

2016

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport and Municipal Services)

Waste Management and Resource Recovery Bill 2016

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FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Transport and Municipal Services)

Waste Management and Resource Recovery Bill 2016

A Bill for

An Act to provide for the minimisation of waste, the recovery, recycling and re-use of resources, 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 *Waste Management and Resource Recovery*
4 *Act 2016*.

5 **2 Commencement**

6 (1) This Act commences on a day fixed by the Minister by written
7 notice.

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

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

13 (2) If this Act has not commenced before 1 July 2017, it automatically
14 commences on that day.

15 (3) The [Legislation Act](#), section 79 (Automatic commencement of
16 postponed law) does not apply to this Act.

17 **3 Dictionary**

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

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

22 For example, the signpost definition '*affected person* for an original
23 decision, for part 15 (Reconsideration of decisions)—see section 112.'
24 means that the term 'affected person' is defined in that section for
25 part 15.

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

1 **4** **Notes**

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

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

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

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

7 *Note 1* *Criminal Code*

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

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

14 *Note 2* *Penalty units*

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

17 **6** **Relationship with Emergencies Act 2004**

18 (1) This Act does not apply to the exercise or purported exercise by a
19 relevant person of a function under the [Emergencies Act 2004](#) for
20 the purpose of protecting life or property, or controlling,
21 extinguishing or preventing the spread of a fire.

22 (2) In this section:

23 *emergency service*—see the [Emergencies Act 2004](#), dictionary.

24 *relevant person* means—

25 (a) the chief officer or a member of an emergency service; or

26 (b) any other person under the control of the chief officer of an
27 emergency service; or

28 (c) a police officer.

Part 1 Preliminary

Section 7

1 **7 Relationship with other laws**

2 This Act does not affect the operation of any other territory law.

1 Part 2 Objects and principles

2 8 Objects of Act

3 The objects of this Act are to—

- 4 (a) manage waste according to the following hierarchy:
- 5 (i) minimise the generation of waste;
- 6 (ii) maximise the recovery and re-use of resources;
- 7 (iii) minimise the amount of waste that goes to landfill; and
- 8 (b) support innovation and investment in waste management; and
- 9 (c) promote responsibility for waste reduction; and
- 10 (d) promote best-practice waste management.

11 9 Principles to be taken into account

- 12 (1) The objects of this Act are to be achieved by taking into account the
- 13 following principles:

- 14 (a) the inter-generational equity principle;
- 15 (b) the polluter pays principle;
- 16 (c) the precautionary principle;
- 17 (d) the proximity principle;
- 18 (e) the waste minimisation principle.

- 19 (2) In this section:

20 *inter-generational equity principle* means that the present

21 generation should ensure that the health, diversity and productivity

22 of the environment is maintained or enhanced for the benefit of

23 future generations.

24 *polluter pays principle* means that polluters should bear the

25 appropriate share of the costs that arise from their activities.

Part 2 Objects and principles

Section 9

1 ***precautionary principle*** means that, if there is a threat of serious or
2 irreversible environmental damage, a lack of full scientific certainty
3 should not be used as a reason for postponing measures to prevent
4 environmental degradation.

5 ***proximity principle*** means that waste and recovered resources
6 should be managed as close to the source of generation as possible.

7 ***waste minimisation principle*** means that waste is handled in a way
8 that minimises and, if practicable, eliminates harm to the
9 environment.

Part 3 Important concepts

10 Meaning of *waste*

In this Act:

waste includes the following:

- (a) any substance (whether solid, liquid or gaseous) that is discharged, emitted or deposited in the environment in such volume, constituency or manner as to cause an alteration in the environment;
- (b) any discarded, rejected, unwanted, surplus or abandoned substance, whether or not intended for sale, recycling, reprocessing, recovery or purification by a separate operation from that which produced it;
- (c) any other substance declared by regulation to be waste.

11 Meaning of *waste activity*

In this Act:

waste activity—

- (a) means any of the following activities carried out by a waste management business:
 - (i) collecting waste;
 - (ii) transporting waste;
 - (iii) storing, sorting, treating, processing, or disposing of waste; and

Example—processing of waste

- generating energy from waste material

Example—disposing of waste

- depositing waste in landfill

Note 1 Collecting or transporting waste is carried out by a *waste transporter* (see s 13).

1 *Note 2* Storing, sorting, treating, processing, or disposing of waste
2 happens at a *waste facility* (see s 14).

3 *Note 3* An example is part of the Act, is not exhaustive and may
4 extend, but does not limit, the meaning of the provision in
5 which it appears (see [Legislation Act](#), s 126 and s 132).

6 (b) for part 9 (Codes of practice)—includes the generation of
7 waste.

8 **12 Meaning of *waste management business***

9 In this Act:

10 *waste management business* includes—

11 (a) any of the following carried on, by a person or a group of
12 people acting together, with the dominant purpose of providing
13 services in relation to the handling of waste:

14 (i) a trade, industry, business or profession;

15 (ii) an activity carried on for a fee, benefit or reward; and

16 (b) a person or activity prescribed by regulation.

17 **13 Meaning of *waste transporter***

18 In this Act:

19 *waste transporter* means a waste management business that does
20 any of the following:

21 (a) collects waste;

22 (b) transports waste.

23 **14 Meaning of *waste facility***

24 In this Act:

25 *waste facility* means a site used by a waste management business for
26 the storage, sorting, treatment, processing, or disposal of waste.

1 **15 **Meaning of *waste facility licence*****

2 In this Act:

3 *waste facility licence* means a licence issued under section 22.

1 **Part 4 Waste manager**

2 **16 Appointment**

3 (1) The director-general must appoint a public servant as the Waste
4 Manager.

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

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

11 (2) However, the director-general may appoint a person as the waste
12 manager only if satisfied that the person has suitable qualifications
13 and experience to exercise the functions of the waste manager.

14 (3) An appointment is a notifiable instrument.

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

16 **17 Functions**

17 (1) The waste manager's functions are—

18 (a) to administer this Act; and

19 (b) any other function given to the waste manager by this Act or
20 another territory law.

21 (2) In the exercise of the waste manager's functions, the waste manager
22 must have regard to the objects and principles stated in part 2
23 (Objects and principles).

24 *Note* A provision of a law that gives an entity (including a person) a function
25 also gives the entity the powers necessary and convenient to exercise
26 the function (see [Legislation Act](#), s 196 (1) and dict, pt 1, defs of *entity*
27 and *function*).

1 Part 5 Waste facility licences

2 18 Requirement to hold a waste facility licence

3 A person must not operate a waste facility unless the person holds a
4 waste facility licence.

5 *Note* Section 105 (Unauthorised waste activity) makes it an offence to
6 operate a waste facility without a licence.

7 19 Application for licence

8 (1) A person may apply to the waste manager for a licence.

9 (2) The application must—

10 (a) be in writing; and

11 (b) include any information prescribed by regulation.

12 *Note 1* Giving false or misleading information is an offence against the
13 [Criminal Code](#), s 338.

14 *Note 2* If a form is approved under s 125 for an application, the form must be
15 used.

16 *Note 3* A fee may be determined under s 124 for an application.

17 20 Waste manager may request more information

18 (1) The waste manager may, by written notice, require an applicant for
19 a licence to give the waste manager more information—

20 (a) that the waste manager believes on reasonable grounds to be
21 information needed to decide the application; and

22 (b) within a stated time; and

23 (c) at a stated place.

24 (2) If the applicant does not comply with a requirement in the notice,
25 the waste manager may refuse to consider the application further.

26 *Note* A decision under this section is a reviewable decision (see s 117).

1 **21 Change of information must be provided**

2 (1) This section applies if the information in an application for a licence
3 changes before the application is decided.

4 (2) The applicant must give the waste manager written notice of the
5 particulars of the change.

6 **22 Decision about application for licence**

7 (1) The waste manager must, not later than 56 days after the day the
8 waste manager receives an application under section 19—

9 (a) approve the application; or

10 (b) refuse the application.

11 *Note 1* A fee may be determined under s 124 for a licence.

12 *Note 2* Failure to approve an application within the required time is taken to be
13 a decision not to approve the application (see [ACT Civil and](#)
14 [Administrative Tribunal Act 2008](#), s 12).

15 *Note 3* A decision under this section is a reviewable decision (see s 117).

16 (2) However, before approving an application for a licence, the waste
17 manager must consult an entity, prescribed by regulation, before the
18 waste manager approves a licence.

19 *Note* Power to make a regulation includes power to make different provision
20 in relation to different matters or different classes of matters, and to
21 make a regulation that applies differently by reference to stated
22 exceptions or factors (see [Legislation Act](#), s 48).

23 (3) Also, the waste manager—

24 (a) may approve the application only if satisfied that the applicant
25 complies, and is likely to continue to comply, with the
26 requirements of this Act; and

- 1 (b) may refuse the application if—
- 2 (i) the application is materially false or misleading; or
- 3 (ii) the applicant has, within 2 years before the application
- 4 was made, committed an offence under this Act or a
- 5 corresponding law of a State.
- 6 *Note* A reference to an Act includes a reference to the statutory instruments
- 7 made or in force under the Act, including any regulation (see
- 8 [Legislation Act](#), s 104).
- 9 (4) If the waste manager refuses the application, the waste manager
- 10 must as soon as practicable tell the applicant, in writing, the reason
- 11 for the refusal.
- 12 *Note* For how documents may be served, see the [Legislation Act](#), pt 19.5.
- 13 (5) If the waste manager approves the application the waste manager
- 14 must, as soon as practicable after deciding the application—
- 15 (a) tell the applicant—
- 16 (i) that the application is approved; and
- 17 (ii) that the applicant must pay a fee for the licence (the
- 18 ***licence fee***) before the licence can be issued; and
- 19 (iii) the day the licence fee is due; and
- 20 (b) allocate a unique number for the licence; and
- 21 (c) as soon as practicable after the applicant has paid the licence
- 22 fee—
- 23 (i) issue the licence; and
- 24 (ii) tell the applicant the unique number for the licence; and
- 25 (d) enter details for the licence in the register of waste facility
- 26 licenses.

1 **23 Licence conditions**

2 A licence is subject to—

- 3 (a) a condition that the licensee must comply with this Act; and
4 (b) any other condition the waste manager imposes when issuing
5 the licence.

6 **Examples—conditions—par (b)**

- 7 1 stating how food waste must be managed at a waste facility
8 2 imposing time limits on the storage of skips after collection, before the skips
9 must be taken to a waste facility
10 3 stating that a waste facility may not receive certain types of waste
11 4 imposing requirements about sorting or processing certain waste material
12 before using the residual waste for energy generation

13 *Note 1* A decision under this section is a reviewable decision (see s 117).

14 *Note 2* A reference to an Act includes a reference to the statutory instruments
15 made or in force under the Act, including any regulation (see
16 [Legislation Act](#), s 104).

17 *Note 3* An example is part of the Act, is not exhaustive and may extend, but
18 does not limit, the meaning of the provision in which it appears (see
19 [Legislation Act](#), s 126 and s 132).

20 **24 Form of licence**

21 (1) A licence must—

- 22 (a) be in writing; and
23 (b) include the following information:
24 (i) the name of the licensee;
25 (ii) a unique identifying number;
26 (iii) the term of the licence;
27 (iv) the conditions on the licence;
28 (v) any other information prescribed by regulation.

29 (2) A licence may include any other information the waste manager
30 considers relevant.

1 **25 Register of waste facility licences**

- 2 (1) The waste manager must keep a register of waste facility licences.
- 3 (2) The register must include—
- 4 (a) information, if any, prescribed by regulation; and
- 5 (b) any other information the waste manager considers relevant.
- 6 (3) The waste manager—
- 7 (a) may correct an error or omission in the register; and
- 8 (b) must change a detail included in the register to keep the
- 9 register accurate and up-to-date.
- 10 (4) The waste manager—
- 11 (a) must make the register available to an authorised person at no
- 12 cost; and
- 13 (b) may make the register available to any other person.

14 *Note 1* The Territory privacy principles (the *TPPs*) apply to the waste manager

15 (see *Information Privacy Act 2014*, sch 1). The TPPs deal with the

16 collection, storage and exchange of personal information.

17 *Note 2* A fee may be determined under s 124 for s (4) (b).

18 **26 Licensee must update details**

- 19 (1) This section applies if, to the knowledge of a licensee, any of the
- 20 information mentioned in section 25 (2) changes.
- 21 (2) The licensee must tell the waste manager, in writing, about the
- 22 change.

23 **27 Licence not transferable**

24 A licence issued to a licensee may not be transferred to another

25 person.

- 1 **28 Surrender of licence**
- 2 (1) A licensee may surrender a licence by giving the waste manager
- 3 written notice (a *surrender notice*) of an intention to surrender the
- 4 licence.
- 5 (2) A surrender notice—
- 6 (a) must include the following information:
- 7 (i) the name of the licensee;
- 8 (ii) the unique number for the surrendered licence;
- 9 (iii) the day on which the surrender notice is given to the
- 10 waste manager by the licensee;
- 11 (iv) any other information prescribed by regulation; and
- 12 (b) may nominate a day, that is on or after the day on which the
- 13 surrender notice is given to the waste manager, on which the
- 14 licensee wishes the surrender to take effect.
- 15 (3) The surrender of a licence takes effect on whichever of the
- 16 following happens first—
- 17 (a) the day that is—
- 18 (i) if the surrender notice does not nominate a day on which
- 19 the surrender takes effect—28 days after the day the
- 20 surrender notice is given to the waste manager; or
- 21 (ii) if the surrender notice does nominate a day on which the
- 22 surrender takes effect—the later of—
- 23 (A) the nominated day; and
- 24 (B) the day the surrender notice is given to the waste
- 25 manager; and

- 1 (b) if the licensee fails to pay the fee for the licence that is the
2 subject of the surrender notice on the day (the *payment day*)
3 the fee for the licence next becomes payable—the day after the
4 payment day.

5 *Note* The day on which a licence ends is determined under s 29.

6 **29 Term of licence**

7 A licence—

- 8 (a) begins on the day after the day the licence fee is paid; and
9 (b) ends on whichever of the following happens first:
10 (i) if the licence is surrendered—the day the surrender of the
11 licence takes effect under section 28 (Surrender of
12 licence);
13 (ii) if the licence is cancelled—the day the licence
14 cancellation takes effect under section 46 (4) (Taking
15 regulatory action);
16 (iii) if the licensee fails to pay the fee for the licence on the
17 day (the *payment day*) the fee for the licence next
18 becomes payable—the day after the payment day.

1 **Part 6** **Waste transporter registration**

2 **30 Requirement to be registered as waste transporter**

3 A person must not operate as a waste transporter unless the person is
4 registered.

5 *Note* Section 105 (Unauthorised waste activity) makes it an offence to carry
6 on business as a waste transporter if not registered.

7 **31 Application to be registered**

8 (1) A person may apply to the waste manager to be registered as a waste
9 transporter.

10 (2) The application must—

11 (a) be in writing; and

12 (b) include any information prescribed by regulation.

13 *Note 1* Giving false or misleading information is an offence against the
14 [Criminal Code](#), s 338.

15 *Note 2* If a form is approved under s 125 for an application, the form must be
16 used.

17 *Note 3* A fee may be determined under s 124 for an application.

18 **32 Waste manager may request more information**

19 (1) The waste manager may, by written notice, require an applicant
20 applying to be registered to give the waste manager more
21 information—

22 (a) that the waste manager believes on reasonable grounds to be
23 information needed to decide the application; and

24 (b) within a stated time; and

25 (c) at a stated place.

26 (2) If the applicant does not comply with a requirement in the notice,
27 the waste manager may refuse to consider the application further.

28 *Note* A decision under this section is a reviewable decision (see s 117).

1 **33 Change of information must be provided**

- 2 (1) This section applies if the information in an application under
3 section 31 changes before the application is decided.
- 4 (2) The applicant must give the waste manager written notice of the
5 particulars of the change.

6 **34 Decision about application for registration**

- 7 (1) The waste manager must, not later than 30 days after the day the
8 waste manager receives an application under section 31
9 (Application to be registered)—
- 10 (a) approve the application subject to a condition prescribed by
11 regulation; or
- 12 (b) refuse the application.

13 *Note 1* A fee may be determined under s 124 for an application.

14 *Note 2* Failure to approve an application is taken to be a decision refusing to
15 approve the application (see [ACT Civil and Administrative Tribunal
16 Act 2008](#), s 12).

17 *Note 3* A decision under this section is a reviewable decision (see s 117).

- 18 (2) However, the waste manager—
- 19 (a) may approve the application only if satisfied that the applicant
20 complies, and is likely to continue to comply, with the
21 requirements of this Act; and
- 22 (b) may refuse the application if—
- 23 (i) the application is materially false or misleading; or
- 24 (ii) the applicant has, within 2 years before the application
25 was made, committed an offence under this Act or a
26 corresponding law of a State.

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

1 (3) If the waste manager refuses the application, the waste manager
2 must as soon as practicable tell the applicant in writing the reason
3 for the refusal.

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

5 (4) If the waste manager approves the application the waste manager
6 must—

7 (a) as soon as practicable after deciding the application, tell the
8 applicant—

9 (i) that the application is approved; and

10 (ii) that the applicant must pay a fee for the registration (the
11 **registration fee**) before the applicant's details can be
12 entered in the register; and

13 (iii) the day the registration fee is due; and

14 (b) as soon as practicable after the applicant has paid the
15 registration fee—

16 (i) enter the applicant's details in the register of waste
17 transporters; and

18 (ii) allocate a unique registration number (a **registration**
19 **number**) for the registered person; and

20 (iii) tell the registered person, in writing, that the person has
21 been registered and the person's registration number.

22 *Note* A fee may be determined under s 124 for registration.

23 **35 Waste transporter must display registration number**

24 (1) A registered waste transporter must, within 30 days after being told
25 the waste transporter's registration number, display the number
26 clearly and permanently on any vehicle used by the registered waste
27 transporter for transporting waste.

28 (2) A regulation may prescribe requirements for the display of a
29 registration number.

1 **36** **Entry in register not transferable**

2 The registration of a waste transporter may not be transferred to
3 another person.

4 **37** **Register of waste transporters**

5 (1) The waste manager must keep a register of registered waste
6 transporters.

7 (2) The register must include—

8 (a) information, if any, prescribed by regulation; and

9 (b) any other information the waste manager considers relevant.

10 (3) The waste manager—

11 (a) may correct an error or omission in the register; and

12 (b) must change information included in the register to keep the
13 register accurate and up-to-date.

14 (4) The waste manager—

15 (a) must make the register available at no cost to an authorised
16 person; and

17 (b) may make the register available to any other person.

18 *Note 1* The Territory privacy principles (the *TPPs*) apply to the waste manager
19 (see *Information Privacy Act 2014*, sch 1). The *TPPs* deal with the
20 collection, storage and exchange of personal information.

21 *Note 2* A fee may be determined under s 124 for s (4) (b).

22 **38** **Waste transporter must update details**

23 (1) This section applies if, to the knowledge of a registered waste
24 transporter, any of the information mentioned in section 37 (2)
25 changes.

26 (2) The registered waste transporter must tell the waste manager, in
27 writing, about the change.

1 **39 Approval of GPS tracking device**

2 (1) The waste manager may, for section 40, approve a device that uses
3 the global positioning system to keep track of the location of a
4 motor vehicle.

5 (2) An approval is a notifiable instrument.

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

7 **40 GPS to be fitted to vehicles**

8 (1) This section applies if a registered waste transporter—

9 (a) has been convicted of an offence against this Act or a
10 corresponding law of a State; or

11 (b) has had its entitlement to be registered suspended or cancelled.

12 (2) The waste manager may, by written notice, require the registered
13 waste transporter to ensure that—

14 (a) an approved GPS tracking device is installed, used and
15 maintained, in the way stated in the notice, on a vehicle that is
16 used by the registered waste transporter to transport waste; and

17 (b) the device is not tampered with.

18 *Note* A decision under this subsection is a reviewable decision (see s 117).

19 (3) A person commits an offence if—

20 (a) the person is a registered waste transporter; and

21 (b) notice under subsection (2) is given to the person; and

22 (c) the person engages in conduct; and

23 (d) as a result of the conduct waste is transported in a vehicle; and

24 (e) the vehicle does not have an approved GPS tracking device
25 installed and maintained as required in the notice mentioned in
26 subsection (2).

27 Maximum penalty: 100 penalty units.

- 1 (4) A person commits an offence if—
2 (a) the person tampers with a GPS tracking device installed in a
3 vehicle; and
4 (b) the device was installed, and is required to operate, in the
5 vehicle in accordance with a notice mentioned in
6 subsection (2).

7 Maximum penalty: 100 penalty units.

- 8 (5) In this section:

9 *approved GPS tracking device* means a device approved under
10 section 39.

11 **41 Termination of registration by registered waste**
12 **transporter**

- 13 (1) A registered waste transporter may terminate its registration by
14 giving the waste manager written notice of intention to terminate the
15 registration (a *termination notice*).
16 (2) A registration terminated in accordance with subsection (1) takes
17 effect on whichever of the following happens first:
18 (a) if the termination notice does not state a date on which the
19 registration takes effect—the day that is 4 weeks after the day
20 the notice is given to the waste manager;
21 (b) if the termination notice states a date on which the registration
22 takes effect—the stated date;
23 (c) the day on which the next fee for registration becomes payable.

1 **42 Term of registration**

2 A waste transporter's registration—

3 (a) begins on the day the waste manager enters the waste
4 transporter's details in the register of waste transporters; and

5 (b) ends on whichever of the following happens first—

6 (i) if the registration is terminated—the day the termination
7 of the registration takes effect under
8 section 41 (Termination of registration by registered
9 waste transporter); or

10 (ii) if the registration is cancelled—the day registration
11 cancellation takes effect under section 46 (3) (Taking
12 regulatory action); or

13 (iii) if the waste transporter fails to pay the next fee for the
14 registration on or before the day (the *payment day*) on
15 which the fee becomes payable—on the day after the
16 payment day.

Part 7 Regulatory action

43 Definitions—pt 7

In this part:

regulatory action, against a person, means—

- (a) if the person is a licensee—any of the following actions:
 - (i) imposing, or amending, a condition on the licence;
 - (ii) suspending the licence for either a fixed period or until a particular event happens;
 - (iii) disqualifying the licensee from applying for another licence for a fixed period or until a particular event happens;
 - (iv) cancelling the licence; or
- (b) if the person is a registered waste transporter—any of the following actions:
 - (i) imposing or amending a condition on the registration;
 - (ii) suspending the registration for either a fixed period or until a particular event happens;
 - (iii) disqualifying the person from applying for registration for a fixed period or until a particular event happens;
 - (iv) cancelling the registration of the person.

show cause notice—see section 45 (1).

1 **44 Waste manager may consider regulatory action against**
2 **person**

3 The waste manager may consider taking regulatory action against a
4 licensee, or a registered waste transporter, only if the waste manager
5 is satisfied on reasonable grounds that—

6 (a) for action against a licensee—the person engaged in any of the
7 following conduct:

8 (i) stopped operating a waste facility that is the subject of the
9 licence;

10 (ii) used false or misleading information to obtain the licence;

11 (iii) contravened a condition of the licence;

12 (iv) failed to comply with a provision of this Act; or

13 (b) for action against a registered waste transporter—the registered
14 waste transporter engaged in any of the following conduct:

15 (i) used false or misleading information to become a
16 registered waste transporter;

17 (ii) contravened a condition of being registered;

18 (iii) failed to comply with a provision of this Act.

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

22 **45 Notification of proposed regulatory action**

23 (1) If the waste manager proposes taking regulatory action against a
24 person, the waste manager must give the person a written notice
25 (a *show cause notice*) stating—

26 (a) the grounds on which, under section 44, the waste manager
27 considers regulatory action may be taken; and

28 (b) details of the proposed regulatory action; and

- 1 (c) that the person may, not later than 14 days after the day the
2 person is given the notice, give a written submission to the
3 waste manager about the proposed regulatory action.
- 4 (2) The waste manager must consider any submission received by the
5 waste manager in response to the show cause notice when making a
6 decision to take or not take regulatory action against the person.
- 7 (3) However, subsection (2) does not apply if the waste manager gives
8 the person an immediate suspension notice under
9 section 48 (Immediate suspension of licence or registration if risk to
10 public safety).

11 **46 Taking regulatory action**

- 12 (1) This section applies if the waste manager—
- 13 (a) has considered a submission mentioned in section 45 (2)
14 received from a person; and
- 15 (b) is satisfied on reasonable grounds that it is appropriate, in all
16 the circumstances, to take the regulatory action.
- 17 (2) The waste manager may—
- 18 (a) if the proposed regulatory action is imposing or amending a
19 condition on a licence, or on a registration—impose or amend
20 the condition; or
- 21 (b) if the proposed regulatory action is suspending a licence or a
22 registration—take any of the following action:
- 23 (i) the action mentioned in paragraph (a);
- 24 (ii) suspend the licence or registration for a period; or
- 25 (c) if the proposed regulatory action is disqualifying a person from
26 applying for a further licence or further registration—take
27 any of the following action:
- 28 (i) the action mentioned in paragraph (b);
- 29 (ii) disqualify the person from applying for a further licence
30 or further registration for a period; or

1 (d) if the proposed regulatory action is cancelling a licence or a
2 registration—take any of the following action:

3 (i) the action mentioned in paragraph (c);

4 (ii) cancel the licence or registration.

5 *Note* A decision under this subsection is a reviewable decision (see s 117).

6 (3) Before taking regulatory action against a person under this section
7 the waste manager must tell the person, by written notice (a *notice*
8 *of regulatory action*)—

9 (a) the regulatory action that will be taken; and

10 (b) the day on which the regulatory action takes effect (the *day of*
11 *effect*).

12 (4) Regulatory action takes effect against a person on the day of effect.

13 (5) In this section:

14 *proposed regulatory action*, in relation to a person, means
15 regulatory action mentioned in a show cause notice given to the
16 person under section 45 (1).

17 **47 Not taking regulatory action**

18 (1) This section applies if, after considering a submission under
19 section 45 (2) received from a person, the waste manager is satisfied
20 on reasonable grounds that regulatory action against the person—

21 (a) may not be taken; or

22 (b) may be taken, but that in all the circumstances it is not
23 appropriate to take the action.

24 (2) The waste manager must give the person written notice telling the
25 person that regulatory action will not be taken against the person in
26 relation to the matters raised in the show cause notice.

- 1 **48** **Immediate suspension of licence or registration if risk to**
2 **public safety**
- 3 (1) This section applies if—
- 4 (a) the waste manager gives a show cause notice, under
5 section 45 (1), to a person; and
- 6 (b) having regard to the grounds stated in the notice, the waste
7 manager believes on reasonable grounds that the person’s
8 licence or registration in the register of waste transporters
9 should be suspended immediately because of a risk to public
10 safety.
- 11 (2) The waste manager must give the person a written notice
12 (an *immediate suspension notice*) suspending the person’s licence
13 or registration.
- 14 (3) A suspension under this section takes effect when the immediate
15 suspension notice is given to the licensee.
- 16 (4) A suspension under this section ends—
- 17 (a) if regulatory action is taken against the person—when
18 whichever of the following happens first:
- 19 (i) regulatory action takes effect;
- 20 (ii) 30 days after the day the immediate suspension notice is
21 given to the person; or
- 22 (b) if regulatory action is not taken against the person—when
23 whichever of the following happens first:
- 24 (i) when the person is given written notice of the waste
25 manager’s decision not to take regulatory action;
- 26 (ii) 30 days after the day the immediate suspension notice is
27 given to the person.
- 28 *Note* A decision under this section is a reviewable decision (see s 117).

- 1 **49 Effect of suspension**
- 2 (1) A suspended licence or registration does not authorise the carrying
- 3 on of any activity under the licence or registration during the
- 4 suspension.
- 5 (2) If the waste manager suspends a licence or registration, the person
- 6 whose licence or registration is suspended is, during the
- 7 suspension—
- 8 (a) taken not to—
- 9 (i) hold the licence; or
- 10 (ii) be registered; and
- 11 (b) disqualified from applying for a licence or registration.
- 12 **50 Offence—fail to return amended, suspended or cancelled**
- 13 **licence**
- 14 (1) A person commits an offence if—
- 15 (a) the person was issued a licence; and
- 16 (b) the waste manager decides to amend, suspend or cancel the
- 17 licence in a decision made under this part; and
- 18 (c) the person fails to return the licence to the waste manager
- 19 within 7 days after the day the person is given a reviewable
- 20 decision notice under section 117 (Notice of decisions on
- 21 reconsideration) about the decision.
- 22 Maximum penalty: 10 penalty units.
- 23 (2) An offence against this section is a strict liability offence.
- 24 **51 Action by waste manager in relation to amended or**
- 25 **suspended licence**
- 26 (1) This section applies if—
- 27 (a) a licence is amended or suspended under this part; and
- 28 (b) the licence is returned to the waste manager.

- 1 (2) For an amended licence, the waste manager must—
- 2 (a) return the amended licence to the licensee; or
- 3 (b) give the licensee a replacement licence that includes the
- 4 amendment.
- 5 (3) For a suspended licence, if the suspension ends before the end of the
- 6 term of the licence, the waste manager must return the licence to the
- 7 licensee when the suspension ends.

1 **Part 8 Financial assurances**

2 **52 Waste manager may require financial assurance**

- 3 (1) The waste manager may require a licensee to provide a financial
4 assurance to the waste manager if satisfied that the assurance is
5 justified to ensure compliance with a licence.
- 6 (2) Before requiring a financial assurance under subsection (1), the
7 waste manager must consider—
- 8 (a) the nature of the waste activity; and
9 (b) the compliance record of the licensee; and
10 (c) the likelihood that remedial action will be necessary if the
11 licensee fails to comply with a condition of the licence.
- 12 (3) A financial assurance must be in the form of—
- 13 (a) an unconditional bank guarantee; or
14 (b) a bond; or
15 (c) an insurance policy; or
16 (d) another form of security that the waste manager considers
17 appropriate.
- 18 (4) The waste manager must not require a financial assurance of an
19 amount greater than the total amount that the waste manager
20 reasonably believes is necessary to remedy the foreseeable harm that
21 could result from the failure to comply with the licence.
- 22 (5) A financial assurance must be provided—
- 23 (a) for the period stated in the licence; or
24 (b) if no period is stated, until the end of the licence.
- 25 (6) The waste manager may require the licensee to give a financial
26 assurance under this part, even though the person has given a
27 financial assurance under the *Environment Protection Act 1997*,
28 division 9.4.

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- 1 **53** **Show cause why financial assurance should not be**
2 **provided**
- 3 (1) If the waste manager proposes to issue a licence subject to a
4 condition requiring a financial assurance, the waste manager must
5 give written notice of the waste manager's intention to impose the
6 condition to the person who applies for the licence (the *applicant*).
- 7 (2) A notice under subsection (1) must—
- 8 (a) state the grounds on which the condition is proposed; and
- 9 (b) state the amount and form of the financial assurance proposed;
10 and
- 11 (c) invite the applicant to show cause why the condition should not
12 be imposed; and
- 13 (d) state the date, not earlier than 20 working days after the date of
14 the notice, by which any representations under paragraph (c)
15 must be made.
- 16 (3) Within 20 working days after the end of the period allowed under
17 subsection (2) (d) for representations, the waste manager must—
- 18 (a) tell the applicant whether or not the condition will be imposed;
19 and
- 20 (b) if it will be imposed—state in the notice the date, not earlier
21 than 10 working days after the date of the notice, by which the
22 financial assurance must be provided.
- 23 **54** **Non-provision of financial assurance**
- 24 If a financial assurance required as a condition of a licence is not
25 provided by the due date, the waste manager must cancel the
26 licence.

- 1 **55 Claim on or realisation of financial assurance**
- 2 (1) This section applies if the waste manager incurs, or will incur, costs
3 and expenses in taking action to remedy harm—
- 4 (a) caused, or likely to be caused, by failure to comply with a
5 licence; and
- 6 (b) that is within the class of harm in relation to which the
7 financial assurance may be claimed or realised; and
- 8 (c) that was not allowed under this Act.
- 9 (2) The waste manager may recover the reasonable costs and expenses
10 of taking the action by making a claim on or realising the financial
11 assurance or part of it.
- 12 **56 Notice before claim on or realisation of financial**
13 **assurance**
- 14 (1) Before acting under section 55 (2), the waste manager must give to
15 the licensee in relation to which the financial assurance was
16 provided, a written notice—
- 17 (a) stating the harm caused, or likely to be caused, by the failure to
18 comply with the licence; and
- 19 (b) giving details of the action taken, or to be taken, to remedy the
20 harm; and
- 21 (c) stating the amount of the financial assurance to be claimed or
22 realised; and
- 23 (d) inviting the licensee to make a written representation to the
24 waste manager by a stated date, not earlier than 20 working
25 days after the date of the notice, to show why the financial
26 assurance should not be claimed or realised as proposed.

- 1 (2) The waste manager must, within 20 working days after the date
2 stated in the invitation under subsection (1) (d) and taking into
3 account any representations made in response to the invitation—
- 4 (a) decide whether or not to make a claim on or realise the
5 financial assurance or part of it; and
- 6 (b) give the licensee written notice of the decision.

7 **57 Financial assurance not affect other action**

8 A financial assurance may be called on and used, despite and
9 without affecting—

- 10 (a) the liability of a licensee or former licensee to any penalty for
11 an offence for a contravention to which the assurance relates;
12 and
- 13 (b) any other action that might be taken or is required to be taken
14 in relation to any contravention or other circumstances to
15 which the assurance relates.

16 **58 Recovery of extra costs**

- 17 (1) This section applies if the amount recovered by the waste manager
18 by a claim on or by realising a financial assurance (the *realised*
19 *assurance*) is less than the reasonable costs and expenses that the
20 waste manager incurred or will incur in taking action to remedy the
21 harm caused, or likely to be caused, by a failure to comply with a
22 condition of a licence (the *reasonable costs and expenses*).
- 23 (2) The waste manager may give the licensee written notice requiring
24 the licensee to pay a stated amount that is the difference between the
25 reasonable costs and expenses and the realised assurance.
- 26 (3) The notice must state the date, not earlier than 20 working days after
27 the date of the notice, by which the stated amount is required to be
28 paid.

- 1 (4) Subsection (4) applies if—
- 2 (a) the waste manager has given a licensee written notice under
- 3 subsection (1); and
- 4 (b) the licensee has failed to pay the stated amount by the stated
- 5 date.
- 6 (5) Any part of the stated amount that remains unpaid, together with
- 7 interest on the unpaid amount, is a debt due to the Territory by the
- 8 holder.

9 *Note* A rate of interest may be determined under s 124 for s (4).

10 **59 Money held by Territory as financial assurance**

- 11 (1) If an amount of money is held by the Territory as a financial
- 12 assurance or part of a financial assurance in relation to a licence, the
- 13 following provisions apply:
- 14 (a) interest accrues on so much of the original amount as from
- 15 time to time remains unclaimed by the waste manager under
- 16 section 55 (Claim on or realisation of financial assurance);
- 17 *Note* A rate of interest may be determined under s 124 for par (a).
- 18 (b) for any claim the waste manager may make under section 55,
- 19 the financial assurance is taken to include any accrued interest
- 20 other than interest to which the licensee is entitled to be paid
- 21 under paragraph (c);
- 22 (c) during the period the financial assurance is required, on each
- 23 anniversary of the payment of the original amount, the licensee
- 24 is entitled to be paid by the Territory so much of the interest
- 25 that accrued during the year that ended on the day before the
- 26 anniversary as remains unclaimed by the waste manager under
- 27 section 55.

- 1 (2) Subsection (3) applies if—
- 2 (a) the financial assurance is no longer required by the waste
- 3 manager; or
- 4 (b) the licence has ended.
- 5 (3) The Territory must pay to the licensee any part of the original
- 6 amount and accrued interest that remains unclaimed by the waste
- 7 manager under section 55.

1 **Part 9 Codes of practice**

2 **60 Code of practice—approval**

- 3 (1) The Minister may approve a code of practice in relation to a waste
4 activity.

5 **Examples—codes of practice in relation to a waste activity**

- 6 1 code of practice for disposal of waste from a demolition or construction site
7 2 code of practice for collection, handling and treatment of putrescibles waste
8 3 code of practice for storage and placement for collection of domestic waste

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) An approved code of practice may apply, adopt or incorporate an
13 instrument, as in force from time to time.

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

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

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

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

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

24 **61 Failure to comply with approved code of practice**

- 25 (1) A person commits an offence if—
26 (a) an approved code of practice applies to the person; and
27 (b) the person engages in conduct; and
28 (c) the conduct results in a failure to comply with a requirement of
29 the approved code of practice; and

- 1 (d) the person is reckless about whether the conduct complies with
2 the approved code of practice.
- 3 Maximum penalty: 100 penalty units.
- 4 (2) A person commits an offence if—
- 5 (a) an approved code of practice applies to the person; and
6 (b) the person fails to comply with a requirement of the approved
7 code of practice.
- 8 Maximum penalty: 50 penalty units.
- 9 (3) An offence against subsection (2) is a strict liability offence.
- 10 (4) Subsections (1) and (2) do not apply if—
- 11 (a) a written direction has been given to the person under
12 section 62 in relation to the requirement; and
13 (b) the person has complied with the direction.
- 14 *Note* The defendant has an evidential burden in relation to the matters
15 mentioned in s (4) (see [Criminal Code](#), s 58).

16 **62 Direction to comply with approved code**

- 17 (1) An authorised person may give a person a written direction to
18 rectify a breach of an approved code of practice if the authorised
19 person believes on reasonable grounds that—
- 20 (a) the person has been, is or is likely to be, in breach of a
21 requirement of the code; and
22 (b) the person has not previously been convicted, or found guilty,
23 of an offence under section 61.
- 24 (2) A direction must—
- 25 (a) state the requirement of the approved code of practice that has
26 been breached and the conduct constituting the breach; and
27 (b) state a reasonable time within which the direction must be
28 complied with; and

Part 9 Codes of practice

Section 62

- 1 (c) include a statement that the person may be prosecuted under
2 section 61 if the person fails to comply with the direction.
- 3 (3) The authorised person may withdraw a written direction if, after
4 giving the direction to a person, the authorised person discovers that
5 the person has previously been convicted, or found guilty, of an
6 offence under section 61.

1 Part 10 Reporting

2 63 Waste activity report

- 3 (1) A licensee or registered waste transporter must give the waste
4 manager a report (a *waste activity report*), in writing, about waste
5 activities carried out in a reporting period.

6 *Note* If a form is approved under s 125 for this provision, the form must be
7 used.

- 8 (2) The report must—

9 (a) contain information prescribed by regulation; and

10 (b) be given to the waste manager not later than 1 month after the
11 end of the reporting period.

- 12 (3) In this section:

13 *reporting period* means the period prescribed by regulation.

14 64 Offence—fail to report to waste manager

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

16 (a) is required to give the waste manager a report under section 63;
17 and

18 (b) fails to give the report to the waste manager in accordance with
19 section 63 (2).

20 Maximum penalty: 50 penalty units.

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

1 **Part 11 Exemptions**

2 **65 Declaration exempting person or activity**

3 (1) The waste manager may, on application or on the manager's own
4 initiative, declare the following exempt from a provision of this Act:

5 (a) a person or class of people;

6 (b) waste activity of a particular kind or generally.

7 *Note 1* If a form is approved under s 125 for an application, the form must be
8 used.

9 *Note 2* A fee may be determined under s 124 for an application.

10 *Note 3* A reference to an Act includes a reference to the statutory instruments
11 made or in force under the Act, including any regulation (see
12 [Legislation Act](#), s 104).

13 (2) A declaration under subsection (1) may be made only—

14 (a) in an emergency; or

15 **Examples—emergency**

- 16 • fire
- 17 • flood
- 18 • fuel shortage

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

22 (b) if the waste manager is satisfied that—

23 (i) it is not practicable to comply with the provision; and

24 (ii) noncompliance with the provision will not have any
25 significant adverse effect on public health, property or the
26 environment.

27 *Note* A decision under this section is a reviewable decision (see s 117).

28 (3) An exemption in a declaration may include conditions.

- 1 (4) A declaration—
- 2 (a) made in circumstances mentioned in subsection (2) (a)—is a
- 3 notifiable instrument; and
- 4 *Note* A notifiable instrument must be notified under the [Legislation](#)
- 5 [Act](#).
- 6 (b) made in circumstances mentioned in subsection (2) (b)—is a
- 7 disallowable instrument.
- 8 *Note* A disallowable instrument must be notified, and presented to the
- 9 Legislative Assembly, under the [Legislation Act](#).
- 10 (5) A declaration made in an emergency may commence when it is
- 11 made or on a later date stated in the declaration.

12 **66 Renewal of declaration**

- 13 (1) The waste manager may renew a declaration.
- 14 (2) An exemption, under a declaration, given to a person within 5 years
- 15 after the expiry of an earlier exemption, and in the same terms as the
- 16 earlier exemption, is taken to be a renewal of the earlier exemption.

17 **67 Term of declaration**

18 A declaration, including renewal of the declaration, may not be in

19 force for a total period of more than 5 years.

1 **Part 12 Enforcement**

2 **Division 12.1 Directions**

3 **68 Direction to stop contravening Act etc**

- 4 (1) This section applies if the waste manager believes on reasonable
5 grounds that a person is contravening this Act, a condition of a
6 licence or a condition of registration as a waste transporter.

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

- 10 (2) The waste manager may direct the person to comply with this Act,
11 or the condition by doing, or not doing, a thing (a ***compliance***
12 ***direction***).

13 *Note* A decision under this section is a reviewable decision (see s 117).

- 14 (3) A compliance direction may require the person to carry out remedial
15 action if the waste manager considers the action is necessary to
16 restore land that is damaged because of the person's contravention.

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

18 (a) the thing required to be done, or not done; and

19 (b) the period for compliance with the direction.

20 *Note* The power to make a direction includes the power to amend or repeal
21 the direction. The power to amend or repeal the direction is exercisable
22 in the same way, and subject to the same conditions, as the power to
23 make the direction (see [Legislation Act](#), s 46).

24 **69 Directions—stockpiling materials and delivering waste**

- 25 (1) The waste manager may give a person directions in relation to the
26 following:

27 (a) stockpiling waste;

28 (b) delivering waste to a named waste facility;

29 (c) an activity prescribed by regulation.

1 (2) The waste manager may give a person a direction under
2 subsection (1) (b) even though the direction is contrary to the
3 person’s obligation in relation to the delivery of the waste under a
4 licence.

5 *Note* A decision under this section is a reviewable decision (see s 117).

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

7 (a) the thing required to be done, or not done; and

8 (b) the period for compliance with the direction.

9 *Note* The power to make a direction includes the power to amend or repeal
10 the direction. The power to amend or repeal the direction is exercisable
11 in the same way, and subject to the same conditions, as the power to
12 make the direction (see [Legislation Act](#), s 46).

13 **70 Offence—fail to comply with direction**

14 (1) A person commits an offence if—

15 (a) the waste manager gives the person a direction under
16 section 68 or section 69; and

17 (b) the person fails to comply with the direction.

18 Maximum penalty: 50 penalty units.

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

1 **Division 12.2 Authorised people**

2 **Subdivision 12.2.1 General**

3 **71 Definitions—div 12.2**

4 In this division:

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

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

10 *occupier*, of premises, includes—

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

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

16 *premises* includes land.

17 *warrant* means a warrant issued under subdivision 12.2.3 (Search
18 warrants).

19 **72 Appointment**

20 The director-general may appoint a public servant as an authorised
21 person for this Act.

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

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

- 1 **73 Identity cards**
- 2 (1) The director-general must give each authorised person an identity
- 3 card that states the person's name and appointment as an authorised
- 4 person, and shows—
- 5 (a) a recent photograph of the person; and
- 6 (b) the date of issue of the card; and
- 7 (c) the date of expiry of the card; and
- 8 (d) anything else prescribed by regulation.
- 9 (2) A person commits an offence if the person—
- 10 (a) stops being an authorised person; and
- 11 (b) does not return the person's identity card to the
- 12 director-general as soon as practicable (but within 7 days) after
- 13 the day the person stops being an authorised person.
- 14 Maximum penalty: 1 penalty unit.
- 15 (3) Subsection (2) does not apply to a person if the person's identity
- 16 card is—
- 17 (a) lost or stolen; or
- 18 (b) destroyed by someone else.
- 19 (4) An offence against this section is a strict liability offence.
- 20 **74 Authorised person must show identity card on exercising**
- 21 **power**
- 22 (1) If an authorised person exercises a power under this Act that affects
- 23 an individual, the authorised person must first show the authorised
- 24 person's identity card to the individual.

- 1 (2) If an authorised person exercises a power under this Act that affects
2 a person, other than an individual, the authorised person must first
3 show the authorised person's identity card to an individual the
4 authorised person believes on reasonable grounds is an employee,
5 officer or agent of the person.

6 **Example—person other than an individual**

- 7 • corporation
8 • partnership

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 **Subdivision 12.2.2 Powers**

13 **75 Power to enter premises**

- 14 (1) For this Act, an authorised person may—
- 15 (a) at any reasonable time, enter premises that the public is entitled
16 to use or that are open to the public (whether or not on
17 payment of money); or
- 18 (b) at any time, enter premises with the occupier's consent; or
- 19 (c) at any time, enter premises if the authorised person believes on
20 reasonable grounds that—
- 21 (i) there is a risk to the environment or to public health and
22 safety; and
- 23 (ii) the risk is so serious and urgent that immediate entry to
24 the premises without the authority of a search warrant is
25 necessary; or
- 26 (d) enter premises in accordance with a search warrant.

- 1 (2) However—
- 2 (a) subsection (1) (a) does not authorise entry into a part of the
- 3 premises that is being used only for residential purposes; and
- 4 (b) subsection (1) (c) does not authorise entry into premises that
- 5 are used for residential purposes, unless the premises are also
- 6 the place from which a waste management business is
- 7 conducted.
- 8 (3) An authorised person may, without the consent of the occupier of
- 9 premises, enter land around the premises to ask for consent to enter
- 10 the premises.
- 11 (4) To remove any doubt, an authorised person may enter premises
- 12 under subsection (1) without payment of an entry fee or other
- 13 charge.
- 14 (5) An authorised person may—
- 15 (a) for subsection (1) (a), (b) or (c)—enter the premises with
- 16 necessary assistance; and
- 17 (b) for subsection (1) (d)—enter the premises with necessary
- 18 assistance and force.
- 19 *Note* A search warrant to enter premises, issued under this Act, permits an
- 20 authorised person to enter premises with any necessary assistance and
- 21 force.
- 22 (6) In this section:
- 23 ***necessary assistance***, for an authorised person entering premises,
- 24 includes the attendance of 1 or more people who, in the opinion of
- 25 the authorised person, have knowledge or skills that could assist the
- 26 authorised person carry out his or her function.

27 **76 Production of identity card**

28 An authorised person and any other person other than a police

29 officer who is accompanying the authorised person may not remain

30 at premises entered under this part if the authorised person does not

31 produce his or her identity card when asked by the occupier.

- 1 **77 Consent to entry**
- 2 (1) When seeking the consent of an occupier to enter premises under
- 3 section 75 (1) (b) (Power to enter premises), an authorised person
- 4 must—
- 5 (a) produce his or her identity card; and
- 6 (b) tell the occupier—
- 7 (i) the purpose of the entry; and
- 8 (ii) the reason for, and identity of, any other person
- 9 accompanying the authorised person; and
- 10 (iii) that anything found and seized under this part may be
- 11 used in evidence in court; and
- 12 (iv) that consent may be refused.
- 13 (2) If the occupier consents, the authorised person must ask the occupier
- 14 to sign a written acknowledgment (an *acknowledgment of*
- 15 *consent*)—
- 16 (a) that the occupier was told—
- 17 (i) the purpose of the entry; and
- 18 (ii) the reason for, and identity of, any other person
- 19 accompanying the authorised person; and
- 20 (iii) that anything found and seized under this part may be
- 21 used in evidence in court; and
- 22 (iv) that consent may be refused; and
- 23 (b) that the occupier consented to the entry; and
- 24 (c) stating the time and date when consent was given.
- 25 (3) If the occupier signs an acknowledgment of consent, the authorised
- 26 person must immediately give a copy to the occupier.

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

8 **78 General powers on entry to premises**

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

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

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

24 Maximum penalty: 50 penalty units.

25 **79 Power to seize things**

- 26 (1) An authorised person who enters premises under this part with the
27 occupier's consent may seize anything at the premises if seizure of
28 the thing is consistent with the purpose of the entry told to the
29 occupier when seeking the occupier's consent.

- 1 (2) An authorised person who enters premises under a warrant under
2 this part may seize anything at the premises that the authorised
3 person is authorised to seize under the warrant.
- 4 (3) An authorised person who enters premises under this part (whether
5 with the occupier's consent, under a warrant or otherwise) may seize
6 anything at the premises if satisfied on reasonable grounds that—
- 7 (a) the thing is connected with an offence against this Act; and
8 (b) the seizure is necessary to prevent the thing from being—
9 (i) concealed, lost or destroyed; or
10 (ii) used to commit, continue or repeat the offence.
- 11 (4) Having seized a thing, an authorised person may—
- 12 (a) remove the thing from the premises where it was seized (the
13 *place of seizure*) to another place; or
14 (b) leave the thing at the place of seizure but restrict access to it.
- 15 (5) A person commits an offence if—
- 16 (a) the person interferes with a seized thing, or anything
17 containing a seized thing, to which access has been restricted
18 under subsection (4); and
19 (b) the person does not have an authorised person's approval to
20 interfere with the thing.
- 21 Maximum penalty: 50 penalty units.
- 22 (6) An offence against subsection (5) is a strict liability offence.

- 1 **80 Direction to give name and address**
- 2 (1) This section applies if an authorised person believes on reasonable
3 grounds that a person—
- 4 (a) has committed, is committing or is about to commit an offence
5 against this Act; or
- 6 (b) may be able to assist in the investigation of an offence against
7 this Act.
- 8 *Note* A reference to an Act includes a reference to the statutory instruments
9 made or in force under the Act, including any regulation (see
10 [Legislation Act](#), s 104).
- 11 (2) The authorised person may direct the person to give the authorised
12 person, immediately, any of the following personal details (*a name*
13 *and address direction*):
- 14 (a) the person’s full name;
- 15 (b) the person’s home address.
- 16 *Note 1* The authorised person must first show the person the authorised
17 person’s identity card (see s 74).
- 18 *Note 2* The power to make a direction includes the power to amend or repeal
19 the direction. The power to amend or repeal the direction is exercisable
20 in the same way, and subject to the same conditions, as the power to
21 make the direction (see [Legislation Act](#), s 46).
- 22 (3) If the authorised person believes on reasonable grounds that a
23 personal detail given by a person in response to a name and address
24 direction is false or misleading, the authorised person may direct the
25 person to produce evidence immediately of the correctness of the
26 detail (an *evidence direction*).
- 27 (4) If an authorised person gives a direction to a person, the authorised
28 person must tell the person that it is an offence if the person fails to
29 comply with the direction.

- 1 (5) If an authorised person gives a direction to a person, the authorised
2 person must give the direction in a language, or in a way of
3 communicating, that the authorised person believes on reasonable
4 grounds the person is likely to understand.

5 **81 Offence—fail to comply with direction to give name and**
6 **address**

- 7 (1) A person commits an offence if the person—
8 (a) is the subject of—
9 (i) a name and address direction; or
10 (ii) an evidence direction; and
11 (b) fails to comply with the direction.

12 Maximum penalty: 5 penalty units.

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

- 15 (2) An offence against this section is a strict liability offence.
16 (3) This section does not apply to a person if the authorised person,
17 before giving the direction, did not—
18 (a) produce the authorised person's identity card for inspection by
19 the person; or
20 (b) warn the person that failure to comply with the direction is an
21 offence.

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

- 24 (4) In this section:
25 ***direction*** means a name and address direction or an evidence
26 direction.

27 ***evidence direction***—see subsection 80 (3).

28 ***name and address direction***—see subsection 80 (2).

1 **Subdivision 12.2.3 Search warrants**

2 **82 Warrants generally**

- 3 (1) An authorised person may apply to a magistrate for a warrant to
4 enter premises.
- 5 (2) The application must—
6 (a) be sworn; and
7 (b) state the grounds on which the warrant is sought.
- 8 (3) The magistrate may refuse to consider the application until the
9 authorised person gives the magistrate all the information the
10 magistrate requires about the application in the way the magistrate
11 requires.
- 12 (4) The magistrate may issue a warrant only if satisfied there are
13 reasonable grounds for suspecting—
14 (a) there is a particular thing or activity connected with an offence
15 against this Act; and
16 (b) the thing or activity—
17 (i) is, or is being engaged in, at the premises; or
18 (ii) may be, or may be engaged in, at the premises within the
19 next 14 days.
- 20 (5) The warrant must state—
21 (a) that an authorised person may, with any necessary assistance
22 and force, enter the premises and exercise the authorised
23 person's powers under this part; and
24 (b) the offence for which the warrant is issued; and
25 (c) the things that may be seized under the warrant; and
26 (d) the hours when the premises may be entered; and
27 (e) the date, within 14 days after the day of the warrant's issue,
28 when the warrant ends.

- 1 **83 Warrants—application other than in person**
- 2 (1) An authorised person may apply for a warrant by phone, fax, radio,
3 email, letter or other form of communication if the authorised
4 person considers it necessary because of—
- 5 (a) urgent circumstances; or
- 6 (b) other special circumstances.
- 7 (2) Before applying for the warrant, the authorised person must prepare
8 an application stating the grounds on which the warrant is sought.
- 9 (3) The authorised person may apply for the warrant before the
10 application is sworn.
- 11 (4) After issuing the warrant, the magistrate must immediately give a
12 copy to the authorised person if it is practicable to do so.
- 13 (5) If it is not practicable to give a copy of the warrant to the authorised
14 person—
- 15 (a) the magistrate must tell the authorised person—
- 16 (i) what the terms of the warrant are; and
- 17 (ii) the date and time the warrant was issued; and
- 18 (b) the authorised person must complete a form of warrant (the
19 *warrant form*) and write on it—
- 20 (i) the magistrate’s name; and
- 21 (ii) the date and time the magistrate issued the warrant; and
- 22 (iii) the warrant’s terms.
- 23 (6) The copy of the warrant, or the warrant form properly completed by
24 the authorised person, authorises the entry and the exercise of the
25 authorised person’s powers under this part.
- 26 (7) The authorised person must, at the first reasonable opportunity, send
27 to the magistrate—
- 28 (a) the sworn application; and

- 1 (b) if the authorised person completed a warrant form—the
2 completed warrant form.
- 3 (8) On receiving the documents mentioned in subsection (7), the
4 magistrate must attach them to the warrant.
- 5 (9) A court must find that a power exercised by an authorised person
6 was not authorised by a warrant under this section if—
- 7 (a) the question arises in a proceeding before the court whether the
8 exercise of power was authorised by a warrant; and
- 9 (b) the warrant is not produced in evidence; and
- 10 (c) it is not proved that the exercise of power was authorised by a
11 warrant under this section.

12 **84 Search warrants—announcement before entry**

- 13 (1) An authorised person must, before anyone enters premises under a
14 search warrant—
- 15 (a) announce that the authorised person is authorised to enter the
16 premises; and
- 17 (b) give anyone at the premises an opportunity to allow entry to
18 the premises; and
- 19 (c) if the occupier of the premises, or someone else who
20 apparently represents the occupier, is present at the premises—
21 identify himself or herself to the person.
- 22 (2) The authorised person is not required to comply with subsection (1)
23 if the authorised person believes on reasonable grounds that
24 immediate entry to the premises is required to ensure—
- 25 (a) the safety of anyone (including the authorised person or any
26 person assisting); or
- 27 (b) that the effective execution of the warrant is not frustrated.

1 **85 Details of search warrant to be given to occupier etc**

2 If the occupier of the premises, or someone else who apparently
3 represents the occupier, is present at the premises while a search
4 warrant is being executed, the authorised person or a person
5 assisting must make available to the person—

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

8 **86 Occupier entitled to be present during search etc**

9 (1) If the occupier of the premises, or someone else who apparently
10 represents the occupier, is present at the premises while a search
11 warrant is being executed, the person is entitled to observe the
12 search being conducted.

13 (2) However, the person is not entitled to observe the search if—

- 14 (a) to do so would impede the search; or
15 (b) the person is under arrest, and allowing the person to observe
16 the search being conducted would interfere with the objectives
17 of the search.

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

20 **Subdivision 12.2.4 Return and forfeiture of things seized**

21 **87 Receipt for things seized**

22 (1) As soon as practicable after a thing is seized by an authorised person
23 under this part, the authorised person must give a receipt for it to the
24 person from whom it was seized.

25 (2) If, for any reason, it is not practicable to comply with subsection (1),
26 the authorised person must leave the receipt, secured conspicuously
27 at the place of seizure under section 79 (Power to seize things).

- 1 (3) A receipt under this section must include the following:
- 2 (a) a description of the thing seized;
- 3 (b) an explanation of why the thing was seized;
- 4 (c) the authorised person's name, and how to contact the
- 5 authorised person;
- 6 (d) if the thing is moved from the premises where it is seized—
- 7 where the thing is to be taken.

8 **88 Moving things to another place for examination or**

9 **processing under search warrant**

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

- 1 (5) If a thing is moved to another place under this section, the
2 authorised person must, if practicable—
- 3 (a) tell the occupier of the premises the address of the place where,
4 and time when, the examination or processing will be carried
5 out; and
- 6 (b) allow the occupier or the occupier’s representative to be
7 present during the examination or processing.
- 8 (6) The provisions of this part relating to the issue of search warrants
9 apply, with any necessary changes, to the giving of an extension
10 under this section.

11 **89 Access to things seized**

- 12 A person who would, apart from the seizure, be entitled to inspect a
13 thing seized under this part may—
- 14 (a) inspect the thing; and
- 15 (b) photograph the thing; and
- 16 (c) if the thing is a document—take extracts from, or make copies
17 of, the thing.

18 **90 Return of things seized**

- 19 (1) A thing seized under this part must be returned to its owner, or
20 reasonable compensation must be paid to the owner by the Territory
21 for the loss of the thing, if—
- 22 (a) an infringement notice for an offence connected with the thing
23 is not served on the owner within 1 year after the day of the
24 seizure and either—
- 25 (i) a prosecution for an offence connected with the thing is
26 not begun within the 1-year period; or
- 27 (ii) a prosecution for an offence connected with the thing is
28 begun within the 1-year period but the court does not find
29 the offence proved; or

- 1 (b) an infringement notice for an offence connected with the thing
2 is served on the owner within 1 year after the day of the
3 seizure, the infringement notice is withdrawn and—
- 4 (i) a prosecution for an offence connected with the thing is
5 not begun within 1 year after the day of the seizure; or
- 6 (ii) a prosecution for an offence connected with the thing is
7 begun within 1 year after the day of the seizure but the
8 court does not find the offence proved; or
- 9 (c) an infringement notice for an offence connected with the thing
10 is served on the owner within 1 year after the day of the
11 seizure, liability for the offence is disputed in accordance with
12 the *Magistrates Court Act 1930*, section 132 (Disputing
13 liability for infringement notice offence) and—
- 14 (i) an information is not laid in the Magistrates Court against
15 the person for the offence within 60 days after the day
16 notice is given under that section; or
- 17 (ii) the Magistrates Court does not find the offence proved.
- 18 (2) If anything seized under this part is not required to be returned or
19 reasonable compensation is not required to be paid under
20 subsection (1), the thing—
- 21 (a) is forfeited to the Territory; and
- 22 (b) may be sold, destroyed or otherwise disposed of as the waste
23 manager directs.

24 **Subdivision 12.2.5 Miscellaneous**

25 **91 Damage etc to be minimised**

- 26 (1) In the exercise, or purported exercise, of a function under this part,
27 an authorised person must take all reasonable steps to ensure that the
28 authorised person, and any person assisting the authorised person,
29 causes as little inconvenience, detriment and damage as is
30 practicable.

- 1 (2) If an authorised person, or a person assisting an authorised person,
2 damages anything in the exercise or purported exercise of a function
3 under this part, the authorised person must give written notice of the
4 particulars of the damage to the person whom the authorised person
5 believes on reasonable grounds is the owner of the thing.
- 6 (3) If the damage happens at premises entered under this part in the
7 absence of the occupier, the notice may be given by leaving it
8 secured in a conspicuous place at the premises.

9 **92 Compensation for exercise of enforcement powers**

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

1 Part 13 Enforceable undertakings

2 93 Definitions—pt 13

3 In this part:

4 *enforceable undertaking* means a proposed undertaking that has
5 been accepted by the waste manager under section 95.

6 *proposed undertaking*—see section 94 (3).

7 *undertakings register*—see section 96.

8 94 Making of proposed undertakings

9 (1) This section applies if the waste manager believes on reasonable
10 grounds that a person has committed an offence against part 14
11 (Offences) (the *alleged offence*).

12 (2) The waste manager may give the person written notice stating—

13 (a) that the waste manager believes the person has committed the
14 alleged offence; and

15 (b) the grounds for the waste manager's belief; and

16 (c) the facts of the alleged offence; and

17 (d) the following:

18 (i) that the person may enter an enforceable undertaking with
19 the waste manager for the alleged offence under this part;

20 (ii) information about the effect of—

21 (A) entering an enforceable undertaking, including the
22 consequences of contravening the undertaking; and

23 (B) not entering an enforceable undertaking;

24 (iii) how the person may enter and withdraw from an
25 enforceable undertaking;

- 1 (iv) the assurances about the person's future conduct that the
2 waste manager would be prepared to accept for an
3 enforceable undertaking.
- 4 (3) If the person wishes to enter into an enforceable undertaking with
5 the waste manager, the person must give the waste manager a
6 written proposal (a *proposed undertaking*) about the person's future
7 conduct as a result of the alleged offence.
- 8 (4) The proposed undertaking must—
- 9 (a) acknowledge that the waste manager believes that the person
10 has committed an alleged offence; and
- 11 (b) contain a statement by the person—
- 12 (i) that the person understands that the proposed undertaking
13 becomes an enforceable undertaking when accepted by
14 the waste manager; and
- 15 (ii) setting out assurances about the person's future conduct
16 for the enforceable undertaking; and
- 17 (iii) agreeing to be bound by the enforceable undertaking; and
- 18 **Examples—assurances about person's future conduct**
- 19 1 to stop certain conduct
- 20 2 to take particular action to compensate people adversely affected by an
21 alleged offence committed against a stated provision of this Act
- 22 3 to take particular action to rectify a state of affairs that arose as a direct or
23 indirect result of the alleged offence
- 24 4 to take particular action (including implementing particular systems) to
25 prevent future offences against this Act
- 26 5 to implement publicity or education programs
- 27 6 to install a GPS device in a vehicle operated by a waste transporter
- 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).
- 31 (c) include any other information prescribed by regulation.
- 32 *Note* If a form is approved under s 125 for this provision, the form must be
33 used.

- 1 **95 Acceptance of proposed undertaking**
- 2 (1) If the waste manager accepts a proposed undertaking the waste
3 manager must by written notice tell the person that gave the
4 undertaking that the undertaking has been accepted and is an
5 enforceable undertaking for this Act.
- 6 (2) On acceptance of the proposed undertaking, the undertaking
7 becomes enforceable (an *enforceable undertaking*).
- 8 **96 Register of enforceable undertakings**
- 9 (1) The waste manager must keep a register of enforceable undertakings
10 (the *undertakings register*).
- 11 (2) The undertakings register must include the following details for
12 each undertaking:
- 13 (a) the name of the person that gave the undertaking;
- 14 (b) particulars of the undertaking given;
- 15 (c) the date the undertaking takes effect;
- 16 (d) anything else prescribed by regulation.
- 17 (3) The undertakings register may include any other information the
18 waste manager considers relevant.
- 19 (4) The undertakings register may be kept in any form, including
20 electronically, that the waste manager decides.
- 21 (5) The waste manager may—
- 22 (a) correct a mistake, error or omission in the undertakings
23 register; and
- 24 (b) change a detail included in the register to keep the register
25 up-to-date.

1 **97 Withdrawal from or amendment of enforceable**
2 **undertaking**

- 3 (1) The person that gave an enforceable undertaking may withdraw
4 from or amend the undertaking only with the waste manager's
5 written agreement.
- 6 (2) However, the undertaking may not be amended to provide for a
7 different alleged offence.

8 **98 Ending enforceable undertaking**

- 9 (1) The waste manager may end an enforceable undertaking by written
10 notice to the person that gave the undertaking if satisfied on
11 reasonable grounds that the undertaking is no longer necessary or
12 desirable to ensure that the person complies with this Act.
- 13 (2) The waste manager may act under subsection (1) on the waste
14 manager's own initiative or on the application of the person that
15 gave the undertaking.
- 16 (3) The undertaking ends when the person that gave the undertaking
17 receives the waste manager's notice.

18 **99 Undertaking not admission of fault etc**

- 19 (1) This section applies if a person gives the waste manager a proposed
20 undertaking in relation to an alleged offence, whether or not the
21 undertaking is accepted by the waste manager.
- 22 (2) Giving the proposed undertaking is neither—
- 23 (a) an express or implied admission of fault or liability by the
24 person in relation to the alleged offence; nor
- 25 (b) relevant to deciding fault or liability in relation to the alleged
26 offence.
- 27 (3) Neither a proposed undertaking nor an enforceable undertaking is
28 admissible in evidence in a court or tribunal in any proceeding for
29 the alleged offence.

1 **100 Contravention of enforceable undertakings**

2 (1) If the waste manager believes on reasonable grounds that an
3 enforceable undertaking has been contravened, the waste manager
4 may apply to the Magistrates Court for an order under
5 subsection (2).

6 (2) If the Magistrates Court is satisfied that the enforceable undertaking
7 has been contravened, the court may make 1 or more of the
8 following orders:

9 (a) an order requiring the person who gave the undertaking to
10 ensure that the undertaking is not contravened;

11 (b) an order requiring the person who gave the undertaking to pay
12 to the Territory the amount assessed by the court as the value
13 of the benefits anyone derived, directly or indirectly, from the
14 contravention of the undertaking;

15 (c) an order that the court considers appropriate requiring the
16 person who gave the undertaking to compensate someone who
17 has suffered loss or damage because of the contravention of the
18 undertaking;

19 (d) any other order that the court considers appropriate.

20 **101 Effect of enforceable undertaking on other proceedings**

21 A proceeding may not be brought against a person for an alleged
22 offence mentioned in an enforceable undertaking if—

23 (a) the enforceable undertaking is in force in relation to the alleged
24 offence; and

25 (b) the person has not failed to comply with the enforceable
26 undertaking in relation to the alleged offence.

1 **Part 14 Offences**

2 **Division 14.1 Liability of managers etc**

3 **102 Criminal liability of partners—pt 14**

4 (1) This section applies if a partnership through a partner, servant or
5 agent—

6 (a) engages in conduct; and

7 (b) the conduct is an offence against this part.

8 (2) Each partner (a *liable partner*) in the partnership is taken to commit
9 the offence.

10 (3) It is a defence to a prosecution for an offence against this part if a
11 liable partner proves that—

12 (a) the partner did not know about the conduct that constituted the
13 offence; and

14 (b) either—

15 (i) the partner took reasonable precautions and exercised
16 appropriate diligence to ensure the partnership did not
17 engage in the conduct; or

18 (ii) the partner was not in a position to influence the
19 partnership in relation to the conduct.

20 *Note* The defendant has a legal burden in relation to the matters mentioned in
21 s (3) (see [Criminal Code](#), s 59).

22 **103 Criminal liability of executive officers—pt 14**

23 (1) An executive officer of a corporation is taken to commit an offence
24 if—

25 (a) the corporation commits a relevant offence; and

26 (b) the officer was reckless about whether the relevant offence
27 would be committed; and

1 (c) the officer was in a position to influence the conduct of the
2 corporation in relation to the commission of the relevant
3 offence; and

4 (d) the officer failed to take reasonable steps to prevent the
5 commission of the relevant offence.

6 Maximum penalty: The maximum penalty that may be imposed for
7 the commission of the relevant offence by an individual.

8 (2) Subsection (1) does not apply if the corporation has a defence to a
9 prosecution for the relevant offence.

10 *Note* The defendant has an evidential burden in relation to the matters
11 mentioned in s (2) (see [Criminal Code](#), s 58).

12 (3) In deciding whether the executive officer took (or failed to take) all
13 reasonable steps to prevent the commission of the offence, a court
14 must consider any action the officer took directed towards ensuring
15 the following (to the extent that the action is relevant to the act or
16 omission):

17 (a) that the corporation arranges regular professional assessments
18 of the corporation's compliance with the provision to which
19 the relevant offence relates;

20 (b) that the corporation implements any appropriate
21 recommendation arising from such an assessment;

22 (c) that the corporation's employees, agents and contractors have a
23 reasonable knowledge and understanding of the requirement to
24 comply with the provision to which the relevant offence
25 relates;

26 (d) any action the officer took when the officer became aware that
27 the relevant offence was, or might be, about to be committed.

28 (4) Subsection (2) does not limit the matters the court may consider.

29 (5) This section applies whether or not the corporation is prosecuted for,
30 or convicted of, the relevant offence.

- 1 (6) In this section:
- 2 *executive officer*, of a corporation, means a person, by whatever
3 name called and whether or not the person is a director of the
4 corporation, who is concerned with, or takes part in, the
5 corporation's management.
- 6 *relevant offence* means an offence against any of the following:
- 7 (a) section 64 (Offence—fail to report to waste manager);
- 8 (b) section 70 (Offence—fail to comply with direction);
- 9 (c) section 105 (Unauthorised waste activity);
- 10 (d) section 106 (1) (Fail to comply with condition of licence or
11 registration);
- 12 (e) section 107 (Unlawful transporting or depositing of waste);
- 13 (f) section 108 (Use of place as waste facility without lawful
14 authority);
- 15 (g) section 109 (Consent required for certain waste activities);
- 16 (h) section 110 (False or misleading information about waste);
- 17 (i) section 111 (Taking prescribed waste to landfill or other
18 facility).

19 **Division 14.2 Specific offences**

20 **104 Meaning of *waste site*—div 14.2**

21 In this division:

22 *waste site* means a place used for the storage, sorting, treatment,
23 processing, or disposal of waste.

1 **105** **Unauthorised waste activity**

- 2 (1) A person commits an offence if—
- 3 (a) the person engages in conduct; and
- 4 (b) the conduct is a waste activity; and
- 5 (c) the person—
- 6 (i) if the waste activity includes operating a waste facility—
- 7 does not hold a licence in relation to the facility; or
- 8 (ii) if the waste activity includes collection or transportation
- 9 of waste—is not registered as a waste transporter.

10 Maximum penalty: 200 penalty units.

- 11 (2) A person who engages in consecutive conduct that contravenes
- 12 subsection (1) commits a separate offence for each day or part of
- 13 each day of consecutive conduct that happens immediately after the
- 14 first day the person engaged in the conduct.

15 Maximum penalty (for each additional day or part of each additional

16 day): 50 penalty units.

17 **106** **Fail to comply with condition of licence or registration**

- 18 (1) A person commits an offence if—
- 19 (a) the person—
- 20 (i) holds a licence; or
- 21 (ii) is registered as a waste transporter; and
- 22 (b) the licence or registration is subject to a condition; and
- 23 (c) the person fails to comply with the condition.

24 Maximum penalty: 50 penalty units.

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

- 1 **107 Unlawful transporting or depositing of waste**
- 2 (1) A person commits an offence if—
- 3 (a) the person engages in conduct; and
- 4 (b) as a result of the conduct the person—
- 5 (i) transports waste to a place; or
- 6 (ii) causes or permits waste to be transported to a place; and
- 7 (c) the place is not—
- 8 (i) if the place is in the ACT—a waste facility operated by a
- 9 person that is a licensee in relation to the facility; or
- 10 (ii) if the place is outside the ACT—a waste facility operated
- 11 by a person that is authorised to operate the facility under
- 12 a corresponding law of another State.
- 13 Maximum penalty: 500 penalty units.
- 14 (2) In a proceeding for an offence under this section the defendant bears
- 15 the onus of proving—
- 16 (a) if the defendant is charged with transporting, or causing or
- 17 permitting waste to be transported to a place in the ACT—that
- 18 the place is a waste facility that was operated by a person that
- 19 is a licensee in relation to the facility; or
- 20 (b) if the defendant is charged with transporting, or causing or
- 21 permitting waste to be transported to a place outside the
- 22 ACT—that the place is a waste facility that was operated by a
- 23 person that is authorised to operate the facility under a
- 24 corresponding law of another State.

- 1 (3) It is a defence to a prosecution for an offence against subsection (1)
2 if—
- 3 (a) for a prosecution that charges a defendant with having caused
4 or permitted waste to be transported—the defendant proves—
- 5 (i) that the commission of the offence was due to causes over
6 which the defendant had no control; and
- 7 (ii) that the defendant took reasonable precautions and
8 exercised due diligence to prevent the commission of the
9 offence; or
- 10 (b) generally—the defendant proves that—
- 11 (i) an approved notice was, at the time of the alleged offence,
12 given to the defendant by the owner or occupier of the
13 place to which the waste was transported or was displayed
14 at the place; and
- 15 (ii) the approved notice stated that the place could lawfully be
16 used as a waste facility for the waste; and
- 17 (iii) the defendant had no reasonable basis to believe that the
18 place could not lawfully be used as a waste facility for the
19 waste.
- 20 (4) It is not a defence to a prosecution for an offence against
21 subsection (1) if the defendant proves that the owner or occupier of
22 a place told the defendant, other than in the form of an approved
23 notice, that at the time of the offence the place could be lawfully
24 used as a waste facility.
- 25 (5) In this section:
- 26 ***approved notice*** means a notice, in a form approved by the waste
27 manager that—
- 28 (a) states that the place to which the notice relates can lawfully be
29 used as a waste facility for the waste stated in the notice; and
- 30 (b) contains a certification by the owner or occupier of the place
31 that the statement is correct.

- 1 **108 Use of place as waste facility without lawful authority**
- 2 (1) A person (the *first person*) commits an offence if—
- 3 (a) the first person is the owner or occupier of a place; and
- 4 (b) the first person engages in conduct; and
- 5 (c) as a result of the conduct another person uses the place; and
- 6 (d) the first person is reckless about whether the other person uses
- 7 the place as a waste site; and
- 8 *Note* The fault element of recklessness can be satisfied by proof of
- 9 intention, knowledge or recklessness (see [Criminal Code](#),
- 10 s 20 (4)).
- 11 (e) the place is not a waste facility in relation to which the first
- 12 person holds a licence.
- 13 Maximum penalty: 500 penalty units.
- 14 (2) A person who engages in consecutive conduct that contravenes
- 15 subsection (1) commits a separate offence for each day or part of
- 16 each day of consecutive conduct that happens immediately after the
- 17 first day the person engaged in the conduct.
- 18 Maximum penalty (for each additional day or part of each additional
- 19 day): 200 penalty units.
- 20 **109 Consent required for certain waste activities**
- 21 A person commits an offence if—
- 22 (a) the person carries out a waste activity; and
- 23 (b) the activity is prescribed by regulation; and

1 (c) the person does not have the waste manager's written consent
2 to carry out the activity.

3 *Note 1* The waste manager may exempt people and activities from a
4 provision of this Act (see s 65).

5 *Note 2* A reference to an Act includes a reference to the statutory
6 instruments made or in force under the Act, including any
7 regulation (see [Legislation Act](#), s 104).

8 Maximum penalty: 100 penalty units.

9 **110 False or misleading information about waste**

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

11 (a) engages in conduct; and

12 (b) the conduct results in information about waste being given to
13 another person in the course of dealing with the waste; and

14 (c) the person knows that the information is false or misleading in
15 a material particular.

16 Maximum penalty: 200 penalty units.

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

18 (a) engages in conduct; and

19 (b) the conduct results in information about waste being given to
20 another person in the course of dealing with the waste; and

21 (c) the information is false or misleading in a material particular;
22 and

23 (d) the person is reckless as to whether the information is false or
24 misleading in a material particular.

25 Maximum penalty: 100 penalty units.

1 (3) It is a defence to a prosecution for an offence against subsection (2)
2 if the defendant proves that the defendant took reasonable steps to
3 ensure that the information was not false or misleading in a material
4 particular.

5 *Note* The defendant has a legal burden in relation to the matters mentioned in
6 s (3) (see [Criminal Code](#), s 59).

7 (4) If the court is satisfied that a person charged with an offence under
8 subsection (1) is not guilty of that offence but is satisfied on the
9 evidence that the person is guilty of an offence under subsection (2),
10 the court may find the person guilty of the offence under
11 subsection (2).

12 (5) For this section, information is taken to be given to a person in the
13 course of dealing with waste if it is given—

14 (a) in the course of an activity relating to the sale or disposal of
15 waste; or

16 (b) in the course of an activity relating to the storage, collection,
17 transport, handling, deposit, transfer, processing, recycling,
18 recovery, re-use or use of the waste.

19 (6) Proceedings for an offence against this section may be commenced
20 only at the request of the waste manager.

21 (7) In this section:

22 *give information* includes cause or permit information to be given.

23 *information* includes a record containing information.

1 ***information about waste*** means information about any of the
2 following:

- 3 (a) the type, classification, characteristics, composition or quantity
4 of the waste;
- 5 (b) the actual or proposed storage, collection, transport, handling,
6 deposit, transfer, disposal, processing, recycling, recovery,
7 re-use or use of the waste;
- 8 (c) the hazards or potential harm to the environment or human
9 health associated with the waste or an activity referred to in
10 paragraph (b).

11 **111 Taking prescribed waste to landfill or other facility**

12 A person commits an offence if the person—

- 13 (a) engages in conduct; and
- 14 (b) as a result of the conduct waste is taken to—
- 15 (i) landfill; or
- 16 (ii) a facility prescribed by regulation; and
- 17 (c) the waste is waste prescribed by regulation.

18 *Note* Power to make a statutory instrument (including a regulation) includes
19 power to make different provision in relation to different matters or
20 different classes of matters, and to make an instrument that applies
21 differently by reference to stated exceptions or factors (see [Legislation](#)
22 [Act](#), s 48).

23 Maximum penalty: 150 penalty units.

1 **Part 15 Reconsideration of decisions**

2 **112 Definitions—pt 15**

3 In this part:

4 *affected person*, for an original decision, means a person mentioned
5 in schedule 1, column 4 in relation to the original decision.

6 *original decision* means a decision mentioned in schedule 1,
7 column 3 (other than item 12) under a provision of this Act
8 mentioned in column 2 in relation to the decision.

9 *reconsideration application*—see section 113 (2).

10 **113 Applications for reconsideration**

11 (1) This section applies if—

- 12 (a) the waste manager has made an original decision; and
13 (b) an application has not previously been made under this section
14 for reconsideration of the original decision; and
15 (c) the ACAT has not decided an application for review of the
16 original decision.

17 (2) An affected person for an original decision may apply for
18 reconsideration of the original decision (a *reconsideration*
19 *application*).

20 *Note* If a form is approved under s 125 for an application, the form must be
21 used.

22 (3) The reconsideration application must—

- 23 (a) be in writing signed by the applicant; and
24 (b) set out the grounds on which reconsideration is sought.

- 1 (4) The reconsideration application must be made not later than—
2 (a) 20 working days after the day the applicant is told about the
3 original decision by the waste manager; or
4 (b) any longer period allowed by the waste manager.

5 *Note* The waste manager may extend the period after the end of the period
6 being extended (see [Legislation Act](#), s 151C (3)).

7 **114 Notice to ACAT of application**

- 8 (1) This section applies if—
9 (a) an affected person makes a reconsideration application; and
10 (b) the person also applies to the ACAT for review of the original
11 decision, whether before or after applying for reconsideration;
12 and
13 (c) the ACAT gives the waste manager notice of the application
14 for review.
15 (2) The waste manager must tell the ACAT, in writing, about the
16 reconsideration application.

17 **115 Reconsideration**

- 18 (1) If the waste manager receives a reconsideration application, the
19 director-general must—
20 (a) reconsider the original decision; and
21 (b) not later than 20 working days after the day the waste manager
22 receives the application—
23 (i) make any decision in substitution for the original decision
24 that the waste manager could have made when making the
25 original decision; or
26 (ii) confirm the original decision.

27 *Note* A decision under this section is a reviewable decision (see s 117).

Section 116

- 1 (2) However, the director-general must not take action under
2 subsection (1) (b) if the ACAT has decided an application for
3 review of the original decision.
- 4 (3) The period mentioned in subsection (1) (b) may be extended for a
5 stated period by agreement between the director-general and the
6 applicant.
- 7 (4) In reconsidering the original decision, the director-general—
8 (a) must consider—
9 (i) any information available to the waste manager when the
10 waste manager made the original decision; and
11 (ii) information given in the reconsideration application; and
12 (b) may consider any other relevant information.
- 13 (5) The director-general must ensure that, if the original decision is
14 made on the waste manager's behalf by someone else (the *original*
15 *decision-maker*), the director-general or someone other than the
16 original decision-maker reconsiders the decision.

116 No action by waste manager within time

18 If the director-general does not make a substitute decision, or
19 confirm the original decision, by the end of the 20 working days, or
20 the extended period, mentioned in section 115 (3), the
21 director-general is taken to have confirmed the original decision.

117 Notice of decisions on reconsideration

23 As soon as practicable after reconsidering the original decision, the
24 director-general must give written notice of the decision on the
25 reconsideration to—

- 26 (a) the applicant; and
27 (b) the waste manager.

28 *Note* If the notice is given to a person who may apply to the ACAT for
29 review of the decision to which it relates, the notice must be a
30 reviewable decision notice (see s 119).

1 Part 16 Notification and review of 2 decisions

3 118 Definitions—pt 16

4 In this part:

5 *decision-maker*, for a reviewable decision, means the
6 decision-maker mentioned in schedule 1, column 5 for the decision.

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

10 119 Reviewable decision notices

11 If the decision-maker makes a reviewable decision, the
12 decision-maker must give a reviewable decision notice to each
13 person mentioned in schedule 1, column 4 in relation to the
14 decision.

15 *Note 1* The decision-maker must also take reasonable steps to give a
16 reviewable decision notice to any other person whose interests are
17 affected by the decision (see [ACT Civil and Administrative Tribunal
18 Act 2008](#), s 67A).

19 *Note 2* The requirements for a reviewable decision notice are prescribed under
20 the [ACT Civil and Administrative Tribunal Act 2008](#).

21 120 Applications for review

22 The following people may apply to the ACAT for a review of a
23 reviewable decision:

- 24 (a) a person mentioned in schedule 1, column 4 in relation to the
25 decision;
- 26 (b) any other person whose interests are affected by the decision.

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

1 **Part 17** **Miscellaneous**

2 **121** **Delegation**

3 The waste manager may delegate the waste manager's functions
4 under this Act or another territory law to a public servant.

5 *Note* For the making of delegations and the exercise of delegated functions,
6 see the [Legislation Act](#), pt 19.4.

7 **122** **Protection from liability**

8 (1) An official is not civilly liable for conduct engaged in honestly and
9 without recklessness—

10 (a) in the exercise of a function under this Act; or

11 (b) in the reasonable belief that the conduct was in the exercise of
12 a function under this Act.

13 (2) Any civil liability that would, apart from this section, attach to the
14 official attaches instead to the Territory.

15 (3) In this section:

16 **conduct** means an act or omission to do an act.

17 **official** means—

18 (a) the waste manager; or

19 (b) an authorised officer; or

20 (c) anyone else exercising a function under this Act.

21 **123** **Service of documents**

22 A document may be given to the waste manager by giving it to the
23 director-general.

24 *Note 1* For how documents may be served generally, see the [Legislation Act](#),
25 pt 19.5.

26 *Note 2* The director-general may delegate the function under this section to a
27 public sector officer, for example, a public servant (see [Public Sector](#)
28 [Management Act 1994](#), s 36C).

1 **124 Determination of fees and rates of interest**

- 2 (1) The Minister may determine—
- 3 (a) fees for this Act; and
- 4 (b) the annual percentage rate at which interest payable under
- 5 section 58 (Recovery of extra costs) is to be calculated; and
- 6 (c) the annual percentage rate at which interest accruing under
- 7 section 59 (1) (a) (Money held by Territory as financial
- 8 assurance) is to be calculated.

9 *Note* The [Legislation Act](#) contains provisions about the making of

10 determinations and regulations relating to fees (see pt 6.3).

- 11 (2) In particular, fees may be determined—
- 12 (a) so that the fee increases as the quantity of waste increases; and
- 13 (b) so that different fees apply depending on the waste facility to
- 14 which waste is being transferred; and
- 15 (c) according to the type of waste to which the waste activity
- 16 relates.

17 **Example—different fee depending on facility**

18 A lower fee might be set for taking waste to a re-processing facility; a higher fee

19 might apply if the waste were being taken to landfill.

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).

- 23 (3) A determination is a disallowable instrument.

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

25 Legislative Assembly, under the [Legislation Act](#).

- 26 (4) In this section:

27 *fee* includes—

- 28 (a) a fee that is a tax; and
- 29 (b) a charge or other amount (whether or not it is a tax).

1 **125 Approved forms**

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

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

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

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

8 **126 Regulation-making power**

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

10 *Note* A regulation must be notified, and presented to the Legislative
11 Assembly, under the [Legislation Act](#).

- 12 (2) A regulation may—

- 13 (a) make provision in relation to the exclusion of a person or
14 activity from a provision of this Act; and

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

- 18 (b) create offences for contraventions of the regulations and fix
19 maximum penalties of not more than 40 penalty units for the
20 offences.

1 **Part 18** **Repeals and consequential**
2 **amendment**

3 **127** **Legislation repealed**

4 (1) The following legislation is repealed:

- 5 • *Waste Minimisation Act 2001* (A2001-31)
6 • *Waste Minimisation Regulation 2001* (SL2001-24).

7 (2) All other legislative instruments under the *Waste Minimisation*
8 *Act 2001* and the *Waste Minimisation Regulation 2001* are repealed.

9 **128** **Clinical Waste Act 1990**
10 **Part 5 heading, new note**

11 *insert*

12 *Note* The *Waste Management and Resource Recovery Act 2016* imposes
13 requirements, and creates offences, in relation to a person that stores,
14 transports or disposes of clinical waste.

1 **Part 30 Transitional**

2 **150 Transitional regulation**

- 3 (1) A regulation may prescribe transitional matters necessary or
4 convenient to be prescribed because of the enactment of this Act.
- 5 (2) A regulation may modify this part (including in relation to another
6 territory law) to make provision in relation to anything that, in the
7 Executive's opinion, is not, or is not adequately or appropriately,
8 dealt with in this part.
- 9 (3) A regulation under subsection (2) has effect despite anything
10 elsewhere in this Act.

11 **151 Expiry—pt 30**

12 This part expires 12 months after the day it commences.

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

Schedule 1 Reviewable decisions

(see pt 15)

column 1 item	column 2 section	column 3 decision	column 4 person	column 5 decision-maker
1	20 (2)	refuse to consider application until additional information provided	applicant for licence	waste manager
2	22 (1)	decision about application for licence	applicant for licence	waste manager
3	23 (b)	impose condition on licence	applicant for licence	waste manager
4	32 (1)	require applicant to provide additional information	applicant for registration	waste manager
5	34 (3)	decision about application for registration	applicant for registration	waste manager
6	40 (2)	require waste transporter to fit GPS	waste transporter	waste manager
7	46 (2)	take regulatory action	licensee	waste manager
8	48	immediately suspend licence	licensee	waste manager
9	65	refuse to give exemption	applicant	waste manager
10	68 (2)	issue compliance direction	person directed	waste manager
11	69 (1)	issue direction	person directed	waste manager
12	115 (1)	reconsideration of original decision	person applying for reconsideration	director-general

1 Dictionary

2 (see s 3)

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

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

- 6 • ACAT
- 7 • ACT
- 8 • administrative unit
- 9 • appoint
- 10 • chief officer (fire and rescue)
- 11 • Criminal Code
- 12 • director-general (see s 163)
- 13 • disallowable instrument (see s 9)
- 14 • fail
- 15 • function
- 16 • give
- 17 • may (see s 146)
- 18 • Minister (see s 162)
- 19 • must (see s 146)
- 20 • notifiable instrument (see s 10)
- 21 • penalty unit (see s 133)
- 22 • person
- 23 • police officer
- 24 • under.

25 *affected person*, for an original decision, for part 15
26 (Reconsideration of decisions)—see section 112.

27 *authorised person* means a person appointed under section 72.

28 *connected*, with an offence, for division 12.2 (Authorised people)—
29 see section 71.

30 *corresponding law*, of a State, means a law of the state about the
31 registration or licensing of people who carry out waste activities.

32 *Note* *State* includes the Northern Territory (see [Legislation Act](#), dict, pt 1).

- 1 **decision-maker**, for a reviewable decision, for part 16 (Notification
2 and review of decisions)—see section 118.
- 3 **enforceable undertaking**, for part 13 (Enforceable undertakings)—
4 see section 93.
- 5 **environmental protection agreement**—see the [Environment
6 Protection Act 1997](#), dictionary.
- 7 **licence** means a waste facility licence.
- 8 **licensee**, in relation to a licence, means the person that is the holder
9 of the licence.
- 10 **occupier**, of premises, for division 12.2 (Authorised people)—see
11 section 71.
- 12 **offence**, for division 12.2 (Authorised people)—see section 71.
- 13 **original decision**, for part 15 (Reconsideration of decisions)—see
14 section 112.
- 15 **person** includes an unincorporated body.
- 16 **premises**, for division 12.2 (Authorised people)—see section 71.
- 17 **proposed undertaking**, for part 13 (Enforceable undertakings)—see
18 section 94 (3).
- 19 **reconsideration application**, for part 15 (Reconsideration of
20 decisions)—see section 113 (2).
- 21 **registered**, in relation to a waste transporter, means entered in the
22 register of waste transporters.
- 23 **register of waste facility licences** means the register kept under
24 section 25.
- 25 **register of waste transporters** means the register kept under
26 section 37.
- 27 **registration number**—see section 34 (4) (b) (ii).
- 28 **regulatory action**, against a person, for part 7 (Regulatory action)—
29 see section 43.

- 1 ***reviewable decision***, for part 16 (Notification and review of
2 decisions)—see section 118.
- 3 ***show cause notice***, for part 7 (Regulatory action)—see section 43.
- 4 ***undertakings register***, for part 13 (Enforceable undertakings)—see
5 section 93.
- 6 ***warrant***, for division 12.2 (Authorised people)—see section 71.
- 7 ***waste***—see section 10.
- 8 ***waste activity***—see section 11.
- 9 ***waste facility***—see section 14.
- 10 ***waste facility licence***—see section 15.
- 11 ***waste management business***—see section 12.
- 12 ***waste manager*** means the Waste Manager appointed under
13 section 16.
- 14 ***waste site***, for division 14.2 (Specific offences)—see section 104.
- 15 ***waste transporter***—see section 13.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 7 June 2016.

2 Notification

Notified under the [Legislation Act](#) on 2016.

3 Republications of amended laws

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