

Serial 114
Ports Legislation Amendment Bill 2019
Ms Lawler

A Bill for an Act to amend the *Ports Management Act 2015*, repeal the *Darwin Port Corporation Act 1983* and *Ports Management (Repeals and Related and Consequential Amendments) Act 2015* and make amendments in consequence of the repeals

NORTHERN TERRITORY OF AUSTRALIA

PORTS LEGISLATION AMENDMENT ACT 2019

Act No. [] of 2019

Table of provisions

Part 1 Preliminary matters

1	Short title	1
2	Commencement	1

Part 2 Amendment of Ports Management Act 2015

3	Act amended	1
4	Section 3 amended (Definitions).....	2
5	Section 20A inserted	3
	20A Delegation	
6	Section 32 amended (Guidelines)	3
7	Section 38 amended (Directions by port operator)	4
8	Section 39 replaced	5
	39 Removal etc. of vessel by port operator	
9	Section 40 amended (Power to board vessel)	6
10	Part 5, Division 3 replaced	6
	Division 3 Clearance of vessels and wrecks	
	40A Port operator's directions: removal of vessel or wreck in emergency	
	40B Regional harbourmaster's directions: removal of vessel or wreck in emergency	
	41 Port operator's directions: vessels and wrecks likely to endanger or obstruct commercial vessels etc.	
	42 Port operator's directions: vessels and wrecks that endanger commercial shipping etc.	
	43 Regional harbourmaster's directions: vessels and wrecks likely to endanger or obstruct non-commercial vessels etc.	
	44 Sale of vessel or wreck by port operator	
	44A Sale of vessel or wreck by regional harbourmaster	
	44B Other disposal of vessel or wreck	
	44C Acquisition on just terms	
11	Section 50 amended (Power of port operator to close waters).....	26
12	Section 51 amended (Power of regional harbourmaster to close waters)	27
13	Section 52 amended (Removal etc. of vessel for failure to comply with direction)	29

14	Part 5, Division 6 heading amended.....	29
15	Section 53 amended (Erection of structures).....	29
16	Section 59 amended (Enforcement of port notice)	30
17	Section 62 amended (Monitoring of port notices)	31
18	Section 63 amended (Definition)	31
19	Section 64 amended (Pilotage authority may declare exempt vessels)	31
20	Section 67 amended (Technical and safety standards).....	32
21	Section 73 amended (Pilotage not required in certain cases).....	32
22	Section 118 replaced.....	33
	118 Application of Part	
23	Section 119 amended (Application of <i>Utilities Commission Act 2000</i>)	33
24	Section 121 amended (Annual report to Minister on material non-compliance)	34
25	Section 123 amended (Review of Part)	34
26	Section 124 amended (Preventing or hindering access)	34
27	Section 125 amended (Unfairly differentiating).....	35
28	Section 126 amended (Enforcement of obligations).....	36
29	Section 127 amended (Access policy).....	36
30	Section 131 amended (Information required by Regulator)	38
31	Section 132 amended (Determinations by Regulator).....	38
32	Section 134 amended (Regulations)	39
33	Section 136 amended (Power of Regulator to require information).....	39
34	Section 137 amended (Confidentiality of information)	40
35	Section 146 amended (Protection from liability)	40
36	Section 148 amended (Effect of things done under Act)	41
37	Section 149 amended (Exemption from local government rates etc.).....	41
38	Part 13, Division 5A inserted	41
	Division 5A Delegation	
	153A Delegation by Minister	
39	Section 155 amended (Regulations)	41
40	Part 14, Division 3 inserted.....	42
	Division 3 Transitional matters for Ports Legislation Amendment Act 2019	
	164 Definitions	
	165 Directions	
	166 Access policies	
41	Schedule 1 amended (Reviewable decisions).....	43
42	Act further amended	43

Part 3 Repeal of Acts

43	<i>Darwin Port Corporation Act 1983</i> repealed	43
----	--	----

44	<i>Ports Management (Repeals and Related and Consequential Amendments) Act 2015</i> repealed	43
----	--	----

Part 4 Amendment of Port of Darwin Act 2015

45	<i>Port of Darwin Act 2015</i> amended	43
----	--	----

Part 5 Repeal of Act

46	Repeal of Act	43
----	---------------------	----

Schedule 1 Act further amended

Schedule 2 Port of Darwin Act 2015 amended



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2019

An Act to amend the *Ports Management Act 2015*, repeal the *Darwin Port Corporation Act 1983* and *Ports Management (Repeals and Related and Consequential Amendments) Act 2015* and make amendments in consequence of the repeals

[Assented to [] 2019]
[Introduced [] 2019]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Ports Legislation Amendment Act 2019*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Ports Management Act 2015

3 Act amended

This Part amends the *Ports Management Act 2015*.

4 Section 3 amended (Definitions)

(1) Section 3

insert

commercial shipping means the carrying of cargo, or transport of passengers, by sea to or from a designated port, for reward, on a vessel other than:

- (a) a commercial fishing vessel; or
- (b) a fishing charter vessel; or
- (c) a ferry; or
- (d) a vessel prescribed by regulation.

non-commercial vessel means a vessel that is not a commercial vessel.

prescribed services means:

- (a) for a private port operator – the services prescribed by regulation; or
- (b) for a private pilotage provider – pilotage services in a pilotage area within a designated port.

preventative action, in relation to a vessel, hull or hulk in a designated port, means one or more preventative measures.

preventative measure, in relation to a vessel, hull or hulk in a designated port, means:

- (a) removing the vessel, hull or hulk from the port; or
- (b) moving the vessel, hull or hulk to a specified place within the port; or
- (c) repairing the vessel, hull or hulk and making it safe; or
- (d) destroying the vessel, hull or hulk.

private pilotage provider, see section 118(b).

registered interest means an interest registered under the *Shipping Registration Act 1981* (Cth) or *Personal Property Securities Act 2009* (Cth).

website includes a webpage.

(2) Section 3, definition ***private port operator***

omit

118.

insert

118(a).

5 Section 20A inserted

After section 20

insert

20A Delegation

The regional harbourmaster for a designated port may delegate any of the regional harbourmaster's powers and functions under this Act to a person.

6 Section 32 amended (Guidelines)

Section 32(2)

omit, insert

- (2) As soon as practicable after issuing guidelines, the regional harbourmaster must:
- (a) publish the guidelines on the Internet and in any other way decided by the harbourmaster; and
 - (b) publish a notice in the *Gazette* stating the following:
 - (i) that the guidelines have been made;
 - (ii) the date on which the guidelines take effect, which may be the day on which the notice is published or any later date;
 - (iii) the place where copies of the guidelines can be obtained.

7 Section 38 amended (Directions by port operator)

- (1) Section 38(1)
omit
master
insert
owner, master or occupier
- (2) Section 38(1)(b)(iii)
omit
vessel;
insert
vessel.
- (3) Section 38(1)(c)
omit
- (4) Section 38(2)
omit, insert
- (1A) In addition, the port operator of a designated port may give directions for regulating the positioning, mooring, unmooring, placing or anchoring of a vessel and the removing of a vessel from one place to another within the port:
- (a) by written notice published on the port operator's website; or
 - (b) by written notice given to the owner, master or occupier of the vessel; or
 - (c) if there is an immediate threat to the vessel, or the vessel poses an immediate danger to another vessel, a person, property or the environment – orally to a person apparently in control of the vessel.

- (1B) A direction published on the port operator's website under subsection (1) or (1A):
- (a) must be addressed to the owner, master or occupier of the vessel to which the direction relates but, if the port operator does not know the name of the owner, master or occupier, may be addressed without specifying a name; and
 - (b) is taken to have been given to the person to whom it is addressed.
- (2) A person to whom a direction is given under subsection (1) or (1A) commits an offence if the person fails to comply with the direction.
- Maximum penalty: 100 penalty units.

8 Section 39 replaced

Section 39

repeal, insert

39 Removal etc. of vessel by port operator

- (1) If a direction given under section 38(1A) is not complied with, the port operator of the designated port may cause the vessel to be positioned, moored, unmoored, placed, anchored or removed as directed.
- (2) Subsection (1) applies irrespective of whether a person has been charged with, or found guilty of, an offence against section 38(2).
- (3) The port operator may also cause a vessel to be positioned, moored, unmoored, placed, anchored or removed as the port operator thinks fit if there is no person on board the vessel to whom a direction may be given under section 38(1A).
- (4) The owner, master and occupier of the vessel are jointly and severally liable to pay all costs incurred by the port operator under subsection (1) or (3).
- (5) Any such amount is additional to any penalty imposed for an offence against section 38(2).
- (6) An amount that an owner, master or occupier is liable to pay under subsection (4) for costs may be recovered as a debt due and payable to the port operator.

9 Section 40 amended (Power to board vessel)

- (1) Section 40(1) and (2)
omit
master
insert
owner, master or occupier
- (2) Section 40(4)
omit, insert
- (4) The owner, master and occupier of the vessel are jointly and severally liable to pay all costs incurred under subsection (3).
- (3) Section 40(5)
omit
an owner
insert
a person

10 Part 5, Division 3 replaced

Part 5, Division 3

repeal, insert

Division 3 Clearance of vessels and wrecks**40A Port operator's directions: removal of vessel or wreck in emergency**

- (1) This section applies to the following within a designated port:
- (a) a vessel, the hull of a vessel or a hulk if:
- (i) there is an immediate threat to it; or
- (ii) it is in such a condition that it is an immediate threat or danger to persons or the environment;

- (b) a commercial vessel or the hull of a vessel, or a hulk, that was a commercial vessel if it is in such a condition that it is an immediate threat or danger to any vessel or property within the port;
 - (c) a vessel if it is in such a condition that it is an immediate threat or danger to vessels or other property connected with commercial shipping in the port;
 - (d) a commercial vessel if the manner or means by which it is secured while at anchor or moored gives rise to an immediate threat or danger to:
 - (i) persons; or
 - (ii) vessels or other property connected with commercial shipping in the port; or
 - (iii) the environment.
- (2) The port operator of the designated port must give an oral direction to a person apparently in control of the vessel, hull or hulk to remove the vessel, hull or hulk from the designated port.
- (3) A person to whom a direction is given under subsection (2) commits an offence if the person fails to comply with the direction.
- Maximum penalty: 100 penalty units.
- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.
- (6) If a person to whom a direction is given under subsection (2) fails to comply with it:
- (a) the port operator may cause the vessel, hull or hulk to be removed from the designated port or moved to another place within the port; and
 - (b) the person is liable to pay all costs incurred by the port operator under paragraph (a).
- (7) Subsection (6) applies irrespective of whether the person has been charged with, or found guilty of, an offence against subsection (3), and an amount payable under subsection (6) is additional to any penalty imposed for an offence against subsection (3).

- (8) If there is no person on board the vessel, hull or hulk to whom a direction may be given under subsection (2):
- (a) the port operator may cause the vessel, hull or hulk to be removed from the designated port or moved to another place within the port; and
 - (b) the owner, master and occupier of the vessel, hull or hulk are, jointly and severally liable to pay all costs incurred by the port operator under paragraph (a).
- (9) If the port operator takes action under subsection (8)(a), the operator must:
- (a) publish on the operator's website written notice of the action taken; and
 - (b) if the name and address of the owner, master and occupier of the vessel, hull or hulk are known – give written notice of the action taken to the owner, master and occupier.
- (10) An amount that a person is liable to pay under subsection (6) or (8) for costs may be recovered as a debt due and payable to the port operator.

40B Regional harbourmaster's directions: removal of vessel or wreck in emergency

- (1) This section applies to the following within a designated port:
- (a) a vessel, the hull of a vessel or a hulk if:
 - (i) there is an immediate threat to it; or
 - (ii) it is in such a condition that it is an immediate threat or danger to persons or the environment;
 - (b) a non-commercial vessel or the hull of a vessel, or a hulk, that was a non-commercial vessel if it is in such a condition that it is an immediate threat or danger to any vessel or property within the port;
 - (c) a vessel if it is in such a condition that it is an immediate threat or danger to vessels or other property within the port not connected with commercial shipping in the port;

- (d) a non-commercial vessel if the manner or means by which it is secured while at anchor or moored gives rise to an immediate threat or danger to:
 - (i) persons; or
 - (ii) vessels or other property within the port not connected with commercial shipping in the port; or
 - (iii) the environment.
- (2) The regional harbourmaster for the designated port may give an oral direction to a person apparently in control of the vessel, hull or hulk to remove the vessel, hull or hulk from the designated port.
- (3) A person to whom a direction is given under subsection (2) commits an offence if the person fails to comply with the direction.

Maximum penalty: 100 penalty units.
- (4) An offence against subsection (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.
- (6) If a person to whom a direction is given under subsection (2) fails to comply with it:
 - (a) the regional harbourmaster may cause the vessel, hull or hulk to be removed from the designated port or moved to another place within the port; and
 - (b) the person is liable to pay all costs incurred by the regional harbourmaster under paragraph (a).
- (7) Subsection (6) applies irrespective of whether the person has been charged with, or found guilty of, an offence against subsection (3), and an amount payable under subsection (6) is additional to any penalty imposed for an offence against subsection (3).
- (8) If there is no person on board a vessel, hull or hulk to whom a direction may be given under subsection (2):
 - (a) the regional harbourmaster may cause the vessel, hull or hulk to be removed from the designated port or moved to another place within the port; and
 - (b) the owner, master and occupier of the vessel, hull or hulk are jointly and severally liable to pay all costs incurred by the regional harbourmaster under paragraph (a).

- (9) If the regional harbourmaster takes action under subsection (8)(a), the harbourmaster must:
 - (a) publish on the harbourmaster's website written notice of the action taken; and
 - (b) if the name and address of the owner, master and occupier of the vessel, hull or hulk are known – give written notice of the action taken to the owner, master and occupier.
- (10) An amount that a person is liable to pay under subsection (6) or (8) for costs may be recovered as a debt due and payable to the Territory.

41 Port operator's directions: vessels and wrecks likely to endanger or obstruct commercial vessels etc.

- (1) This section applies to the following within a designated port:
 - (a) a commercial vessel or the hull of a vessel, or a hulk, that was a commercial vessel that is in such a condition that it is likely to cause damage to, endanger or obstruct the passage of, navigation of or use of the port by, any vessel;
 - (b) any other vessel, hull or hulk that is in such a condition that it is likely to cause damage to, endanger or obstruct the passage of, navigation of or use of the port by, a commercial vessel.
- (2) The port operator of a designated port must, by written notice, direct the owner, master or occupier of a vessel, hull or hulk that, in the port operator's opinion, is one to which this section applies to:
 - (a) take the preventative action specified in the notice within the period specified in the notice which, for a direction in relation to a hull or hulk, must not be less than 14 days; or
 - (b) if the port operator decides (or, under subsection (3), is required) to allow the person to select, and take, one of 2 or more alternative preventative actions – select, and take, one of the preventative actions specified in the notice within the period specified in the notice which, for a direction in relation to a hull or hulk, must not be less than 14 days.
- (3) However, the port operator must not direct a person to take preventative action that includes destroying a vessel, hull or hulk unless the direction allows the person to select, and take, alternative preventative action that does not include destroying the vessel, hull or hulk.

- (4) A notice given under subsection (2) must include a statement that if the owner, master or occupier fails to comply with the direction the port operator may, at the owner, master or occupier's cost, do one or more of the following with the vessel, hull or hulk:
- (a) remove it from the designated port;
 - (b) move it to another place within the port;
 - (c) repair it and make it safe;
 - (d) destroy it and all fittings and equipment on board;
 - (e) sell or otherwise dispose of it, and all fittings and equipment on board.
- (5) A direction given under subsection (2) to take preventative action that includes destroying a vessel, hull or hulk does not authorise the person to whom it is given to destroy the vessel, hull or hulk without the consent of its owner.
- (6) A person to whom a direction is given under subsection (2), other than a direction given in the manner mentioned in subsection (12)(c), commits an offence if the person fails to comply with the direction within the period specified in it or any longer time that the port operator, in writing, allows.
- Maximum penalty: 200 penalty units.
- (7) An offence against subsection (6) is an offence of strict liability.
- (8) Subsection (9) applies if a person to whom a direction is given under subsection (2) fails to comply with it within the period specified in it or any longer time that the port operator, in writing, allows.
- (9) The port operator may do one or more of the following in relation to the vessel, hull or hulk that is the subject of the direction:
- (a) remove it from the designated port;
 - (b) move it to another place within the port;
 - (c) repair it and make it safe;
 - (d) destroy it and all fittings and equipment on board;
 - (e) sell it, and all fittings and equipment on board, by public auction or after inviting public tenders;

- (f) otherwise dispose of it, and all fittings and equipment on board, in any manner the port operator thinks fit;
 - (g) authorise a person to board it (with or without workers, vehicles, plant, equipment or materials) and do a thing mentioned in paragraphs (a) to (f).
- (10) However, the port operator must not destroy a vessel, hull or hulk, or authorise a person to do so, unless:
- (a) in the opinion of the port operator:
 - (i) the vessel, hull or hulk is unseaworthy; and
 - (ii) the cost of repairing it to make it seaworthy, or the cost of storage and sale, exceeds its value; and
 - (b) either:
 - (i) the owner, master or occupier was, under subsection (2), directed to take preventative action that included destroying the vessel, hull or hulk; or
 - (ii) the port operator has given the owner and each person who has a registered interest in, or who the operator knows has an interest in, the vessel, hull or hulk 28 days prior written notice of the operator's intention to do so.
- (11) In addition, the port operator must not sell or otherwise dispose of a vessel, hull or hulk, or authorise a person to do so, unless:
- (a) the owner of the vessel, hull or hulk:
 - (i) cannot be located; or
 - (ii) fails to collect the vessel, hull or hulk and pay all costs associated with the securing of the vessel, hull or hulk after it has been secured by the port operator; and
 - (b) the port operator has given the owner and each person who has a registered interest in, or who the operator knows has an interest in, the vessel, hull or hulk 28 days prior written notice of the port operator's intention to do so; and
 - (c) for a disposal otherwise than by sale – in the opinion of the port operator:
 - (i) the vessel, hull or hulk is unseaworthy; and

- (ii) the cost of repairing it to make it seaworthy, or the cost of storage and sale, exceeds its value.
- (12) For subsection (2), if the port operator does not know the name or address of the owner, master or occupier of the vessel, hull or hulk, a direction is taken to have been given to the person if a notice of the direction addressed to the owner, master or occupier, without specifying a name, is:
 - (a) published in a newspaper circulating generally in the Territory;
or
 - (b) published on the port operator's website; or
 - (c) affixed in a prominent position on the deck of the vessel, hull or hulk.
- (13) For subsections (10)(b)(ii) and (11)(b):
 - (a) if the port operator does not know the name or address of the owner of the vessel, hull or hulk – the notice is taken to have been given to the owner if it is addressed to the owner, without specifying a name, and is published:
 - (i) in a newspaper circulating generally in the Territory; or
 - (ii) on the port operator's website; and
 - (b) notice to a person who has an interest in a vessel, hull or hulk is taken to have been given if:
 - (i) for a person who has a registered interest and whose address is recorded in the register in which the interest is recorded – it has been sent by post to the person at that address; or
 - (ii) otherwise – it is addressed to the person and is published in a newspaper circulating generally in the Territory or on the port operator's website.
- (14) However, a notice under subsection (12)(a) or (13)(a) or (b)(ii) must identify the vessel, hull or hulk or describe it by any general description that the port operator thinks fit.
- (15) The person or persons to whom a direction is given under subsection (2), including a direction given in the manner mentioned in subsection (12)(c), are jointly and severally liable to pay all costs incurred under this section by the port operator or a person authorised under subsection (9).

- (16) Subsection (15) applies irrespective of whether any person has been charged with, or found guilty of, an offence against subsection (6), and an amount payable under subsection (15) is additional to any penalty imposed for an offence against subsection (6).
- (17) An amount that a person is liable to pay under subsection (15) for costs may be recovered as a debt due and payable to the port operator.

Note for section 41

Part 12 gives the regional harbourmaster for a designated port step-in rights in certain circumstances.

42 Port operator's directions: vessels and wrecks that endanger commercial shipping etc.

- (1) This section applies to a vessel, hull or hulk, within a designated port that, because of the condition of the vessel, hull or hulk or the manner or means by which it is secured while at anchor or moored, is a threat or danger to:
- (a) persons; or
 - (b) vessels or other property connected with commercial shipping in the port; or
 - (c) the environment.
- (2) The port operator of a designated port may, by written notice, direct the owner, master or occupier of a vessel, hull or hulk that, in the port operator's opinion, is one to which this section applies to:
- (a) take the preventative action specified in the notice within the period specified in the notice which, for a direction in relation to a hull or hulk, must not be less than 14 days; or
 - (b) if the port operator decides (or, under subsection (3), is required) to allow the person to select, and take, one of 2 or more alternative preventative actions – select, and take, one of the preventative actions specified in the notice within the period specified in the notice which, for a direction in relation to a hull or hulk, must not be less than 14 days.
- (3) However, the port operator must not direct a person to take preventative action that includes destroying a vessel, hull or hulk unless the direction allows the person to select, and take, alternative preventative action that does not include destroying the vessel, hull or hulk.

- (4) A notice given under subsection (2) must include a statement that if the owner, master or occupier fails to comply with the direction the port operator may, at the owner, master or occupier's cost, do one or more of the following with the vessel, hull or hulk:
- (a) remove it from the designated port;
 - (b) move it to another place within the port;
 - (c) repair it and make it safe;
 - (d) destroy it and all fittings and equipment on board;
 - (e) sell or otherwise dispose of it, and all fittings and equipment on board.
- (5) A direction given under subsection (2) to take preventative action that includes destroying a vessel, hull or hulk does not authorise the person to whom it is given to destroy the vessel, hull or hulk without the consent of its owner.
- (6) A person to whom a direction is given under subsection (2), other than a direction given in the manner mentioned in subsection (12)(c), commits an offence if the person fails to comply with the direction within the period specified in it or any longer time that the port operator, in writing, allows.
- Maximum penalty: 200 penalty units.
- (7) An offence against subsection (6) is an offence of strict liability.
- (8) Subsection (9) applies if a person to whom a direction is given under subsection (2) fails to comply with it within the period specified in it or any longer time that the port operator, in writing, allows.
- (9) The port operator may do one or more of the following in relation to the vessel, hull or hulk that is the subject of the direction:
- (a) remove it from the designated port;
 - (b) move it to another place within the port;
 - (c) repair it and make it safe;
 - (d) destroy it and all fittings and equipment on board;
 - (e) sell it, and all fittings and equipment on board, by public auction or after inviting public tenders;

- (f) otherwise dispose of it, and all fittings and equipment on board, in any manner the port operator thinks fit;
 - (g) authorise a person to board it (with or without workers, vehicles, plant, equipment or materials) and do a thing mentioned in paragraphs (a) to (f).
- (10) However, the port operator must not destroy a vessel, hull or hulk, or authorise a person to do so, unless:
- (a) in the opinion of the port operator:
 - (i) the vessel, hull or hulk is unseaworthy; and
 - (ii) the cost of repairing it to make it seaworthy, or the cost of storage and sale, exceeds its value; and
 - (b) either:
 - (i) the owner, master or occupier was, under subsection (2), directed to take preventative action that included destroying the vessel, hull or hulk; or
 - (ii) the port operator has given the owner and each person who has a registered interest in, or who the operator knows has an interest in, the vessel, hull or hulk 28 days prior written notice of the port operator's intention to do so.
- (11) In addition, the port operator must not sell or otherwise dispose of a vessel, hull or hulk, or authorise a person to do so, unless:
- (a) the owner of the vessel, hull or hulk:
 - (i) cannot be located; or
 - (ii) fails to collect the vessel, hull or hulk and pay all costs associated with the securing of the vessel, hull or hulk after it has been secured by the port operator; and
 - (b) the port operator has given the owner and each person who has a registered interest in, or who the operator knows has an interest in, the vessel, hull or hulk 28 days prior written notice of the port operator's intention to do so; and
 - (c) for a disposal otherwise than by sale – in the opinion of the port operator:
 - (i) the vessel, hull or hulk is unseaworthy; and

- (ii) the cost of repairing it to make it seaworthy, or the cost of storage and sale, exceeds its value.
- (12) For subsection (2), if the port operator does not know the name or address of the owner, master or occupier of the vessel, hull or hulk, a direction is taken to be given to the person if a notice of the direction addressed to the owner, master or occupier, without specifying a name, is:
 - (a) published in a newspaper circulating generally in the Territory;
or
 - (b) published on the port operator's website; or
 - (c) affixed in a prominent position on the deck of the vessel, hull or hulk.
- (13) For subsections (10)(b)(ii) and (11)(b):
 - (a) if the port operator does not know the name or address of the owner of the vessel, hull or hulk – the notice is taken to have been given to the owner if it is addressed to the owner, without specifying a name, and is published:
 - (i) in a newspaper circulating generally in the Territory; or
 - (ii) on the port operator's website; and
 - (b) notice to a person who has an interest in a vessel, hull or hulk is taken to have been given if:
 - (i) for a person who has a registered interest and whose address is recorded in the register in which the interest is recorded – it has been sent by post to the person at that address; or
 - (ii) otherwise – it is addressed to the person and is published in a newspaper circulating generally in the Territory or on the port operator's website.
- (14) However, a notice under subsection (12)(a) or (13)(a) or (b)(ii) must identify the vessel, hull or hulk or describe it by any general description that the port operator thinks fit.
- (15) The person or persons to whom a direction is given under subsection (2), including a direction given in the manner mentioned in subsection (12)(c), are jointly and severally liable to pay all costs incurred under this section by the port operator or a person authorised under subsection (9).

- (16) Subsection (15) applies irrespective of whether any person has been charged with, or found guilty of, an offence against subsection (6), and an amount payable under subsection (15) is additional to any penalty imposed for an offence against subsection (6).
- (17) An amount that a person is liable to pay under subsection (15) for costs may be recovered as a debt due and payable to the port operator.

Note for section 42

Part 12 gives the regional harbourmaster for a designated port step-in rights in certain circumstances.

43 Regional harbourmaster's directions: vessels and wrecks likely to endanger or obstruct non-commercial vessels etc.

- (1) This section applies to the following within a designated port:
- (a) a non-commercial vessel or the hull of a vessel, or a hulk, that was a non-commercial vessel that is in such a condition that it is likely to cause damage to, endanger or obstruct the passage of, navigation of or use of the port by, any vessel;
 - (b) any other vessel, hull or hulk that is in such a condition that it is likely to cause damage to, endanger or obstruct the passage of, navigation of or use of the port by, a non-commercial vessel;
 - (c) a vessel, hull or hulk that, because of its condition or the manner or means by which it is secured while at anchor or moored, is a threat or danger to:
 - (i) persons; or
 - (ii) vessels or other property within the port not connected with commercial shipping in the port; or
 - (iii) the environment.
- (2) The regional harbourmaster for a designated port may, by written notice, direct the owner, master or occupier of a vessel, hull or hulk that, in the harbourmaster's opinion, is one to which this section applies to:
- (a) take the preventative action specified in the notice within the period specified in the notice which, for a direction in relation to a hull or hulk, must not be less than 14 days; or

- (b) if the harbourmaster decides (or, under subsection (3), is required) to allow the person to select, and take, one of 2 or more alternative preventative actions – select, and take, one of the preventative actions specified in the notice within the period specified in the notice which, for a direction in relation to a hull or hulk, must not be less than 14 days.
- (3) However, the regional harbourmaster must not direct a person to take preventative action that includes destroying a vessel, hull or hulk unless the direction allows the person to select, and take, alternative preventative action that does not include destroying the vessel, hull or hulk.
- (4) A notice given under subsection (2) must include a statement that if the owner, master or occupier fails to comply with the direction the regional harbourmaster may, at the owner, master or occupier's cost, do one or more of the following with the vessel, hull or hulk:
- (a) remove it from the designated port;
 - (b) move it to another place within the port;
 - (c) repair it and make it safe;
 - (d) destroy it and all fittings and equipment on board;
 - (e) sell or otherwise dispose of it, and all fittings and equipment on board.
- (5) A direction given under subsection (2) to take preventative action that includes destroying a vessel, hull or hulk does not authorise the person to whom it is given to destroy the vessel, hull or hulk without the consent of its owner.
- (6) A person to whom a direction is given under subsection (2), other than a direction given in the manner mentioned in subsection (12)(c), commits an offence if the person fails to comply with the direction within the period specified in it or any longer time that the regional harbourmaster, in writing, allows.
- Maximum penalty: 200 penalty units.
- (7) An offence against subsection (6) is an offence of strict liability.
- (8) Subsection (9) applies if a person to whom a direction is given under subsection (2) fails to comply with it within the period specified in it or any longer time that the regional harbourmaster, in writing, allows.

- (9) The regional harbourmaster may do one or more of the following in relation to the vessel, hull or hulk that is the subject of the direction:
- (a) remove it from the designated port;
 - (b) move it to another place within the port;
 - (c) repair it and make it safe;
 - (d) destroy it and all fittings and equipment on board;
 - (e) sell it, and all fittings and equipment on board, by public auction or after inviting public tenders;
 - (f) otherwise dispose of it, and all fittings and equipment on board, in any manner the regional harbourmaster thinks fit;
 - (g) authorise a person to board it (with or without workers, vehicles, plant, equipment or materials) and do a thing mentioned in paragraphs (a) to (f).
- (10) However, the regional harbourmaster must not destroy a vessel, hull or hulk, or authorise a person to do so, unless:
- (a) in the opinion of the regional harbourmaster:
 - (i) the vessel, hull or hulk is unseaworthy; and
 - (ii) the cost of repairing it to make it seaworthy, or the cost of storage and sale, exceeds its value; and
 - (b) either:
 - (i) the owner, master or occupier was, under subsection (2), directed to take preventative action that included destroying the vessel, hull or hulk; or
 - (ii) the regional harbourmaster has given the owner and each person who has a registered interest in, or who the regional harbourmaster knows has an interest in, the vessel, hull or hulk 28 days prior written notice of the regional harbourmaster's intention to do so.
- (11) In addition, the regional harbourmaster must not sell or otherwise dispose of a vessel, hull or hulk, or authorise a person to do so, unless:
- (a) the owner of the vessel, hull or hulk:
 - (i) cannot be located; or

- (ii) fails to collect the vessel, hull or hulk and pay all costs associated with the securing of the vessel, hull or hulk after it has been secured by the harbourmaster; and
 - (b) the regional harbourmaster has given the owner and each person who has a registered interest in, or who the regional harbourmaster knows has an interest in, the vessel, hull or hulk 28 days prior written notice of the regional harbourmaster's intention to do so; and
 - (c) for a disposal otherwise than by sale – in the opinion of the regional harbourmaster:
 - (i) the vessel, hull or hulk is unseaworthy; and
 - (ii) the cost of repairing it to make it seaworthy, or the cost of storage and sale, exceeds its value.
- (12) For subsection (2), if the regional harbourmaster does not know the name or address of the owner, master or occupier of the vessel, hull or hulk, a direction is taken to have been given to the person if a notice of the direction addressed to the owner, master or occupier, without specifying a name, is:
 - (a) published in a newspaper circulating generally in the Territory; or
 - (b) published on the regional harbourmaster's website; or
 - (c) affixed in a prominent position on the deck of the vessel, hull or hulk.
- (13) For subsections (10)(b)(ii) and (11)(b):
 - (a) if the regional harbourmaster does not know the name or address of the owner of the vessel, hull or hulk – the notice is taken to have been given to the owner if it is addressed to the owner, without specifying a name, and is published:
 - (i) in a newspaper circulating generally in the Territory; or
 - (ii) on the regional harbourmaster's website; and
 - (b) notice to a person who has an interest in a vessel, hull or hulk is taken to have been given if:
 - (i) for a person who has a registered interest and whose address is recorded in the register in which the interest is recorded – it has been sent by post to the person at that address; or

- (ii) otherwise – it is addressed to the person and is published in a newspaper circulating generally in the Territory or on the regional harbourmaster's website.
- (14) However, a notice under subsection (12)(a) or (13)(a) or (b)(ii) must identify the vessel, hull or hulk or describe it by any general description that the regional harbourmaster thinks fit.
- (15) The person or persons to whom a direction is given under subsection (2), including a direction given in the manner mentioned in subsection (12)(c), are jointly and severally liable to pay all costs incurred under this section by the regional harbourmaster or a person authorised under subsection (9).
- (16) Subsection (15) applies irrespective of whether any person has been charged with, or found guilty of, an offence against subsection (6), and an amount payable under subsection (15) is additional to any penalty imposed for an offence against subsection (6).
- (17) An amount that a person is liable to pay under subsection (15) for costs may be recovered as a debt due and payable to the Territory.

44 Sale of vessel or wreck by port operator

- (1) This section applies if the whole or part of a vessel, hull or hulk, or fittings or equipment from on board a vessel, hull or hulk, (the **property**) is sold by a port operator under section 41 or 42.
- (2) The purchaser of the property holds title to the property free of any interest existing in it before the sale.
- (3) The proceeds of the sale must be paid as follows:
 - (a) first – in payment of the costs of the sale;
 - (b) second – in payment of the costs incurred by the port operator for the removal or storage of, or repairs to, the property;
 - (c) third – in payment of the costs incurred by the port operator for giving notice to a person about the proposed sale;
 - (d) fourth – to the Accountable Officer for payment into the Accountable Officer's Trust Account.
- (4) Within 14 days after selling the property, the port operator must prepare a record of the following particulars:
 - (a) a description of the property;

- (b) the date and means of giving notice of intention to sell the property;
 - (c) the name and address of any person to whom the notice was given;
 - (d) the date of sale;
 - (e) the name and address of the purchaser;
 - (f) the sale price;
 - (g) the amount retained by the port operator to cover the costs mentioned in subsection (3)(a), (b) and (c);
 - (h) if the property was sold by public auction – the name and address of the principal place of business of the auctioneer who sold the property;
 - (i) if applicable – the amount of the balance of the proceeds of sale paid to the Accountable Officer and the date of payment.
- (5) The port operator must:
- (a) retain the record required under subsection (4) for 3 years from the date of sale; and
 - (b) make the record available on request by any of the following:
 - (i) the owner of the property;
 - (ii) any other person claiming to have an interest in the property;
 - (iii) the Commissioner of Police;
 - (iv) an authorised officer as defined in section 4(1) of the *Consumer Affairs and Fair Trading Act 1990*;
 - (v) the Accountable Officer.
- (6) Within 28 days after the sale, the port operator must:
- (a) make the payment mentioned in subsection (3)(d); and
 - (b) give the Accountable Officer a copy of the record required under subsection (4).

- (7) The port operator commits an offence if the port operator fails to comply with a requirement under subsection (4), (5) or (6).
- Maximum penalty: 50 penalty units.
- (8) An offence against subsection (7) is an offence of strict liability.
- (9) If satisfied a person had an interest in the property before the sale, the Accountable Officer must pay to that person out of the Accountable Officer's Trust Account:
- (a) an amount equivalent to that person's interest in the property; or
 - (b) if the person's interest in the property expressed as a monetary amount exceeds the balance of the proceeds of sale – the balance of the proceeds of sale.
- (10) A person claiming an interest in the property under subsection (9) must apply to the Accountable Officer within 3 years after the sale.
- (11) The Accountable Officer is not liable to make any further payment for the property if the balance of the proceeds of sale of the property has been paid under subsection (9)(b).
- (12) Subsection (11) does not prevent a person making a claim against the person to whom the Accountable Officer has paid the balance of the proceeds of sale.
- (13) Proceeds from the sale of the property that have remained unclaimed for 3 years must be paid into the Central Holding Authority.
- (14) In this section:

Accountable Officer means the Accountable Officer, as defined in section 3(1) of the *Financial Management Act 1995*, for the Agency.

Accountable Officer's Trust Account, see section 3(1) of the *Financial Management Act 1995*.

44A Sale of vessel or wreck by regional harbourmaster

- (1) This section applies if the whole or part of a vessel, hull or hulk, or fittings or equipment from on board a vessel, hull or hulk, (the **property**) is sold by a regional harbourmaster under section 43.
- (2) The purchaser of the property holds title to the property free of any interest existing in it before the sale.

- (3) The proceeds of the sale must be paid as follows:
- (a) first – in payment of the costs of the sale;
 - (b) second – in payment of the costs incurred by the regional harbourmaster for the removal or storage of, or repairs to, the property;
 - (c) third – in payment of the costs incurred by the regional harbourmaster for giving notice to a person about the proposed sale;
 - (d) fourth – in payment of the amount owing to the holder of a registered interest in the property;
 - (e) fifth – to the owner of the property.
- (4) If the regional harbourmaster is unable to locate the owner after making reasonable attempts to do so, the amount payable to the owner under subsection (3)(e) must be paid to the Central Holding Authority.

44B Other disposal of vessel or wreck

- (1) This section applies if the whole or part of a vessel, hull or hulk, or fittings or equipment from on board a vessel, hull or hulk, is disposed of to a person, otherwise than by sale, under this Division.
- (2) The person holds title to the vessel, hull, hulk, fittings or equipment free of any interest existing in it before the disposal.

44C Acquisition on just terms

- (1) If the operation of this Division would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:
 - (a) the person is entitled to receive the compensation necessary to ensure the acquisition is on just terms from:
 - (i) if the acquisition arises from the exercise of a power or function by a port operator – the port operator; or
 - (ii) if the acquisition arises from the exercise of a power or function by a regional harbourmaster – the Territory; and
 - (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

- (2) Subsection (3) applies if:
- (a) a court has decided an amount of compensation is payable; and
 - (b) under subsection (1)(a)(i), a port operator is required to pay the compensation; and
 - (c) the port operator fails to do so within a reasonable time.
- (3) The Territory must pay the compensation and the port operator is liable to pay the Territory the amount of compensation paid by the Territory together with all costs incurred by the Territory in consequence of the port operator's failure.
- (4) An amount that a port operator is liable to pay under subsection (3) may be recovered as a debt due and payable to the Territory.

11 Section 50 amended (Power of port operator to close waters)

- (1) Section 50(1)
- omit*
- Gazette* notice or notice published in a newspaper circulating generally in the vicinity of the port
- insert*
- notice published in accordance with subsection (1A)
- (2) After section 50(1)
- insert*
- (1A) The notice must be published on the port operator's website or in the manner that, in the opinion of the port operator, is most likely to bring it to the attention of persons who may be affected by it.
- (3) After section 50(6)
- insert*
- (6A) Subsections (3) and (4) do not apply to a police officer if:
- (a) the officer is acting in the course of the officer's duties and taking reasonable care; and
 - (b) it is reasonable for the officer to enter the closed waters.

- (4) Section 50(7)
omit
or a port management officer,
insert
a port management officer or a police officer
- (5) After section 50(7)
insert
- (8) A person commits an offence if:
- (a) the person is directed to remove a vessel from closed waters under subsection (7); and
 - (b) the person fails to comply with the direction.
- Maximum penalty: 50 penalty units.
- (9) An offence against subsection (8) is an offence of strict liability.
- (10) It is a defence to a prosecution for an offence against subsection (8) if the defendant has a reasonable excuse.

12 Section 51 amended (Power of regional harbourmaster to close waters)

- (1) Section 51(1)
omit
Gazette notice or notice published in a newspaper circulating generally in the vicinity of the port
insert
notice published in accordance with subsection (1A)
- (2) Section 51(2)
omit, insert
- (1A) The notice must be published on the regional harbourmaster's website or in the manner that, in the opinion of the regional harbourmaster, is most likely to bring it to the attention of persons who may be affected by it.

- (2) However, the regional harbourmaster for a designated port may only exercise the power given by subsection (1) if:
- (a) the harbourmaster:
 - (i) is satisfied that the closure would not have, and could not reasonably be expected to have, an adverse impact on commercial shipping; and
 - (ii) has given the port operator of the port written notice of its intention to do so; or
 - (b) the closure is for 30 days or less and the port operator of the port consents to the closure.
- (3) After section 51(7)
- insert*
- (7A) Subsections (4) and (5) do not apply to a police officer if:
- (a) the officer is acting in the course of the officer's duties and taking reasonable care; and
 - (b) it is reasonable for the officer to enter the closed waters.
- (4) Section 51(8)
- omit*
- or a person authorised by the regional harbourmaster,
- insert*
- a police officer or a person authorised by the regional harbourmaster
- (5) After section 51(8)
- insert*
- (9) A person commits an offence if:
- (a) the person is directed to remove a vessel from closed waters under subsection (8); and
 - (b) the person fails to comply with the direction.
- Maximum penalty: 50 penalty units.
- (10) An offence against subsection (9) is an offence of strict liability.

- (11) It is a defence to a prosecution for an offence against subsection (9) if the defendant has a reasonable excuse.

13 Section 52 amended (Removal etc. of vessel for failure to comply with direction)

- (1) Section 52(1) and (4)

omit

51(4)

insert

(8) or 51(4) or (9)

- (2) Section 52(2)

omit

or regional harbourmaster who gave the direction

insert

of the designated port or regional harbourmaster for the port

- (3) Section 52(3) and (5)

omit (all references)

expenses

insert

costs

14 Part 5, Division 6 heading amended

Part 5, Division 6, heading, after "**structures**"

insert

and dredging

15 Section 53 amended (Erection of structures)

- (1) Section 53, heading, after "**structures**"

insert

and dredging

- (2) Section 53(1)(b)
omit
shore.
insert
shore; or
- (3) After section 53(1)(b)
insert
(c) undertake dredging or any other activity that would cause a significant alteration of the bathymetry of the port.
- (4) Section 53(4)
omit
(1)(a) or (b)
insert
(1)
- (5) After section 53(5)
insert
- (6) Subsection (1) does not apply in relation to dredging in a designated port undertaken by the port operator of the port in accordance with an agreement made under section 9(1).

16 Section 59 amended (Enforcement of port notice)

- After section 59(1)
insert
- (1A) A police officer may enforce compliance with a port notice that was issued to control activities or conduct on the water within a designated port by:
- (a) directing any person who is contravening the notice to leave the port; or
 - (b) removing from the port, or moving within the port, anything placed or located in contravention of the notice.

17 Section 62 amended (Monitoring of port notices)

(1) Before section 62(1)

insert

(1AA) A police officer who, under section 59(1A), enforces compliance with a port notice within a designated port must, as soon as practicable after doing so, give the port operator of the port details of:

- (a) the contravention of the port notice; and
- (b) the action taken by the officer to enforce compliance with the port notice.

(2) Section 62(1)(c)

omit, insert

- (c) any action taken to enforce compliance with a port notice issued by the port operator.

18 Section 63 amended (Definition)

Section 63, definition **vessel**, paragraph (c)

omit, insert

- (c) in relation to a particular pilotage area – a vessel or a class of vessel that is prescribed by regulation as an exempt vessel for that area.

19 Section 64 amended (Pilotage authority may declare exempt vessels)

Section 64

omit

area.

insert

area or part of the pilotage area, subject to any conditions the pilotage authority thinks fit.

20 Section 67 amended (Technical and safety standards)

(1) Section 67(3)(a)

omit, insert

(a) publish a notice in the *Gazette* stating the following:

(i) that the standards have been made;

(ii) the date on which the standards take effect, which may be the day on which the notice is published or any later date;

(iii) the place where copies of the standards can be obtained; and

(2) Section 67(4)

omit

21 Section 73 amended (Pilotage not required in certain cases)

(1) Before section 73(1)

insert

(1AA) Sections 70 and 71 do not apply to a vessel if:

(a) the vessel is a vessel, or of a class of vessel, declared to be exempt under section 64 and the conditions of the exemption, if any, are satisfied; or

(b) the master of the vessel holds a pilotage exemption certificate and the conditions of the certificate, if any, are satisfied.

(2) Section 73(1)

omit

Sections

insert

In addition, sections

(3) After section 73(1)

insert

(1A) As soon as practicable after a vessel is brought into, moved within or taken out of a compulsory pilotage area within a designated port under subsection (1), the relevant entity must give notice to:

(a) if the relevant entity is the pilotage authority for the compulsory pilotage area – the port operator of the designated port; or

(b) if the relevant entity is the port operator of the designated port – the pilotage authority for the compulsory pilotage area.

22 Section 118 replaced

Section 118

repeal, insert

118 Application of Part

This Part applies to prescribed services provided by:

(a) a port operator of a designated port that is not a public sector entity (a ***private port operator***); or

(b) a pilotage services provider that is not a public sector entity (a ***private pilotage provider***).

23 Section 119 amended (Application of *Utilities Commission Act 2000*)

(1) Section 119(1), after "operator"

insert

or private pilotage provider

(2) Section 119(2)

omit

in relation to the provision of prescribed services provided by a private port operator

insert

or private pilotage provider in relation to the provision of prescribed services provided by the operator or provider

(3) Section 119(4)

omit, insert

(4) A private port operator or private pilotage provider is taken to be a licensed entity for the purpose of the application of the *Utilities Commission Act 2000*, as affected by this Part, in relation to the operator or provider.

24 Section 121 amended (Annual report to Minister on material non-compliance)

(1) Section 121(1)(b), after "private port operator"

insert

or private pilotage provider

(2) Section 121(1)(b), after "the operator"

insert

or provider

25 Section 123 amended (Review of Part)

(1) Section 123(2)(a), after "operators"

insert

or private pilotage providers

(2) Section 123(3), after "operator"

insert

and private pilotage provider

26 Section 124 amended (Preventing or hindering access)

(1) Section 124(1) to (4), after "operator"

insert

or private pilotage provider

- (2) Section 124(6), definition **competitor**

omit, insert

competitor, of a private port operator or private pilotage provider, means an entity that has, or seeks to have, access to the prescribed service to compete in a market with the operator or provider or a related body corporate of the operator or provider.

27 Section 125 amended (Unfairly differentiating)

- (1) Section 125(1) and (3)(a), after "operator"

insert

or private pilotage provider

- (2) Section 125(2)

omit

the private

insert

a private

- (3) After section 125(2)

insert

- (2A) In addition, subsection (1) does not prevent a private pilotage provider treating port users differently to the extent the different treatment is reasonably justified because of the different circumstances, relating to access to the prescribed service, applicable to the provider or any of the port users.

- (4) Section 125(3)(b)

omit

subsection (2) does not authorise a private port operator

insert

subsections (2) and (2A) do not authorise a private port operator or private pilotage provider

28 Section 126 amended (Enforcement of obligations)

Section 126(1), (2)(a)(i) and (ii) and (b) and (3), after "operator"

insert

or private pilotage provider

29 Section 127 amended (Access policy)

(1) Section 127(1)(b)

omit, insert

(b) the operator fails to give the operator's initial draft access policy to the Regulator by the date specified in, or calculated in accordance with, the regulations; or

(c) the operator fails to give a new draft access policy to the Regulator before its existing access policy nominally expires under subsection (10).

(2) After section 127(2)

insert

(2A) After preparing a draft access policy, other than an amended policy prepared under subsection (5) or (6), a private port operator must:

(a) consult with port users on the draft policy; and

(b) prepare a written summary of the comments received during the consultations; and

(c) when giving the draft policy to the Regulator, also give the Regulator a copy of the summary.

(3) Section 127(3)

omit

Within 60 days after

insert

After

- (4) After section 127(3)
insert
- (3A) Notice under subsection (3) must be given:
- (a) within 60 days after the Regulator receives the draft access policy; or
 - (b) if, during that 60 day period, the Regulator gives the private port operator written notice that it needs more time to consider the draft access policy – within 120 days after the Regulator receives the policy.
- (5) Section 127(7)
omit
, (4) and
insert
to
- (6) Section 127(8)
omit
of 60 days mentioned in that subsection
insert
allowed under subsection (3A)
- (7) Section 127(9), after "Division"
insert
until it is replaced with a new access policy prepared by the operator and approved by the Regulator
- (8) Section 127(10) and (11)
omit, insert
- (10) An access policy nominally expires on:
- (a) the day that is 5 years after the day on which it was approved by the Regulator; or

(b) if the policy states that it nominally expires on an earlier date – the earlier date.

(9) Section 127(13)

omit, insert

(13) To avoid doubt, a private port operator must continue to comply with its access policy, even if it has nominally expired under subsection (10), until it is replaced with a new access policy prepared by the operator and approved by the Regulator.

30 Section 131 amended (Information required by Regulator)

(1) After section 131(1)

insert

(1A) The Regulator may, by written notice given to a private pilotage provider, at any time require the provider to give, within the period specified in the notice, information of a kind so specified on the provider's compliance with section 124(1) or 125(1).

(2) Section 131(2), after "subsection (1)"

insert

or (1A)

31 Section 132 amended (Determinations by Regulator)

(1) Section 132(1) and (3), after "operator"

insert

or private pilotage provider

(2) Section 132(5), after "a private port operator"

insert

or private pilotage provider

(3) Section 132(5)

omit

the private port operator

insert

the operator or provider

32 Section 134 amended (Regulations)

- (1) Section 134(2)(b), after "operators"

insert

or private pilotage providers

- (2) Section 134(3)(a), after "operators"

insert

and private pilotage providers

33 Section 136 amended (Power of Regulator to require information)

- (1) Section 136(1), after "a private port operator"

insert

or private pilotage provider

- (2) Section 136(1)

omit

the private port operator

insert

the operator or provider

- (3) Section 136(2), (4)(b) and (5), after "operator"

insert

or private pilotage provider

- (4) After section 136(3)(a)

insert

(ab) state that the information and documents provided must be certified as accurate by the Chief Executive Officer of, or another specified officer of, the private port operator or private pilotage provider; and

34 Section 137 amended (Confidentiality of information)

- (1) Section 137(1), after "A private port operator"

insert

or private pilotage provider

- (2) Section 137(1)

omit (all references)

the private port operator

insert

the operator or provider

- (3) Section 137(7), after "operator"

insert

or private pilotage provider

35 Section 146 amended (Protection from liability)

- (1) Section 146(1)(g)

omit

notice.

insert

notice; and

- (2) After section 146(1)(g)

insert

(h) a port operator of a designated port, or a person acting on behalf of such an operator, in doing or omitting to do anything for the purposes of Part 5, Division 2 or 3; and

(i) a police officer.

- (3) After section 146(3)

insert

(3A) This section has effect subject to Part VIIA of the *Police Administration Act 1978*.

36 Section 148 amended (Effect of things done under Act)

Section 148(1)(c), after "1983"

insert

before its repeal

37 Section 149 amended (Exemption from local government rates etc.)

Section 149(5), definition *local government rates*

omit

Darwin

insert

Northern Territory

38 Part 13, Division 5A inserted

After section 153

insert

Division 5A Delegation**153A Delegation by Minister**

The Minister may delegate any of the Minister's powers and functions under this Act to a person.

39 Section 155 amended (Regulations)

(1) Section 155(2)(b)

omit

liability.

insert

liability; or

(2) After section 155(2)(b)

insert

- (c) provide for moorings within a designated port, including the materials permitted to create moorings and the location and use of moorings.

40 Part 14, Division 3 inserted

After section 163

insert

Division 3 Transitional matters for Ports Legislation Amendment Act 2019

164 Definitions

In this Division:

commencement means the commencement of Part 2 of the *Ports Legislation Amendment Act 2019*.

former Act means this Act, as in force immediately before the commencement.

165 Directions

- (1) This section applies in relation to a direction given under section 38, 41, 42, 43 or 44 of the former Act before the commencement.
- (2) The former Act continues to apply in relation to the direction, as if the *Ports Legislation Amendment Act 2019* had not commenced.

166 Access policies

- (1) This section applies to an access policy approved under the former Act that was the access policy of a private port operator immediately before the commencement.
- (2) On the commencement, the access policy is taken to be an access policy approved under section 127 that:
- (a) states that it nominally expires on 30 June 2022; and
- (b) is in accordance with the requirements prescribed by regulation.

41 Schedule 1 amended (Reviewable decisions)

Schedule 1, entry relating to section 53(1)

omit

all words from "erect" to "buoy"

insert

do the thing mentioned in section 53(1)(a), (b) or (c)

42 Act further amended

Schedule 1 has effect.

Part 3 Repeal of Acts

43 Darwin Port Corporation Act 1983 repealed

The *Darwin Port Corporation Act 1983* (Act No. 71 of 1983) is repealed.

44 Ports Management (Repeals and Related and Consequential Amendments) Act 2015 repealed

The *Ports Management (Repeals and Related and Consequential Amendments) Act 2015* (Act No. 12 of 2015) is repealed.

Part 4 Amendment of Port of Darwin Act 2015

45 Port of Darwin Act 2015 amended

Schedule 2 amends the *Port of Darwin Act 2015*.

Part 5 Repeal of Act

46 Repeal of Act

This Act is repealed on the day after it commences.

Schedule 1 Act further amended

section 42

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 101(8) and (10)	expenses	costs
section 104(1) and (2)	or expenses	
section 143(1) and (2)	expenses	costs

Schedule 2 Port of Darwin Act 2015 amended

section 45

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
sections 3(1), definition Darwin Port Corporation and 13(10)(b), after "1983"		before its repeal
section 30(1)(a)	whole paragraph	
