

**NORTHERN TERRITORY OF AUSTRALIA**

**ESSENTIAL GOODS AND SERVICES ACT**

As in force at 18 June 2009

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# NORTHERN TERRITORY OF AUSTRALIA

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This reprint shows the Act as in force at 18 June 2009. Any amendments that commence after that date are not included.

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## ESSENTIAL GOODS AND SERVICES ACT

### An Act to control and manage prescribed goods or services during periods of shortage, and for related purposes

#### Part I Preliminary

##### 1 Short title

This Act may be cited as the *Essential Goods and Services Act*.

##### 2 Interpretation

(1) In this Act, unless the contrary intention appears:

**community** means a group of persons identified by their presence in a geographical area or by common interest.

**declaration** means a declaration under section 5(1) or (2).

**goods** means:

- (a) fuel, including fossil fuel derivatives and gases;
- (b) bread, eggs, milk; or
- (c) any other foodstuff or commodity required for the maintenance of public health or a service, being a foodstuff or commodity prescribed under section 18 as goods for the purposes of this Act.

**notice** means a notice of a declaration.

**service** means:

- (a) any of the following services or facilities ordinarily available to the public:
  - (i) public transportation of persons or freight other than taxi-cab services;
  - (ii) fire fighting services;

- (iii) hospitals administered under the *Medical Services Act*;
  - (iv) electricity supplied under the Electricity Reform Act or the Power and Water Corporation Act;
  - (v) water supply;
  - (vi) garbage collection, sanitary cleansing or sewerage; or
- (b) any other service or facility:
- (i) concerned with the maintenance of public health or a public utility; or
  - (ii) upon which a service listed in paragraph (a) or concerned with the maintenance of public health or a public utility depends for its maintenance or operation, being a service or facility prescribed under section 18 as a service for the purposes of this Act.
- (2) A power of prohibition under this Act shall include a power to prohibit generally or with limitations as to place, time and subject-matter and either absolutely or subject to specified conditions or restrictions.

### **3 Application**

Where a provision of another Act is inconsistent with this Act or a declaration, direction, prohibition or requisition made or given under this Act, this Act or the declaration, direction, prohibition or requisition so made or given shall prevail.

### **4 Crown to be bound**

This Act binds the Crown.

## **Part II Declaration of shortage**

### **5 Declaration of shortage**

- (1) The Administrator may, by notice in the *Gazette*, declare that a shortage exists in relation to goods or services specified in the notice if he is satisfied that the provision, supply or distribution of the goods or services is, or is likely to become, less than is sufficient for the reasonable requirements of a community.

- (2) Where a declaration is in force, including a declaration in force by virtue of this subsection, and the Administrator is satisfied that it is necessary for the declaration to continue for a greater period than the period specified in the notice, he may, by notice in the *Gazette*, further declare that the shortage continues to exist.
- (3) A declaration shall have effect on and from the date specified in the notice:
  - (a) for one month; or
  - (b) for such shorter period as is specified in the notice.

## **6 Presentation of declaration to Legislative Assembly**

The Minister shall lay a copy of a notice before the Legislative Assembly within 3 sitting days of the Assembly after its publication in the *Gazette* and the declaration may be revoked by resolution of the Assembly.

## **7 Power of Minister**

- (1) Where a declaration is in force, the Minister may take such action as he thinks fit to ensure that the goods or services specified in the notice are available for use, and are used, in a manner best calculated by him to serve the interests of a community.
- (2) Without limiting the generality of subsection (1), the Minister may, by instrument in writing, in relation to goods or services specified in a notice:
  - (a) give such directions as he thinks fit to prohibit or promote the sale, supply, distribution, use or consumption of the goods or services;
  - (b) direct a person who extracts, produces, holds, transports, distributes or provides the goods or services to extract the goods or services for, or produce, transport, distribute or provide the goods or services to, a person specified in the direction and direct that person to accept those goods or services;
  - (c) direct a person who extracts, produces, holds, transports, distributes or provides the goods or services to provide such information in relation to the goods or services as the Minister thinks fit;

- (d) in relation to services:
- (i) direct what services shall be maintained and upon what terms and conditions they shall operate;
  - (ii) direct persons and bodies to operate and maintain services to the extent and upon the terms specified in the direction;
  - (iii) direct at what times and places and upon what terms and conditions, and in what manner, services may be used or availed of;
  - (iv) prohibit the operation or use of services except, if so specified in the prohibition, with the consent of the Minister;
  - (v) requisition the use of property of any kind which is used or may be used for or in connection with the operation or maintenance of a service which, in his opinion, is an essential service; and
  - (vi) provide for or control, by direction, prohibition or requisition, the operation, use, disposal, distribution, storage, repair, upkeep and maintenance of any property or commodity used or which may be used for or in connection with a service which, in his opinion, is an essential service; and
- (e) provide, by direction, prohibition or requisition, for any matter or thing incidental to the carrying into effect of the powers referred to in this section.

## **8 Protection of employment rights**

- (1) A person who, in complying with a direction, prohibition or requisition under section 7, is absent from his usual place of employment, shall not be liable for dismissal, loss of long service leave, sick leave, recreation leave, or other benefits to which he may be entitled under the industrial award or other terms of service applicable to his usual employment by reason only of his absence, whether his absence is with or without the consent of his usual employer.

- (2) A person who, in complying with a direction, prohibition or requisition under section 7, commences or continues in employment whether with or without the consent of the person for whom the work is done, shall be entitled to the benefits to which he would be entitled in the industrial award or other terms of service applicable to that form of employment from the person for whom the work is done.
- (3) Nothing in subsection (1) or (2) shall entitle a person to claim double payments or benefits for the same period of time, except if such payment or benefit is provided for by the direction, prohibition or requisition under section 7 in compliance with which the person is absent from his usual place of employment or commences or continues in employment.

**9 Certain proceedings not to be taken**

No civil or criminal action or proceedings shall lie or be brought against the Crown or a person acting in the execution or intended execution of this Act, the Regulations or a direction, prohibition or requisition under this Act, or purported to be under this Act, in respect of anything done or omitted to be done in good faith by the person under, or for the purposes of, this Act.

**10 Tabling of direction, &c.**

The Minister shall lay a direction, prohibition or requisition under section 7 before the Legislative Assembly within 3 sitting days of the Assembly after it is made or given.

**Part III Compensation**

**11 Compensation**

- (1) Notwithstanding section 9, a person who:
  - (a) complies with a direction, prohibition or requisition under section 7 or is engaged in complying with or carrying into effect the direction, prohibition or requisition; and
  - (b) suffers a loss, injury or damage resulting or arising from, or by reason of complying with the direction, prohibition or requisition under section 7,

shall be compensated by the Crown, on just terms, for the loss, injury or damage so suffered.

- (2) Where a person dies as a result of, or whilst engaged in, complying with a direction, prohibition or requisition under section 7 and, but for his death, he would have had a right under subsection (1) to compensation from the Crown on just terms:
- (a) his death is deemed to be the result of a wrongful act; and
  - (b) his right to compensation is deemed to be an action for damages,
- for the purposes of section 7(1) of the *Compensation (Fatal Injuries) Act*.
- (3) A person who has a right to compensation from the Crown on just terms, under subsection (1), may apply to the Supreme Court to determine the amount of compensation and the Supreme Court shall determine the amount accordingly.

## **Part IV                      Miscellaneous**

### **12                      Delegation**

- (1) The Minister may, by instrument in writing, delegate to a person any of his powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister.

### **13                      Offences and penalties**

- (1) A person shall not contravene or fail to comply with a provision of, or a direction, prohibition or requisition under, this Act.
- (2) A person who contravenes or fails to comply with a provision of, or a direction, prohibition or requisition under, this Act for which a penalty is not provided by this Act other than this section, is punishable, upon being found guilty, by a penalty of:
- (a) in the case of an offence by an individual – \$1,000; and
  - (b) in the case of an offence by a body corporate – \$10,000.

- (3) A person who has been found guilty of contravening or failing to comply with a provision of, or a direction, prohibition or requisition under, this Act is guilty of a further offence against this Act if the contravention or failure to comply continues after he has been found guilty and, upon being found guilty of the further offence, is punishable by a penalty of:
- (a) in the case of an offence by an individual – \$50; and
  - (b) in the case of an offence by a body corporate – \$500,
- for each day during which the offence continues.
- (4) Where an offence is committed by a person by reason of his failure to comply with a provision of, or a direction, prohibition or requisition under, this Act by or under which he is required to do a thing within a particular period, that person commits a further offence referred to in subsection (3) while the failure to do that thing continues, notwithstanding that that period has expired.
- (5) A prosecution for an offence against this Act:
- (a) shall be dealt with summarily; and
  - (b) shall not be commenced without the approval in writing of the Minister.

#### **14 Certificate of evidence**

In proceedings for an offence against this Act, a certificate, signed by the Minister, certifying that a direction, prohibition or requisition under section 7 specified in the certificate was served in accordance with section 16 on a person, and on a date, specified in the certificate is prima facie evidence of the matter so certified.

#### **15 Intimidation and threats**

A person who, whilst a declaration has effect, by force, threats or intimidation, against whomsoever directed, interferes with or molests another person in relation to work, goods or services provided by, or with the assistance of, that other person, is guilty of an offence.

#### **16 Service**

- (1) A person shall not be found guilty of failing to comply with a direction, prohibition or requisition under section 7 unless the direction, prohibition or requisition, as the case may be, was served on him personally or by registered post or was published in the *Gazette*.



- (2) As soon as practicable after he publishes a direction, prohibition or requisition in the *Gazette* the Minister shall take whatever other steps he considers reasonable in the circumstances to ensure that the direction, prohibition or requisition is brought to the notice of the public.
- (3) Notwithstanding section 30(3) of the Criminal Code, a direction, prohibition or requisition published in the *Gazette* under subsection (1) shall, at the time of its publication:
  - (a) where it is directed or addressed to a person or persons, be deemed to be served personally on that person or those persons; and
  - (b) where it is directed or addressed to a body or association of persons or persons of a specified class, be deemed to be served personally on each person who is a member of that body or association or class at that time.

## **17 Appropriation**

Where the Minister certifies that an amount of money is required to be paid or provided for the purposes of this Act, the amount is to be paid from the public moneys of the Territory and the appropriation for that purpose is established or increased by the extent necessary.

## **18 Regulations**

- (1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters required or permitted by this Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting the generality of subsection (1), the Administrator may, in the Regulations:
  - (a) prescribe goods or services as goods or services for the purposes of this Act;
  - (b) prescribe the procedure for applying to the Supreme Court for a determination under section 11(2); and
  - (c) prescribe penalties, not exceeding a fine of \$5,000, for offences against the Regulations.

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**ENDNOTES**
**1****KEY**

Key to abbreviations

<b>amd = amended</b>	<b>od = order</b>
<b>app = appendix</b>	<b>om = omitted</b>
<b>bl = by-law</b>	<b>pt = Part</b>
<b>ch = Chapter</b>	<b>r = regulation/rule</b>
<b>cl = clause</b>	<b>rem = remainder</b>
<b>div = Division</b>	<b>renum = renumbered</b>
<b>exp = expires/expired</b>	<b>rep = repealed</b>
<b>f = forms</b>	<b>s = section</b>
<b>Gaz = Gazette</b>	<b>sch = Schedule</b>
<b>hdg = heading</b>	<b>sdiv = Subdivision</b>
<b>ins = inserted</b>	<b>SL = Subordinate Legislation</b>
<b>lt = long title</b>	<b>sub = substituted</b>
<b>nc = not commenced</b>	

**2****LIST OF LEGISLATION*****Essential Goods and Services Act 1981 (Act No. 99, 1981)***

Assent date	21 December 1981
Commenced	21 December 1981

***Essential Goods and Services Amendment Act 1986 (Act No. 26, 1986)***

Assent date	14 July 1986
Commenced	6 August 1986 ( <i>Gaz</i> G31, 6 August 1986, p 4)

***Statute Law Revision Act (No. 2) 1987 (Act No. 59, 1987)***

Assent date	31 December 1987
Commenced	31 December 1987

***Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)***

Assent date	19 April 1996
Commenced	1 July 1996 (s 2, s 2 <i>Sentencing Act 1995</i> (Act No. 39, 1995) and <i>Gaz</i> S15, 13 June 1996)

***Statute Law Revision Act 1999 (Act No. 27, 1999)***

Assent date	18 June 1999
Commenced	18 June 1999

***Statute Law Revision Act 2007 (Act No. 4, 2007)***

Assent date	8 March 2007
Commenced	8 March 2007

***Financial Management Amendment Act 2009 (Act No. 15, 2009)***

Assent date	18 June 2009
Commenced	18 June 2009

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**LIST OF AMENDMENTS**

- |      |  |
|------|--|
| s 2  | amd No. 59, 1987, s 5; No. 4, 2007, s 7    |
| s 13 | amd No. 17, 1996, s 6                      |
| s 16 | amd No. 26, 1986, s 4; No. 17, 1996, s 6   |
| s 17 | amd No. 27, 1999, s 15; No. 15, 2009, s 16 |