

2020

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Minister for Employment and Workplace Safety)

# Labour Hire Licensing Bill 2020

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2020

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Employment and Workplace Safety)

## Labour Hire Licensing Bill 2020

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### A Bill for

An Act to provide for the licensing and regulation of providers of labour hire services, and for other purposes

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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 *Labour Hire Licensing Act 2020*.

4 **2 Commencement**

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

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

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

11 (2) If this Act has not commenced within 12 months beginning on its  
12 notification day, it automatically commences on the first day after that  
13 period.

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

16 **3 Dictionary**

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

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

21 For example, the signpost definition ‘**connected**, for part 7  
22 (Enforcement)—see section 46.’ means that the term ‘connected’ is  
23 defined in that section for part 7.

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

1     **4           Notes**

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

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

4     **5           Offences against Act—application of Criminal Code etc**

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

6     *Note 1   Criminal Code*

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

8           Code, pt 2.1).

9           The chapter sets out the general principles of criminal responsibility

10          (including burdens of proof and general defences), and defines terms used

11          for offences to which the Code applies (eg *conduct*, *intention*,

12          *recklessness* and *strict liability*).

13     *Note 2   Penalty units*

14          The [Legislation Act](#), s 133 deals with the meaning of offence penalties

15          that are expressed in penalty units.

- 1     **Part 2**                             **Objects and important concepts**
- 2     **6**             **Objects of Act**
- 3         (1) The objects of this Act are to—
- 4             (a) protect workers from exploitation by providers of labour hire
- 5                 services; and
- 6             (b) ensure labour hire service providers meet their workplace
- 7                 obligations and responsibilities to the workers they supply; and
- 8             (c) promote the integrity of the labour hire services industry; and
- 9             (d) promote responsible practices in the labour hire services
- 10                 industry.
- 11         (2) The objects are to be achieved by—
- 12             (a) establishing a licensing scheme to regulate the provision of
- 13                 labour hire services; and
- 14             (b) establishing a register of labour hire licensees.
- 15     **7**             **Meaning of *labour hire services***
- 16         (1) For this Act, a person (a ***provider***) provides ***labour hire services*** if, in
- 17             the course of carrying on a business, the person supplies to another
- 18             person (the ***hirer***) a worker to do work.
- 19         (2) For subsection (1), a worker is supplied by a provider when the
- 20             worker starts to do work for the hirer.
- 21         (3) A provider provides labour hire services regardless of whether—
- 22             (a) the worker is employed by the provider; or
- 23             (b) there is a contract for the worker to do the work; or
- 24             (c) the worker is supplied to the hirer directly or indirectly; or
- 25             (d) the work completed by the worker is under the control of the
- 26                 provider or the hirer.

- 1 (4) A regulation may prescribe that a stated person is not a provider of  
2 labour hire services for this section.

3 **8 Meaning of *worker***

- 4 (1) For this Act, an individual is a ***worker*** for a provider if the individual  
5 enters into an arrangement with the provider under which—

6 (a) the provider may supply, to another person, the individual to do  
7 work; and

8 (b) the provider is obliged to pay the worker for the work—

9 (i) in whole or part; or

10 (ii) directly or indirectly.

- 11 (2) The Minister may declare that a person is, or is not, a worker for this  
12 Act.

- 13 (3) A declaration is a disallowable instrument.

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

16 *Note 2* Power to make a statutory instrument includes power to make different  
17 provision in relation to different matters or different classes of matters,  
18 and to make an instrument that applies differently by reference to stated  
19 exceptions or factors (see [Legislation Act](#), s 48).

- 20 (4) In this section:

21 ***provider***—see section 7 (1).

- 1     **Part 3**                             **Labour hire licence**  
2                                             **commissioner and committee**
- 3     **Division 3.1**                   **Appointment of commissioner**
- 4     **9**                                 **Appointment of commissioner**
- 5             (1) The Minister must appoint a person as the Labour Hire Licence  
6                 Commissioner.
- 7                 *Note 1*     For the making of appointments (including acting appointments), see the  
8                                 [Legislation Act](#), pt 19.3.
- 9                 *Note 2*     In particular, an appointment may be made by naming a person or  
10                                nominating the occupant of a position (see [Legislation Act](#), s 207).
- 11                *Note 3*     Certain Ministerial appointments require consultation with an Assembly  
12                                committee and are disallowable (see [Legislation Act](#), div 19.3.3).
- 13             (2) The Minister must not appoint a person as the commissioner unless  
14                 satisfied that the person has the experience or expertise necessary to  
15                 exercise the commissioner's functions.
- 16             (3) A person must be appointed for a term not longer than 5 years.
- 17                 *Note*        A person may be reappointed to a position if the person is eligible to be  
18                                appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1,  
19                                def **appoint**).
- 20             (4) The commissioner's conditions of appointment are the conditions  
21                 agreed between the Minister and the commissioner stated in the  
22                 instrument of appointment, subject to any determination under the  
23                 [Remuneration Tribunal Act 1995](#).
- 24             (5) The appointment of the commissioner is a notifiable instrument.
- 25                 *Note*        A notifiable instrument must be notified under the [Legislation Act](#).
- 26             (6) If an appointment is not made under subsection (1), the person  
27                 appointed under the [Work Health and Safety Act 2011](#), schedule 2,  
28                 part 2.2 is the Labour Hire Licence Commissioner.

1     **10           Functions of commissioner**

2           The commissioner has the following functions:

- 3           (a) to promote an understanding and acceptance of, and compliance  
4                 with, this Act;
- 5           (b) to promote the integrity of the labour hire industry;
- 6           (c) to undertake research and develop educational and other  
7                 programs for the purpose of enabling licensees to comply with  
8                 the Act;
- 9           (d) to advise the Minister on any matter relevant to the operation of  
10                 this Act;
- 11           (e) any other function given to the commissioner under this Act or  
12                 another territory law.

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

16     **11           Independence of commissioner**

- 17           (1) Subject to subsection (2), the commissioner is not subject to the  
18                 direction of anyone else, and must act independently in relation to the  
19                 exercise of a function under this Act or another territory law under  
20                 which the commissioner exercises a function.
- 21           (2) However, the Minister may, in writing, give directions to the  
22                 commissioner in relation to the exercise of the commissioner's  
23                 functions.
- 24           (3) A direction given under subsection (2) must be of a general nature  
25                 and not direct the commissioner in relation to a particular complaint,  
26                 licensee or regulatory action.
- 27           (4) The Minister must present a copy of any direction under  
28                 subsection (2) to the Legislative Assembly within 5 sitting days after  
29                 the day it is given to the commissioner.

1     **12           Disclosure of interests**

2           The commissioner must give the Minister a written statement of the  
3           commissioner's personal and financial interests within 7 days after—

- 4           (a) the day the commissioner is appointed; and  
5           (b) the first day of each financial year; and  
6           (c) the day there is a change in the interest.

7     **13           Commissioner must not do inconsistent work etc**

8           The commissioner must not—

- 9           (a) have paid employment that is inconsistent with the  
10          commissioner's functions; or  
11          (b) engage in any unpaid activity that is inconsistent with the  
12          commissioner's functions.

13    **14           Ending appointment**

14          (1) The Minister may end a person's appointment as the commissioner—

- 15          (a) for misconduct; or  
16          (b) if the person becomes bankrupt or personally insolvent; or

17                 *Note     **Bankrupt or personally insolvent***—see the [Legislation Act](#), dict,  
18                 pt 1.

- 19          (c) if the person is convicted, in the ACT, of an offence punishable  
20          by imprisonment for at least 1 year; or  
21          (d) if the person is convicted outside the ACT, in Australia or  
22          elsewhere, of an offence that, if it had been committed in the  
23          ACT, would be punishable by imprisonment for at least 1 year.

- 1 (2) The Minister must end the commissioner's appointment for physical  
2 or mental incapacity, if the incapacity substantially affects the  
3 exercise of the commissioner's functions.

4 *Note* A person's appointment also ends if the person resigns (see [Legislation](#)  
5 [Act](#), s 210).

6 **15 Arrangements for staff and facilities**

7 The commissioner may arrange with the head of service to use the  
8 services of a public servant or Territory facilities.

9 *Note* The head of service may delegate powers in relation to the management  
10 of public servants to a public servant or another person (see [Public Sector](#)  
11 [Management Act 1994](#), s 18).

12 **16 Engagement of consultants and contractors**

- 13 (1) The commissioner may engage—

14 (a) an approved auditor to assist the commissioner in ensuring a  
15 licensee's compliance with this Act; and

16 (b) any other consultant or contractor that may be necessary or  
17 convenient to exercise the commissioner's functions.

- 18 (2) The conditions of a consultant's or contractor's engagement are the  
19 conditions agreed between the commissioner and the consultant or  
20 contractor.

- 21 (3) However, this section does not give the commissioner the power to  
22 enter into a contract of employment with a consultant or contractor.

- 23 (4) In this section:

24 ***approved auditor*** means an auditor approved under the [Government](#)  
25 [Procurement Act 2001](#), section 22O.

- 1     **17           Independence of commissioner's staff**
- 2           (1) A member of the commissioner's staff is, in relation to the exercise
- 3           of a function under this Act or another territory law under which the
- 4           member exercises a function, not subject to the direction of anyone
- 5           except—
- 6           (a) the commissioner; or
- 7           (b) another member of the commissioner's staff who is authorised
- 8           by the commissioner to give directions.
- 9           (2) In this section:
- 10          *commissioner's staff* means—
- 11          (a) a public servant mentioned in section 15; and
- 12          (b) a consultant or contractor engaged by the commissioner under
- 13          section 16.
- 14     **18           Delegation of functions**
- 15           (1) The commissioner may delegate the commissioner's functions under
- 16           this Act or another territory law under which the commissioner
- 17           exercises a function to a member of the commissioner's staff.
- 18           Note     For the making of delegations and the exercise of delegated functions,
- 19                     see the [Legislation Act](#), pt 19.4.
- 20           (2) In this section:
- 21          *commissioner's staff*—see section 17 (2).

1     **Division 3.2**                   **Labour hire licensing advisory**  
2                                   **committee**

3     **19**             **Establishment of committee**

4             The Labour Hire Licensing Advisory Committee is established.

5     **20**             **Functions of committee**

6             The committee has the following functions:

- 7             (a) to advise the Minister about—  
8                 (i) matters relating to the operation of this Act; and  
9                 (ii) if required by the Minister—anything else in relation to  
10                 labour hire services;  
11             (b) any other function given to the committee under this Act.

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

15     **21**             **Membership of committee**

- 16             (1) The committee consists of—  
17                 (a) the commissioner; and  
18                 (b) 3 members appointed by the Minister after consultation with the  
19                     people or bodies that the Minister considers represent the  
20                     interests of employees; and

- 1 (c) 3 members appointed by the Minister after consultation with the  
2 people or bodies that the Minister considers represent the  
3 interests of employers.

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

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

10 *Note 3* Certain Ministerial appointments require consultation with an Assembly  
11 committee and are disallowable (see [Legislation Act](#), div 19.3.3).

- 12 (2) A person must be appointed to the committee for not longer than  
13 3 years.

- 14 (3) The Minister must appoint a chair of the committee from the members  
15 appointed under subsection (1).

16 *Note* A person may be reappointed to a position if the person is eligible to be  
17 appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1,  
18 def *appoint*).

- 19 (4) The commissioner is a non-voting member of the committee.

## 20 **22 Procedures of committee**

- 21 (1) Meetings of the committee are to be held when and where the  
22 committee decides.

- 23 (2) The committee may conduct its proceedings (including its meetings)  
24 as it considers appropriate.

- 25 (3) The committee may publish its considerations as the committee  
26 considers appropriate.

1     **Part 4**                             **Labour hire licences**

2     **Division 4.1**                   **Licences generally**

3     **23**                   **Requirement to hold labour hire licence**

4             A person must not provide labour hire services unless the person  
5             holds a labour hire licence.

6             *Note*       Section 33 makes it an offence to provide labour hire services without a  
7             licence.

8     **24**                   **Application for licence**

9             (1) A person may apply to the commissioner for a licence.

10            (2) The application must—

11               (a) be in writing; and

12               (b) include any information prescribed by regulation.

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

16     **25**                   **Commissioner may request more information**

17             (1) The commissioner may, by written notice, require an applicant for a  
18             licence to give the commissioner information that the commissioner  
19             reasonably needs to decide the application, within a stated time, at a  
20             stated place.

21             (2) If the applicant does not comply with a requirement in the notice, the  
22             commissioner may refuse to consider the application further.

1     **26           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 commissioner written notice of the  
5               details of the change.

6     **27           Issue of licence**

- 7           (1) If a person applies for a licence, the commissioner must, within a  
8               reasonable period—
- 9               (a) issue the licence; or
- 10              (b) refuse to issue the licence.

11           *Note*     A licence may be issued with a condition (see s 29).

- 12           (2) The commissioner may issue the licence to the applicant, only if the  
13               commissioner is satisfied that the applicant is a suitable person to hold  
14               the licence.

15     **28           Who is a suitable person?**

- 16           (1) For this Act, in deciding whether an applicant is a ***suitable person*** to  
17               hold a licence, the commissioner must consider the following:
- 18               (a) the applicant's character, including, for example, the applicant's  
19                   honesty, integrity and professionalism;
- 20               (b) whether the applicant—
- 21                   (i) has a history of compliance with workplace laws or  
22                       standards; or
- 23                   (ii) is able to demonstrate an ability to comply with workplace  
24                       laws or standards;
- 25               (c) whether the applicant has previously held a licence that has been  
26                   cancelled or suspended, or for which conditions have been  
27                   imposed under section 29;

- 1 (d) whether the applicant has been the subject of regulatory action  
2 under a labour hire law;
- 3 (e) whether the applicant has been convicted of an offence against  
4 a workplace law or standard or another law that affects the  
5 applicant's suitability to provide labour hire services;
- 6 (f) if the applicant is an individual—
- 7 (i) whether the applicant has been an insolvent under  
8 administration under the [Corporations Act](#), section 9; or
- 9 (ii) whether a corporation has been placed into administration,  
10 receivership or liquidation while the applicant was an  
11 executive officer of the corporation; or
- 12 (iii) whether the applicant has been disqualified from managing  
13 a corporation under the [Corporations Act](#).
- 14 (2) If the applicant is a corporation, the commissioner must also consider  
15 the matters mentioned in subsection (1) for each influential person for  
16 the corporation.
- 17 (3) Also, the applicant is a suitable person if—
- 18 (a) the applicant holds a licence under another labour hire law; and
- 19 (b) the licence is not the subject of any regulatory action under that  
20 law.
- 21 (4) The commissioner—
- 22 (a) must consider any matter prescribed by regulation; or
- 23 (b) may consider any other matter the commissioner considers  
24 relevant.

(5) In this section:

***influential person***, for a corporation, means—

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

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

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

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

## 29 Licence—conditions

A labour hire licence includes—

- (a) a condition that the licensee must comply with this Act; and
- (b) a condition that the licensee must not contravene workplace laws or standards; and
- (c) a condition that the licensee notify the commissioner of any regulatory action taken against the licensee under a labour hire law; and
- (d) any other condition the commissioner considers appropriate; and
- (e) any other condition prescribed by regulation.

1   **30           Licence—period**

- 2           (1) A labour hire licence starts on the day stated in the licence.
- 3           (2) The commissioner must not issue a labour hire licence for longer than
- 4               12 months or any longer period prescribed by regulation.
- 5           (3) A labour hire licence expires on the day stated in the licence.

6   **31           Labour hire licence register**

- 7           (1) The commissioner must keep a register.
- 8           (2) The register—
- 9               (a) must include the following:
- 10                   (i) the licensee's registered business name;
- 11                   (ii) if the licensee operates the business under another name—
- 12                       the business's trading name;
- 13                   (iii) the licensee's ABN or ACN;
- 14                   (iv) the expiry date for the licence;
- 15                   (v) any condition on the licence;
- 16                   (vi) any other information prescribed by regulation; and
- 17               (b) may include any other information the commissioner considers
- 18                   appropriate.
- 19           (3) The information mentioned in subsection (2) (a) must be available for
- 20               public inspection.
- 21           (4) The commissioner may correct a mistake, error or omission in the
- 22               register.

1     **32           Licensee must update details**

- 2           (1) This section applies if any of the following information changes:
- 3               (a) contact details for the licensee;
- 4               (b) if the licensee operates the business under another name—the
- 5                     business’s trading name.
- 6           (2) The licensee must tell the commissioner, in writing, about the change
- 7               as soon as practicable, but not later than 7 days after the change
- 8               happens.
- 9           Maximum penalty: 50 penalty units.

10    **Division 4.2           Offences and penalties**

11    **33           Providing labour hire services without licence**

- 12           (1) A person commits an offence if the person—
- 13               (a) provides labour hire services; and
- 14               (b) does not hold a labour hire licence.
- 15           Maximum penalty:
- 16               (a) for an individual—800 penalty units; or
- 17               (b) for a corporation—3 000 penalty units.
- 18           (2) A person commits an offence if the person falsely represents that the
- 19               person holds a labour hire licence.
- 20           Maximum penalty: 200 penalty units.

21    **34           Breach of labour hire licence condition**

- 22           A person commits an offence if—
- 23               (a) the person holds a labour hire licence; and
- 24               (b) the licence is subject to a condition; and

1 (c) the person fails to comply with the condition.

2 Maximum penalty: 200 penalty units.

3 **35 Engaging unlicensed labour hire service provider**

4 (1) A person must not enter into an arrangement for the provision of  
5 labour hire services to the person unless the proposed provider of the  
6 labour hire services is the holder of a licence.

7 (2) Subsection (1) does not apply if—

8 (a) the provider was included in the register under section 31 as the  
9 holder of a labour hire licence at the time the arrangement was  
10 entered into; or

11 (b) the person has a reasonable excuse for entering into the  
12 arrangement.

13 **Example—par (b)**

14 Kevin decides that he needs a cleaner for his house. He sees an advertisement on a  
15 social media site by a company offering domestic cleaning services. Kevin did not  
16 know that the company was an unlicensed labour hire services provider nor was  
17 there anything in the advertisement or otherwise to make him aware that he should  
18 check that the company was licensed.

19 (3) If a person contravenes subsection (1), the person must pay as a debt  
20 due to the Territory a civil penalty—

21 (a) for an individual—a maximum penalty equivalent to  
22 800 penalty units; or

23 (b) for a corporation—a maximum penalty equivalent to  
24 3 000 penalty units.

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

## 1      **Part 5**                                      **Compliance auditing**

### 2      **36**                      **Complaints about labour hire licensees**

- 3                      (1) If the commissioner receives a complaint about a licensee, the  
4                      commissioner may—
- 5                                      (a) investigate the complaint; or
- 6                                      (b) if the complaint relates to a failure to comply with a workplace  
7                                      law or standard—refer the complaint to the authority responsible  
8                                      for administering the workplace law or standard; or
- 9                                      (c) take no action if the commissioner reasonably believes the  
10                                      complaint—
- 11                                                      (i) lacks substance; or
- 12                                                      (ii) is frivolous, vexatious or was not made in good faith; or
- 13                                                      (iii) has been adequately dealt with.
- 14                      (2) The commissioner must—
- 15                                      (a) deal with the complaint in accordance with any complaints  
16                                      guideline under section 37; and
- 17                                      (b) give written notice of the action taken under subsection (1)  
18                                      unless the complainant has not provided contact details.

### 19      **37**                      **Complaints guideline**

- 20                      (1) The Minister may determine guidelines for how a complaint about a  
21                      licensee must be dealt with (a ***complaints guideline***).
- 22                      (2) A complaints guideline is a notifiable instrument.
- 23                      *Note*              A notifiable instrument must be notified under the [Legislation Act](#).

- 1     **38           Licensee must provide information about compliance**
- 2           (1) The commissioner may request, in writing, that a licensee give the
- 3               commissioner information about the licensee's compliance with this
- 4               Act within a stated reasonable period—
- 5               (a) on receiving a complaint about the licensee; or
- 6               (b) on the commissioner's own initiative.
- 7           (2) The licensee must give the commissioner the information within the
- 8               stated period.
- 9               *Note*     The commissioner may take regulatory action if the licensee does not
- 10               comply with this section (see s 40).
- 11           (3) However, any information obtained, directly or indirectly, because of
- 12               the giving of the information is not admissible in evidence against the
- 13               person in a civil or criminal proceeding, other than a proceeding
- 14               relating to regulatory action under part 6.
- 15               *Note*     The [Legislation Act](#), s 170 deals with the application of the privilege
- 16               against self-incrimination.

1       **Part 6**                               **Regulatory action**

2       **39**               **Meaning of *regulatory action*—pt 6**

3               In this part:

4               ***regulatory action***, against a licensee, means any of the following  
5               actions:

- 6               (a) imposing, or amending, a condition on the licence;
- 7               (b) suspending the licence for either a fixed period or until a  
8               particular event happens;
- 9               (c) disqualifying the licensee from applying for another licence for  
10              a fixed period or until a particular event happens;
- 11              (d) cancelling the licence.

12       **40**               **When regulatory action may be taken**

13              The commissioner may take regulatory action against a licensee only  
14              if satisfied on reasonable grounds that the licensee—

- 15              (a) stopped operating the business the subject of the licence; or
- 16              (b) used false or misleading information to obtain the licence; or
- 17              (c) contravened a condition of the licence; or
- 18              (d) fails to give the commissioner information requested under  
19              section 38; or
- 20              (e) failed to comply with a provision of this Act; or
- 21              (f) is no longer a suitable person to hold a licence; or
- 22              (g) has contravened a workplace law or standard.

1     **41           Notification of proposed regulatory action**

- 2           (1) Before the commissioner takes regulatory action against a licensee,  
3           the commissioner must give the licensee a written notice (a ***show***  
4           ***cause notice***) stating—
- 5               (a) the grounds on which, under section 40, the commissioner  
6               considers regulatory action may be taken; and
- 7               (b) details of the proposed regulatory action; and
- 8               (c) that the licensee may, not later than 14 days after the day the  
9               licensee is given the notice, give a written submission to the  
10              commissioner about the proposed regulatory action.
- 11          (2) The commissioner must consider any written submission received by  
12          the commissioner in response to the show cause notice when making  
13          a decision to take regulatory action against the licensee.

14     **42           Taking regulatory action**

- 15          (1) This section applies if the commissioner, after complying with  
16          section 41, is satisfied on reasonable grounds that it is appropriate to  
17          take the regulatory action.
- 18          (2) The commissioner may—
- 19               (a) if the proposed regulatory action is imposing or amending a  
20               condition on a licence—impose or amend the condition; or
- 21               (b) if the proposed regulatory action is suspending a licence—take  
22               any of the following action:
- 23                   (i) the action mentioned in paragraph (a);
- 24                   (ii) suspend the licence for a period; or
- 25               (c) if the proposed regulatory action is disqualifying a licensee from  
26               applying for a further licence—take any of the following action:
- 27                   (i) the action mentioned in paragraph (b);

- 1 (ii) disqualify the licensee from applying for a further licence  
2 for a period; or
- 3 (d) if the proposed regulatory action is cancelling a licence—take  
4 any of the following action:
- 5 (i) the action mentioned in paragraph (c);  
6 (ii) cancel the licence.
- 7 *Note* A decision under this subsection is a reviewable decision (see s 71).
- 8 (3) Before taking regulatory action against a licensee under this section,  
9 the commissioner must tell the licensee, by written notice (a ***notice of***  
10 ***regulatory action***)—
- 11 (a) the regulatory action that will be taken; and  
12 (b) the day on which the regulatory action takes effect.
- 13 (4) Regulatory action against the licensee takes effect on the day stated  
14 in the notice of regulatory action.
- 15 (5) In this section:
- 16 ***proposed regulatory action***, in relation to a licensee, means  
17 regulatory action mentioned in a show cause notice given to the  
18 person under section 41 (1).

### 19 **43 Not taking regulatory action**

- 20 (1) This section applies if, after considering a submission under  
21 section 41 (2) received from a licensee, the commissioner is satisfied  
22 on reasonable grounds that regulatory action against the licensee—
- 23 (a) may not be taken; or  
24 (b) may be taken, but it is not appropriate to take the action.
- 25 (2) The commissioner must give the licensee written notice telling the  
26 licensee that regulatory action will not be taken against the licensee  
27 in relation to the matters stated in the show cause notice.

1     **44           Regulatory action in another jurisdiction**

- 2           (1) This section applies if—
- 3               (a) a licensee holds a licence under another labour hire law; and
- 4               (b) regulatory action is taken, or is proposed to be taken, against the
- 5               licensee in relation to that licence.
- 6           (2) The licensee must, as soon as possible after the licensee becomes
- 7               aware of the regulatory action, tell the commissioner—
- 8               (a) the proposed regulatory action or regulatory action taken; and
- 9               (b) the day on which the regulatory action takes effect.

10           *Note*     The commissioner must consider regulatory action against a licensee in

11                       deciding if the person is a suitable person to hold a licence

12                       (see s 28 (1) (d)).

13     **45           Effect of suspension**

14           If the commissioner suspends a licence, the licensee is taken not to

15           hold the licence during the period of suspension.

1       **Part 7**                               **Enforcement**

2       **Division 7.1**                   **Preliminary**

3       **46**               **Definitions—pt 7**

4               In this part:

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 the
- 12              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 7.2.3 (Search

18              warrants).

**Division 7.2                      Authorised people**

**Subdivision 7.2.1          Authorised people generally**

**47                      Appointment**

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

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

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

**48                      Identity cards**

(1) The director-general must give each authorised person an identity card that states the person's name and appointment as an authorised person, and shows—

- (a) a recent photograph of the person; and
- (b) the date of issue of the card; and
- (c) the date of expiry of the card; and
- (d) anything else prescribed by regulation.

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

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

Maximum penalty: 1 penalty unit.

(3) Subsection (2) does not apply to a person if the person's identity card is—

(a) lost or stolen; or

(b) destroyed by someone else.

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

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

#### **49 Authorised person must show identity card on exercising power of entry**

(1) If an authorised person exercises a power under this Act (other than a power under section 54) that affects an individual, the authorised person must first show the authorised person's identity card to the individual.

(2) If an authorised person exercises a power under this Act (other than a power under section 54) that affects a person, other than an individual, the authorised person must first show the authorised person's identity card to an individual the authorised person believes on reasonable grounds is an employee, officer or agent of the person.

### **Subdivision 7.2.2 Powers**

#### **50 Power to enter premises**

(1) For this Act, an authorised person may—

(a) at any reasonable time, enter premises that the public is entitled to use or that are open to the public (whether or not on payment of money); or

(b) at any time, enter premises with the occupier's consent; or

- 1 (c) at any time, enter premises if the authorised person believes on  
2 reasonable grounds that the risk is so serious and urgent that  
3 immediate entry to the premises without the authority of a search  
4 warrant is necessary; or
- 5 (d) enter premises in accordance with a search warrant.
- 6 (2) However—
- 7 (a) subsection (1) (a) does not authorise entry into a part of the  
8 premises that is being used only for residential purposes; and
- 9 (b) subsection (1) (c) does not authorise entry into premises that are  
10 used for residential purposes, unless the premises are also the  
11 place from which a labour hire business is conducted.
- 12 (3) An authorised person may, without the consent of the occupier of  
13 premises, enter land around the premises to ask for consent to enter  
14 the premises.
- 15 (4) To remove any doubt, an authorised person may enter premises under  
16 subsection (1) without payment of an entry fee or other charge.
- 17 (5) An authorised person may—
- 18 (a) for subsection (1) (a), (b) or (c)—enter the premises with  
19 necessary assistance; and
- 20 (b) for subsection (1) (d)—enter the premises with necessary  
21 assistance and 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 to carry out their function.

1     **51           Production of identity card**

2           An authorised person and any other person other than a police officer  
3           who is accompanying the authorised person may not remain at  
4           premises entered under this part if the authorised person does not  
5           produce their identity card when asked by the occupier.

6     **52           Consent to entry**

7           (1) When seeking the consent of an occupier to enter premises under  
8           section 50 (1) (b), an authorised person must—

9               (a) produce their identity card; and

10              (b) tell the occupier—

11                   (i) the purpose of the entry; and

12                   (ii) the reason for, and identity of, any other person  
13                   accompanying the authorised person; and

14                   (iii) that anything found and seized under this part may be used  
15                   in evidence in court; and

16                   (iv) that consent may be refused.

17           (2) If the occupier consents, the authorised person must ask the occupier  
18           to sign a written acknowledgment (an ***acknowledgment of***  
19           ***consent***)—

20               (a) that the occupier was told—

21                   (i) the purpose of the entry; and

22                   (ii) the reason for, and identity of, any other person  
23                   accompanying the authorised person; and

24                   (iii) that anything found and seized under this part may be used  
25                   in evidence in court; and

26                   (iv) that consent may be refused; and

27               (b) that the occupier consents to the entry; and

- 1 (c) stating the time and date when consent was given.
- 2 (3) If the occupier signs an acknowledgment of consent, the authorised
- 3 person must immediately give a copy to the occupier.
- 4 (4) A court must find that the occupier did not consent to entry to the
- 5 premises by the authorised person under this part if—
- 6 (a) the question whether the occupier consented to the entry arises
- 7 in a proceeding in the court; and
- 8 (b) an acknowledgment of consent for the entry is not produced in
- 9 evidence; and
- 10 (c) it is not proved that the occupier consented to the entry.

11 **53 General powers on entry to premises**

- 12 (1) An authorised person who enters premises under this part may, for
- 13 this Act, do 1 or more of the following in relation to the premises or
- 14 anything at the premises:
- 15 (a) examine anything;
- 16 (b) examine and copy, or take extracts from, documents relating to
- 17 a contravention, or possible contravention, of this Act;
- 18 (c) take photographs, films, or audio, video or other recordings;
- 19 (d) require the occupier, or anyone at the premises, to give
- 20 information, answer questions, or produce documents or
- 21 anything else (whether the information, document or other thing
- 22 is at the premises or elsewhere) that the occupier or person at the
- 23 premises has, or has access to, that are reasonably necessary to
- 24 exercise a function under this Act;
- 25 (e) require the occupier, or anyone else at the premises, to give the
- 26 authorised person copies of documents produced under
- 27 paragraph (d) that are reasonably necessary to exercise a
- 28 function under this Act;

1 (f) require the occupier, or anyone else at the premises, to give the  
2 authorised person reasonable help to exercise a power under this  
3 part.

4 (2) A person must take reasonable steps to comply with a requirement  
5 made of the person under subsection (1) (d), (e) or (f).

6 Maximum penalty: 50 penalty units.

7 **54 Power to obtain, inspect and copy records**

8 (1) An authorised person may, in writing, require any of the following  
9 people to give the authorised person information, or produce  
10 documents or anything else, that the person has, or has access to, that  
11 are reasonably required by the authorised person for this Act:

12 (a) a licensee;

13 (b) a bank or other financial institution that holds accounts for a  
14 licensee;

15 (c) an accountant or bookkeeper engaged by a licensee.

16 **Example**

17 request and obtain by email a list of employees

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

20 Maximum penalty: 50 penalty units.

21 **55 Abrogation of privilege against self-incrimination**

22 (1) A person is not excused from answering a question or providing  
23 information or a document under this part on the ground that the  
24 answer to the question, or the information or document, may tend to  
25 incriminate the person or expose the person to a penalty.

- 1           (2) However, any information, document or thing obtained, directly or  
2           indirectly, because of the giving of the answer or the production of  
3           the document is not admissible in evidence against the person in a  
4           civil or criminal proceeding, other than a proceeding for an offence  
5           arising out of the false or misleading nature of the answer,  
6           information or document.

7       **56           Warning to be given**

- 8           (1) Before requiring a person to comply with a requirement under  
9           section 53 (1) (d) or (e) or section 54, an authorised person must warn  
10          the person—

- 11               (a) that failure to comply constitutes an offence; and  
12               (b) about the effect of section 55.

- 13          (2) It is not an offence for an individual to refuse to answer a question  
14          put by an authorised person or provide information or a document to  
15          an authorised person under section 53 (1) (d) or (e) or section 54 on  
16          the ground that the question, information or document might tend to  
17          incriminate the individual, unless the individual was first given the  
18          warning in subsection (1) (b).

- 19          (3) Nothing in this section prevents an authorised person from obtaining  
20          and using evidence given to the authorised person voluntarily by any  
21          person.

22       **57           Power to seize things**

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

- 27          (2) An authorised person who enters premises under a warrant under this  
28          part may seize anything at the premises that the authorised person is  
29          authorised to seize under the warrant.

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

20 **58 Direction to give name and address**

- 21 (1) This section applies if an authorised person believes on reasonable  
22 grounds that a person—  
23 (a) has committed, is committing or is about to commit an offence  
24 against this Act; or  
25 (b) may be able to assist in the investigation of an offence against  
26 this Act.

1 (2) The authorised person may direct the person to give the authorised  
2 person, immediately, any of the following personal details:

3 (a) the person's full name;

4 (b) the person's home address.

5 *Note 1* The authorised person must first show the person the authorised person's  
6 identity card (see s 49).

7 *Note 2* It is an offence to make a false or misleading statement or give false or  
8 misleading information (see [Criminal Code](#), pt 3.4).

9 (3) If the authorised person believes on reasonable grounds that a  
10 personal detail given by a person in response to a name and address  
11 direction is false or misleading, the authorised person may direct the  
12 person to produce evidence immediately of the correctness of the  
13 detail.

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

17 (5) If an authorised person gives a direction to a person, the authorised  
18 person must give the direction in a language, or in a way of  
19 communicating, that the authorised person believes on reasonable  
20 grounds the person is likely to understand.

21 **59 Offence—fail to comply with direction to give name and**  
22 **address**

23 (1) A person commits an offence if the person fails to comply with a  
24 direction under section 58.

25 Maximum penalty: 5 penalty units.

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

- 1           (3) This section does not apply to a person if the authorised person,  
2           before giving the direction, did not—
- 3           (a) produce the authorised person’s identity card for inspection by  
4           the person; or
- 5           (b) tell the person that failure to comply with the direction is an  
6           offence.
- 7           (4) Also, for a direction under section 58 (3), this section does not apply  
8           if the person produces evidence of the correctness of the detail not  
9           more than 3 days after the day the direction was made.
- 10           *Note*     The defendant has an evidential burden in relation to the matters  
11           mentioned in ss (3) and (4) (see [Criminal Code](#), s 58).

### 12       **Subdivision 7.2.3     Search warrants**

#### 13       **60           Warrants generally**

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

- 1 (b) the thing or activity—  
2 (i) is, or is being engaged in, at the premises; or  
3 (ii) may be, or may be engaged in, at the premises within the  
4 next 14 days.
- 5 (5) The warrant must state—  
6 (a) that an authorised person may, with any necessary assistance  
7 and force, enter the premises and exercise the authorised  
8 person's powers under this part; and  
9 (b) the offence for which the warrant is issued; and  
10 (c) the things that may be seized under the warrant; and  
11 (d) the hours when the premises may be entered; and  
12 (e) the date, within 14 days after the day of the warrant's issue,  
13 when the warrant ends.

14 **61 Warrants—application other than in person**

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

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

- 1     **62           Search warrants—announcement before entry**
- 2           (1) An authorised person must, before anyone enters premises under a
- 3           search warrant—
- 4               (a) announce that the authorised person is authorised to enter the
- 5               premises; and
- 6               (b) give anyone at the premises an opportunity to allow entry to the
- 7               premises; and
- 8               (c) if the occupier of the premises, or someone else who apparently
- 9               represents the occupier, is present at the premises—identify
- 10              themselves to the person.
- 11          (2) The authorised person is not required to comply with subsection (1)
- 12          if the authorised person believes on reasonable grounds that
- 13          immediate entry to the premises is required to ensure—
- 14               (a) the safety of anyone (including the authorised person or any
- 15               person assisting an authorised person); or
- 16               (b) that the effective execution of the warrant is not frustrated.
- 17     **63           Details of search warrant to be given to occupier etc**
- 18           If the occupier of the premises, or someone else who apparently
- 19           represents the occupier, is present at the premises while a search
- 20           warrant is being executed, the authorised person or a person assisting
- 21           must make available to the person—
- 22               (a) a copy of the warrant; and
- 23               (b) a document setting out the rights and obligations of the person.

- 1     **64           Occupier entitled to be present during search etc**
- 2           (1) 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 person is entitled to observe the search
- 5               being conducted.
- 6           (2) However, the person is not entitled to observe the search if—
- 7               (a) to do so would impede the search; or
- 8               (b) the person is under arrest, and allowing the person to observe
- 9               the search being conducted would interfere with the objectives
- 10              of the search.
- 11          (3) This section does not prevent 2 or more areas of the premises being
- 12              searched at the same time.

13     **Subdivision 7.2.4    Return and forfeiture of things seized**

- 14     **65           Receipt for things seized**
- 15           (1) As soon as practicable after a thing is seized by an authorised person
- 16               under this part, the authorised person must give a receipt for it to the
- 17               person from whom it was seized.
- 18           (2) If, for any reason, it is not practicable to comply with subsection (1),
- 19               the authorised person must leave the receipt, secured conspicuously
- 20               at the place of seizure under section 57 (Power to seize things).
- 21           (3) A receipt under this section must include the following:
- 22               (a) a description of the thing seized;
- 23               (b) an explanation of why the thing was seized;
- 24               (c) the authorised person's name, and how to contact the authorised
- 25               person;
- 26               (d) if the thing is moved from the premises where it is seized—
- 27               where the thing is to be taken.

**66            Moving things to another place for examination or  
processing under search warrant**

- (1) A thing found at premises entered under a search warrant may be moved to another place for examination or processing to decide whether it may be seized under the warrant if—
- (a) both of the following apply:
- (i) there are reasonable grounds for believing that the thing is or contains something to which the warrant relates;
- (ii) it is significantly more practicable to do so having regard to the timeliness and cost of examining or processing the thing at another place and the availability of expert assistance; or
- (b) the occupier of the premises agrees in writing.
- (2) The thing may be moved to another place for examination or processing for not longer than 72 hours.
- (3) An authorised person may apply to a magistrate for an extension of time if the authorised person believes on reasonable grounds that the thing cannot be examined or processed within 72 hours.
- (4) The authorised person must give notice of the application to the occupier of the premises, and the occupier is entitled to be heard on the application.
- (5) If a thing is moved to another place under this section, the authorised person must, if practicable—
- (a) tell the occupier of the premises the address of the place where, and time when, the examination or processing will be carried out; and
- (b) allow the occupier or the occupier's representative to be present during the examination or processing.

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

4       **67           Access to things seized**

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

- 7           (a) inspect the thing; and  
8           (b) photograph the thing; and  
9           (c) if the thing is a document—take extracts from, or make copies  
10          of, the thing.

11       **68           Return of things seized**

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

15           (a) an infringement notice for an offence connected with the thing  
16           is not served on the owner within 1 year after the day of the  
17           seizure and either—

18           (i) a prosecution for an offence connected with the thing is not  
19           begun within the 1-year period; or

20           (ii) a prosecution for an offence connected with the thing is  
21           begun within the 1-year period but the court does not find  
22           the offence proved; or

23           (b) an infringement notice for an offence connected with the thing  
24           is served on the owner within 1 year after the day of the seizure,  
25           the infringement notice is withdrawn and—

26           (i) a prosecution for an offence connected with the thing is not  
27           begun within 1 year after the day of the seizure; or

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

## 19 **Subdivision 7.2.5 Miscellaneous**

### 20 **69 Damage etc to be minimised**

- 21 (1) In the exercise, or purported exercise, of a function under this part, an  
22 authorised person must take all reasonable steps to ensure that the  
23 authorised person, and any person assisting the authorised person,  
24 causes as little inconvenience, detriment and damage as is practicable.
- 25 (2) If an authorised person, or a person assisting an authorised person,  
26 damages anything in the exercise or purported exercise of a function  
27 under this part, the authorised person must give written notice of the  
28 particulars of the damage to the person whom the authorised person  
29 believes on reasonable grounds is the owner of the thing.

- 1           (3) If the damage happens at premises entered under this part in the  
2           absence of the occupier, the notice may be given by leaving it secured  
3           in a conspicuous place at the premises.

4       **70           Compensation for exercise of enforcement powers**

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

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

3 **71** **Meaning of *reviewable decision*—pt 8**

4 In this part:

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

8 **72** **Reviewable decision notices**

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

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

15 *Note 2* The requirements for reviewable decision notices are prescribed under  
16 the [ACT Civil and Administrative Tribunal Act 2008](#).

17 **73** **Applications for review**

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

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

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

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

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

### 2      **74**                      **Disclosure of information by commissioner**

3                      (1) The commissioner may disclose any information that has been  
4                                      disclosed to, or obtained by, the commissioner in the exercise of a  
5                                      function under this Act to a responsible entity if the commissioner  
6                                      considers that—

7                                      (a) the information is relevant to the exercise of the functions of the  
8                                                              responsible entity; and

9                                      (b) the disclosure of the information to the responsible entity is  
10                                                              appropriate.

11                      (2) In this section:

12                                      **responsible entity** means an entity responsible for the administration  
13                                      of a workplace law or standard or a labour hire law.

### 14      **75**                      **Determination of fees**

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

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

18                      (2) A determination is a disallowable instrument.

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

### 21      **76**                      **Regulation-making power**

22                      The Executive may make regulations for this Act.

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

1   **77           Review of Act**

- 2           (1) The Minister must review the operation of this Act as soon as  
3           practicable after the end of its 3rd year of operation.
- 4           (2) The Minister must present a report of the review to the Legislative  
5           Assembly within 6 months after the day the review is started.
- 6           (3) This section expires 4 years after the day it commences.

1     **Part 15**                             **Transitional**

2     **100**             **Offences and penalties do not apply for first 6 months**

3             Division 4.2 (Offences and penalties) does not apply until 6 months  
4             after the day this Act, section 3 commences.

5     **101**             **Expiry—pt 15**

6             This part expires 12 months after the day this Act, section 3  
7             commences.

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

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## Schedule 1      Reviewable decisions

(see pt 8)

| column 1<br>item | column 2<br>section | column 3<br>decision          | column 4<br>entity    |
|------------------|---------------------|-------------------------------|-----------------------|
| 1                | 27 (1) (b)          | refuse to issue licence       | applicant for licence |
| 2                | 29                  | issue licence on<br>condition | licensee              |
| 3                | 42 (2)              | take regulatory action        | licensee              |

## Dictionary

(see s 3)

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

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

- ACAT
- corporation
- Corporations Act
- Criminal Code
- disallowable instrument (see s 9)
- Executive
- exercise
- found guilty
- function
- individual
- may (see s 146)
- Minister (see s 162)
- must (see s 146)
- notifiable instrument (see s 10)
- penalty unit (see s 133)
- person (see s 160)
- State
- the Territory.

***commissioner*** means—

- (a) the person appointed under section 9 (1); or
- (b) if a person has not been appointed under section 9 (1)—the person appointed under the [Work Health and Safety Act 2011](#), schedule 2, part 2.2.

**committee** means the Labour Hire Licensing Advisory Committee established under section 19.

**complaints guideline**—see section 37.

**connected**, for part 7 (Enforcement)—see section 46.

**labour hire law** means—

(a) this Act; and

(b) a law of another jurisdiction corresponding, or substantially corresponding, to this Act.

**labour hire licence** means a licence issued under section 27.

**labour hire services**—see section 7.

**occupier**, of premises, for part 7 (Enforcement)—see section 46.

**offence**, for part 7 (Enforcement)—see section 46.

**premises**, for part 7 (Enforcement)—see section 46.

**regulatory action**, against a licensee, for part 6 (Regulatory action)—see section 39.

**reviewable decision**, for part 8 (Notification and review of decisions)—see section 71.

**suitable person**—see section 28.

**warrant**, for part 7 (Enforcement)—see section 46.

**worker**—see section 8.

**workplace law or standard** means any of the following:

(a) a labour hire law;

(b) a law of the Commonwealth or a State imposing an obligation on a person in relation to workers, including about—

(i) keeping records about workers; and

(ii) the payment of tax or superannuation for workers; and

- 1 (iii) ensuring the health and safety of workers;  
2 (c) a law prescribed by regulation.

3 **Examples—par (b)**

- 4 • the [Discrimination Act 1991](#)  
5 • the [Fair Work Act 2009](#) (Cwlth)  
6 • the [Income Tax Assessment Act 1997](#) (Cwlth)  
7 • the [Long Service Leave Act 1976](#)  
8 • the [Long Service Leave \(Portable Schemes\) Act 2009](#)  
9 • the [Migration Act 1958](#) (Cwlth)  
10 • the [Superannuation Act 1976](#) (Cwlth)  
11 • the [Superannuation Act 1990](#) (Cwlth)  
12 • the [Superannuation Act 2005](#) (Cwlth)  
13 • the [Workers Compensation Act 1951](#)  
14 • the [Work Health and Safety Act 2011](#).

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

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 20 February 2020.

**2 Notification**

Notified under the [Legislation Act](#) on 2020.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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