops being an inspector; and
22 (b) does not return the person's identity card to the
23 director-general as soon as practicable, but not later than
24 7 days, after the day the person stops being an inspector.

25 Maximum penalty: 1 penalty unit.

1 (5) Subsection (4) does not apply to a person if the person's identity
2 card has been—

3 (a) lost or stolen; or

4 (b) destroyed by someone else.

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

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

8 **39 Power not to be exercised before identity card shown**

9 (1) This section applies in relation to an inspector appointed under
10 section 37 (1).

11 (2) The inspector may exercise a power under this Act in relation to a
12 person only if the inspector first shows the person the inspector's
13 identity card.

14 **Division 7.2 Powers of inspectors**

15 **40 Power to enter pool facility**

16 (1) For this Act, an inspector may—

17 (a) for a category 1 facility—

18 (i) enter a pool facility in accordance with a facility
19 management agreement for the facility; or

20 (ii) if the facility management agreement does not provide for
21 powers of entry to a pool facility—enter the pool facility
22 at any time; or

23 (b) in any other case—

24 (i) during the stated period, enter a pool facility that the
25 public is entitled to use or that is open to the public
26 (whether or not on payment of money); or

- 1 (ii) at any time, enter a pool facility with the consent of the
2 operator of the pool facility; or
- 3 (iii) at any time, enter a pool facility if the inspector believes
4 on reasonable grounds that the circumstances are so
5 serious and urgent that immediate entry to the pool
6 facility is necessary.
- 7 (2) However, subsection (1) (b) (i) does not authorise entry into a part
8 of the pool facility that is being used only for residential purposes.
- 9 (3) An inspector may, without the consent of the operator, enter land
10 around the pool facility to ask for consent to enter the pool facility.
- 11 (4) To remove any doubt, an inspector may enter the pool facility under
12 subsection (1) without payment of an entry fee or other charge.
- 13 (5) In this section:
- 14 *stated period* means the period from Monday to Saturday between
15 8.00 am and 6.00 pm.

16 **41 Production of identity card**

- 17 (1) An inspector must not remain at a pool facility entered under this
18 part if the inspector does not produce the inspector's identity card
19 when asked by the operator of the pool facility.
- 20 (2) A police officer must not remain at a pool facility entered under this
21 part if the officer does not produce evidence that the officer is a
22 police officer when asked by the operator of the pool facility.

23 **42 Consent to entry**

- 24 (1) When seeking the consent of an operator of a pool facility to enter
25 the pool facility under section 40 (1) (b) (ii), an inspector must—
- 26 (a) either—
- 27 (i) for an inspector appointed under section 37 (1)—produce
28 the inspector's identity card; or

- 1 (ii) for a police officer—produce evidence that the person is a
2 police officer; and
- 3 (b) tell the operator—
- 4 (i) the purpose of the entry; and
- 5 (ii) that anything found under this part may be used in
6 evidence in court; and
- 7 (iii) that consent may be refused.
- 8 (2) If the operator of a pool facility consents, the inspector must ask the
9 operator to sign a written acknowledgment (an *acknowledgment of*
10 *consent*)—
- 11 (a) that the operator was told—
- 12 (i) the purpose of the entry; and
- 13 (ii) that anything found under this part may be used in
14 evidence in court; and
- 15 (iii) that consent may be refused; and
- 16 (b) that the operator consented to the entry; and
- 17 (c) stating the time and date when consent was given.
- 18 (3) If the operator of a pool facility signs an acknowledgment of
19 consent, the inspector must as soon as practicable give a copy to the
20 operator.
- 21 *Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.
- 22 (4) A court must find that the operator of a pool facility did not consent
23 to an inspector entering the pool facility under this part if—
- 24 (a) the question arises in a proceeding in the court whether the
25 operator consented to the entry; and
- 26 (b) an acknowledgment of consent is not produced in evidence;
27 and

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

2 **43 Advance notification and consent to entry**

3 (1) An inspector may seek the advance consent of an operator of a pool
4 facility to enter the pool facility.

5 (2) When seeking the advance consent of the operator to enter the pool
6 facility, an inspector must notify the operator, in writing—

7 (a) either—

8 (i) for an inspector appointed under section 37 (1)—giving a
9 copy of the inspector’s identity card; or

10 (ii) for a police officer—providing evidence that the person is
11 a police officer; and

12 (b) stating—

13 (i) the proposed time and day when the entry would be
14 made; and

15 (ii) the purpose of the entry; and

16 (iii) that anything found under this part may be used in
17 evidence in court; and

18 (iv) that consent may be refused; and

19 (c) asking the operator to—

20 (i) sign the acknowledgment of advance consent if the
21 operator consents to the entry; and

22 (ii) return the acknowledgment of advance consent to the
23 inspector.

24 (3) If the operator of the pool facility signs and returns the
25 acknowledgment of advance consent, the inspector must—

26 (a) enter the pool facility at the proposed time and day mentioned
27 in subsection (2); and

- 1 (b) when entering the pool facility—
2 (i) either—
3 (A) for an inspector appointed under section 37 (1)—
4 produce the inspector's identity card; or
5 (B) for a police officer—produce evidence that the
6 person is a police officer; and
7 (ii) produce the acknowledgment of advance consent; and
8 (iii) give the operator a copy of the acknowledgment of
9 advance consent.
- 10 (4) In this section:
11 ***acknowledgment of advance consent*** means a written statement
12 signed by the operator of a pool facility stating the following:
13 (a) that the operator was told—
14 (i) the proposed time and day when the entry would be
15 made; and
16 (ii) the purpose of the entry; and
17 (iii) that anything found under this part may be used in
18 evidence in court; and
19 (iv) that consent may be refused;
20 (b) that the operator consents in advance to the entry at the
21 proposed time and day;
22 (c) the time and day when the advance consent was given.

1 **44 General powers on entry to pool facility**

2 (1) An inspector who enters a pool facility under this part may, for this
3 Act, do 1 or more of the following in relation to the pool facility or
4 anything at the pool facility:

5 (a) inspect or examine;

6 (b) inspect and copy, or take an extract from, any document at the
7 pool facility;

8 *Note Document*—see the [Legislation Act](#), dictionary, pt 1.

9 (c) take measurements or conduct tests;

10 (d) take samples;

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

12 (f) require the operator of the pool facility to give information,
13 answer questions, or produce documents or anything else,
14 reasonably needed to exercise the inspector’s powers under this
15 part.

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

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

20 Maximum penalty: 20 penalty units.

21 **45 Other powers**

22 (1) An inspector may, by written notice, require the operator of a pool
23 facility to give information, answer questions, or produce
24 documents or anything else, reasonably needed to exercise the
25 inspector’s powers under this part.

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

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

3 Maximum penalty: 20 penalty units.

4 **Division 7.3 Miscellaneous**

5 **46 Damage etc to be minimised**

6 (1) In the exercise, or purported exercise, of a function under this part,
7 an inspector must take all reasonable steps to ensure that the
8 inspector causes as little inconvenience, detriment and damage as
9 practicable.

10 (2) If an inspector damages anything in the exercise or purported
11 exercise of a function under this part, the inspector must give
12 written notice of the particulars of the damage to—

13 (a) for an asset owned by the Territory—the operator of the pool
14 facility; or

15 (b) in any other case—the person the inspector believes on
16 reasonable grounds is the owner of, or the person responsible
17 for, the thing.

18 *Note* For how documents may be given, see the [Legislation Act](#), pt 19.5.

19 (3) The notice must state that—

20 (a) the person may claim compensation from the Territory if the
21 person suffers loss or expense because of the damage; and

22 (b) compensation may be claimed and ordered in a proceeding for
23 compensation brought in a court of competent jurisdiction; and

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

- 1 (4) If the damage happens at a pool facility entered under this part in the
2 absence of the operator of the pool facility, the notice may be given
3 by leaving it, secured conspicuously, at the pool facility.

4 **47 Compensation for exercise of enforcement powers**

- 5 (1) A person may claim compensation from the Territory if the person
6 suffers loss or expense because of the exercise, or purported
7 exercise, of a function under this part by an inspector.
- 8 (2) Compensation may be claimed and ordered in a proceeding for—
9 (a) compensation brought in a court of competent jurisdiction; or
10 (b) an offence against this Act brought against the person making
11 the claim for compensation.
- 12 (3) A court may order the payment of reasonable compensation for the
13 loss or expense only if satisfied it is just to make the order in the
14 circumstances of the particular case.
- 15 (4) A regulation may prescribe matters that may, must or must not be
16 taken into account by the court in considering whether it is just to
17 make the order.

18 **Division 7.4 Auditing and compliance**

19 **48 Appointment of auditor**

- 20 (1) The director-general may appoint a suitably qualified person to
21 conduct an audit of a pool facility (an *auditor*) in relation to water
22 safety measures at the premises.

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

25 *Note 2* In particular, a person may be appointed for a particular provision of a
26 law (see [Legislation Act](#), s 7 (3)) and an appointment may be made by
27 naming a person or nominating the occupant of a position (see
28 [Legislation Act](#), s 207).

- 1 (2) The operator of the pool facility being audited must—
- 2 (a) comply with the reasonable requirements of the auditor; and
- 3 (b) allow the auditor access to the premises and information
- 4 reasonably required to conduct the audit; and
- 5 (c) pay any fee for the audit that is payable to the auditor.
- 6 (3) The auditor must provide a written report to the director-general and
- 7 the operator of the pool facility audited, within the time set by the
- 8 director-general.

1 **Part 8** **Notification and review of**
2 **decisions**

3 **49** **Meaning of *reviewable decision*—pt 8**

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 **50** **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 **51** **Applications for review**

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

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

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

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

1 **Part 9** **Miscellaneous**

2 **52** **Liability for loss of, or damage to, property**

- 3 (1) No action lies against the Territory by reason of the loss of, or
4 damage to, property occurring in any pool facility.
- 5 (2) No action lies against the operator of, or an employee of the
6 operator at, any pool facility by reason of the loss of, or damage to,
7 property occurring in the pool facility as a result of an act or
8 omission of the operator or the employee in the course of the
9 operator exercising the operator's functions, or the employee's
10 employment.

11 **53** **Protection from liability**

- 12 (1) A public servant exercising a function under this Act does not incur
13 civil liability for an act or omission done honestly and without
14 recklessness for this Act.
- 15 (2) Any civil liability that would, apart from this section, attach to a
16 public servant attaches instead to the Territory.

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

20 **54** **Determination of fees**

- 21 (1) The Minister may determine fees for this Act.

22 *Note* The [Legislation Act](#) contains provisions about the making of
23 determinations and regulations relating to fees (see pt 6.3).

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

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

1 **55 Exemption from fees**

2 (1) The Minister may exempt a pool facility from the application of any
3 fees determined under section 54.

4 (2) An exemption is a disallowable instrument.

5 *Note 1* A disallowable instrument must be notified, and presented to the
6 Legislative Assembly, under the [Legislation Act](#).

7 *Note 2* If a category 1 facility is exempted from this provision, the pool fee
8 guidelines under s 17 apply.

9 **56 Statutory instruments—application etc of other laws or**
10 **instruments**

11 (1) A statutory instrument under this Act may apply, adopt or
12 incorporate a law of another jurisdiction or an instrument, as in
13 force from time to time.

14 **Example—incorporated instrument**

15 Royal Life Saving Society—Australia guidelines or standards in relation to—

- 16 • qualifications, skills or training for lifeguards or coaches
17 • water safety initiatives
18 • signage

19 *Note 1* The text of an applied, adopted or incorporated law or instrument,
20 whether applied as in force from time to time or at a particular time, is
21 taken to be a notifiable instrument if the operation of the [Legislation](#)
22 [Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

23 *Note 2* A notifiable instrument must be notified under the [Legislation Act](#).

24 *Note 3* A reference to an instrument includes a reference to a provision of an
25 instrument (see [Legislation Act](#), s 14 (2)).

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

- 1 (2) The [Legislation Act](#), section 47 (6) does not apply in relation to an
2 AS, AS/NZS or international standard applied, adopted or
3 incorporated under subsection (1).

4 *Note* An AS, AS/NZS or international standard does not need to be notified
5 under the [Legislation Act](#) because s 47 (6) does not apply
6 (see [Legislation Act](#), s 47 (7)). An AS, AS/NZS or international
7 standard may be purchased at www.standards.org.au.

8 **57 Approved forms**

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

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

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

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

15 **58 Regulation-making power**

- 16 (1) The Executive may make regulations for this Act.

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

- 19 (2) A regulation may create offences and fix maximum penalties of not
20 more than 20 penalty units for the offences.

21 **59 Regulations—first-aid equipment and facilities**

22 A regulation may make provision in relation to the following:

- 23 (a) the minimum requirements for first-aid equipment and
24 facilities;
25 (b) the pool facilities that must comply with first-aid equipment
26 and facilities requirements;

1 (c) design specifications for first-aid facilities.

2 **Examples—par (a)**

- 3 • first-aid kit
- 4 • rescue and resuscitation equipment
- 5 • spinal boards and extrication collars
- 6 • disposable bandages, swabs, hygiene items
- 7 • stretchers, blankets, pillows

8 **Examples—par (c)**

- 9 • dedicated room
- 10 • washing facilities
- 11 • washable floors
- 12 • storage requirements

13 *Note 1* Power to make a statutory instrument (including a regulation) includes
14 power to make different provision in relation to different matters or
15 different classes of matters, and to make an instrument that applies
16 differently by reference to stated exceptions or factors (see [Legislation](#)
17 [Act](#), s 48).

18 *Note 2* An example is part of the Act is not exhaustive and may extend, but
19 does not limit, the meaning of the provision in which it appears (see
20 [Legislation Act](#), s 126 and s 132).

1 **Part 10** **Repeals and consequential**
2 **amendments**

3 **60** **Legislation repealed**

4 The following legislation is repealed:

- 5 • *Public Baths and Public Bathing Regulation 1966* (SL1966-14)
6 • *Public Baths and Public Bathing (Active Leisure Centre Fees)*
7 *Determination 2014* (DI2014-193).

8 **61** **Legislation amended—sch 2**

9 This Act amends the legislation mentioned in schedule 2.

1 **Part 20 Transitional**

2 **200 Meaning of *commencement day*—pt 20**

3 In this part:

4 *commencement day* means the day this Act, section 3 commences.

5 **201 Facility management agreements**

6 (1) This section applies if—

7 (a) immediately before the commencement day, an agreement for
8 the provision of facility management services (however
9 described) (a *facility agreement*) is in force in relation to
10 public baths under the *Public Baths and Public Bathing*
11 *Act 1956*; and

12 (b) on the commencement day, the public baths are a
13 category 1 facility under this Act.

14 (2) The facility agreement is, on the commencement day, taken to be a
15 facility management agreement in relation to the category 1 facility.

16 **202 Transitional regulations**

17 (1) A regulation may prescribe transitional matters necessary or
18 convenient to be prescribed because of the enactment of this Act.

19 (2) A regulation may modify this part (including in relation to another
20 territory law) to make provision in relation to anything that, in the
21 Executive's opinion, is not, or is not adequately or appropriately,
22 dealt with in this part.

23 (3) A regulation under subsection (2) has effect despite anything
24 elsewhere in this Act or another territory law.

1 **203** **Expiry—pt 20**

2 This part expires 2 years after the commencement day.

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

Schedule 1 Reviewable decisions

(see pt 8)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	20 (2)	issue maintenance direction	person directed
2	23 (3)	refuse to cancel emergency closure order	person ordered

1 **Schedule 2** **Consequential amendments**

2 (see s 61)

3 **Part 2.1** **Public Baths and Public Bathing**
4 **Act 1956**

5 **[2.1] Long title**

6 *substitute*

7 An Act relating to public bathing

8 **[2.2] Section 1**

9 *substitute*

10 **1 Name of Act**

11 This Act is the *Public Bathing Act 1956*.

12 **[2.3] Section 2, note 1**

13 *substitute*

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

17 For example, the signpost definition '*public bathing convenience*, for
18 part 5 (Public Bathing)—see section 28.' means that the term 'public
19 bathing convenience' is defined in that section for part 5.

20 **[2.4] Section 6**

21 *omit*

22 **[2.5] Parts 2 and 3**

23 *omit*

- 1 **[2.6] Section 28 heading**
- 2 *substitute*
- 3 **28 Definitions—pt 5**
- 4 **[2.7] Section 28, new definition of *pool facility***
- 5 *insert*
- 6 *pool facility*—see the *Public Pools Act 2014*, section 10.
- 7 **[2.8] Section 28, definition of *public bathing convenience***
- 8 *omit*
- 9 public baths
- 10 *substitute*
- 11 pool facility
- 12 **[2.9] Section 38 (2) (a)**
- 13 *omit*
- 14 in public baths or
- 15 **[2.10] Section 38 (2) (b)**
- 16 *omit*
- 17 public baths and
- 18 **[2.11] Dictionary, note 2**
- 19 *insert*
- 20
 - appoint
- 21
 - disallowable instrument (see s 9)

1 **[2.12] Dictionary, note 2**

2 *omit*

- 3 • exercise
- 4 • function

5 **[2.13] Dictionary, note 2**

6 *insert*

- 7 • Minister (see s 162)

8 **[2.14] Dictionary, note 2**

9 *omit*

- 10 • occupy

11 **[2.15] Dictionary, note 2**

12 *insert*

- 13 • penalty unit (see s 133)
- 14 • person (see s 160)
- 15 • police officer

16 **[2.16] Dictionary, note 2**

17 *omit*

- 18 • the Territory

19 **[2.17] Dictionary**

20 *omit the definitions of*

21 *blind person*

22 *deaf person*

23 *guide dog*

24 *hearing dog*

1 *leased public baths*
2 *manager*
3 *public baths*

4 **Part 2.2 Uncollected Goods Act 1996**

5 **[2.18] Section 5 (d)**

6 *omit everything before subparagraph (ii), substitute*

- 7 (d) where the goods were lost or abandoned at a pool facility—
8 (i) in the case of perishable goods or goods of no value—
9 immediately the operator of the pool facility or employee
10 of the operator takes possession of the goods; or

11 **[2.19] Division 2.3 heading**

12 *substitute*

13 **Division 2.3 Goods found at pool facilities**

14 **[2.20] Section 9**

15 *substitute*

16 **9 Goods lost or abandoned at pool facilities**

17 Where goods that a reasonable person would believe have been lost
18 or abandoned are found at a pool facility—

- 19 (a) by an operator of the pool facility or employee of the
20 operator—the operator or employee must take possession of
21 the goods; or
22 (b) by any other person—the person must immediately place the
23 goods in the possession of the operator of the pool facility or
24 an employee of the operator.

1 **[2.21] Section 10**

2 *omit*

3 The manager or attendant shall

4 *substitute*

5 An operator of a pool facility or employee of the operator must

6 **[2.22] Section 11**

7 *substitute*

8 **11 Claims for lost property**

9 (1) This section applies if a person claims possession of goods entered
10 in the lost property register at a pool facility under section 10.

11 (2) A person may be given possession of the goods if the person—

12 (a) satisfies the operator of the pool facility or employee of the
13 operator that the person is entitled to possession of the goods;
14 and

15 (b) enters the person's signature and address in the lost property
16 register as evidence of receiving the goods.

17 **[2.23] Section 12**

18 *substitute*

19 **12 Uncollected goods—pool facilities**

20 (1) This section applies if goods have not been given to a person
21 entitled to possession of the goods within 3 months after the day the
22 operator of the pool facility or an employee of the operator took
23 possession of the goods under section 9 (Goods lost or abandoned at
24 pool facilities).

25 (2) The goods are taken to be uncollected goods and may be disposed of
26 under part 3 (Disposal of uncollected goods).

- 1 **[2.24] Dictionary, definitions of *leased public baths* and**
2 ***manager***
- 3 *omit*
- 4 **[2.25] Dictionary, new definitions**
- 5 *insert*
- 6 *operator*, of a pool facility—see the *Public Pools Act 2014*,
7 section 8.
- 8 *pool facility*—see the *Public Pools Act 2014*, section 10.
- 9 **[2.26] Dictionary, definition of *public baths***
- 10 *omit*

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
- adult
- AS (see s 164 (1))
- AS/NZS (see s 164 (2))
- Australian Standard (see s 164 (1))
- child
- Commonwealth
- director-general (see s 163)
- disallowable instrument (see s 9)
- document
- magistrate
- police officer
- public servant
- State
- statutory instrument (see s 13)
- the Territory.

assistance animal—see the [Domestic Animals Act 2000](#), dictionary.

authorised person, in relation to a pool facility, for part 5 (Refusing entry and removal powers)—see section 25 (1).

category 1 facility—see section 7.

condition of entry means a condition of entry included in a standard determined under section 15.

emergency closure order—see section 21.

- 1 ***facility management agreement*** means a contractual arrangement
2 with the Territory for the management of a pool facility.
- 3 ***inspector*** means an inspector mentioned in section 37.
- 4 ***law of another jurisdiction***—see the [Legislation Act](#),
5 section 47 (10).
- 6 ***licensed security guard***, for part 5 (Refusing entry and removal
7 powers)—see section 25 (1).
- 8 ***liquor***—see the [Liquor Act 2010](#), section 11.
- 9 ***low-alcohol liquor***—see the [Liquor Act 2010](#), dictionary.
- 10 ***maintenance direction***—see section 20 (2).
- 11 ***operator***, of a pool facility—see section 8.
- 12 ***pool***—see section 9.
- 13 ***pool facility***—see section 10.
- 14 ***pool fee guidelines***—see section 17.
- 15 ***premises*** includes land, structure, vehicle or boat.
- 16 ***prohibited article***—see section 18.
- 17 ***reviewable decision***, for part 8 (Notification and review of
18 decisions)—see section 49.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 27 November 2014.

2 Notification

Notified under the [Legislation Act](#) on 2014.

3 Republications of amended laws

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