

# NORTHERN TERRITORY OF AUSTRALIA

## SUMMARY OFFENCES REGULATIONS

As in force at 21 March 2007

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 21 March 2007

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## SUMMARY OFFENCES REGULATIONS

### Regulations under the *Summary Offences Act*

#### 1 Citation

These Regulations may be cited as the *Summary Offences Regulations*.

#### 2 Definitions

In these Regulations, unless the contrary intention appears, ***infringement notice*** means a notice issued under regulation 3.

#### 3 Service of infringement notice

Where a member believes a person has contravened or failed to comply with section 45EA, 47, 53(1)(a) or (7), 53A(2), 53B(3), 55, 65AA, 65A, 66(1)(A), 76, 78, 82(1), (2) or (3), or 85 of the Act, the member may serve an infringement notice on the person by:

- (a) personally handing it to the person;
- (b) posting it to the person at the person's last known postal address, place of residence or business; or
- (c) leaving it for the person at the person's last known place of residence or business with some other person apparently resident or employed there and apparently not less than 16 years of age.

#### 4 Particulars to be shown in infringement notice

- (1) An infringement notice shall have clearly shown on it:
  - (a) the date, time and place of the offence;
  - (b) the nature of the offence or offences and the penalty or penalties payable;
  - (c) the place or places at which a penalty may be paid;

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- (d) the date of the infringement notice and a statement that the penalty may be paid within 28 days after that date;
  - (f) a statement to the effect that, if the appropriate amount specified in the infringement notice as the penalty for the offence is tendered at the place referred to in the notice within the time specified in the notice, no further action will be taken; and
  - (g) such other particulars and instructions as the Commissioner may approve.

#### **4A Penalty**

The Penalty payable under these Regulations in lieu of the penalty that may otherwise be imposed in respect of an offence in respect of which an infringement notice has been served is:

- (a) in the case of an alleged offence against section 53A(2) or 53B(3) of the Act, \$400; or
- (b) in any other case, \$100.

#### **6 Payment before expiry date of infringement notice**

- (1) Subject to regulation 7, where, before the expiration of the period specified in an infringement notice for the payment of a penalty, the amount of the penalty shown on the notice is paid at a place specified in the notice, the person to whom the infringement notice was issued shall be deemed to have expiated the offence by payment of the penalty and no further proceedings shall be taken in relation to the offence, unless the notice is, in accordance with regulation 5, withdrawn.
- (2) Where a person tenders a cheque in payment of a penalty under this regulation at, or sends it by post to, a place specified in an infringement notice as a place where the penalty may be paid, payment shall be deemed not to be made unless the cheque is honoured on presentation.

#### **7 General**

Nothing in these Regulations:

- (a) prevents the service of more than one infringement notice in relation to the same offence but it is sufficient for the application of regulation 6 to a person on whom more than one such notice has been served for that person to pay the amount of the penalty in accordance with any one notice so served on that person;

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- (b) prejudices or affects (except as provided by regulation 6) the institution or prosecution of proceedings, or limits the amount of the fine that may be imposed by a court, in relation to an offence; or
  - (c) shall be construed as requiring the serving of an infringement notice or as affecting the liability of a person to be prosecuted in a court in relation to an offence in respect of which an infringement notice has not been served.

## **8 Form for purpose of section 45G**

For the purposes of section 45G, the prescribed notice in relation to an offence against section 45D shall be in accordance with the form in the Schedule.

## **9 Prescribed offences**

An offence against any of the following provisions is prescribed for section 55A(10)(a) of the Act:

Criminal Code	sections 54, 55, 66, 73, 125B, 125E, 131A, 132, 156, 160, 165, 176, 177, 202B, 202C, 202D, 211, 212, 213, 228, 229, 231B and 231C  sections 162 and 163 as in force immediately before the commencement of the <i>Criminal Code Amendment (Criminal Responsibility Reform) Act 2005</i>
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<i>Firearms Act</i>	sections 61, 61A and 63A
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<i>Misuse of Drugs Act</i>	sections 5, 6, 7, 8, 9 and 11
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## **10 Review of decision to give notice**

- (1) A person who is given a notice under section 55A(1) of the Act may apply to the Local Court for a review of the notice.
- (2) The applicant must do so within:
  - (a) 21 days after receiving the notice; or
  - (b) a longer period allowed by the Court.
- (3) Subject to any order made by the Court, the application stays the operation of the notice until the application is decided.
- (4) The Commissioner is a party to the proceedings for the review.

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- (5) The Court may:
    - (a) conduct the review in any way it considers appropriate; and
    - (b) after considering evidence and representations brought before the Court:
      - (i) amend or revoke the notice if the Court considers it appropriate to do so; or
      - (ii) otherwise – refuse the application.
  - (6) In conducting the review, the Court must consider the matter afresh and is not bound by anything considered by the Commissioner.
  - (7) Without limiting subregulation (6), the Court may:
    - (a) admit evidence that was not considered by the Commissioner in giving the notice; and
    - (b) refuse to admit evidence that was considered by the Commissioner in giving the notice.
  - (8) If another person specified in the notice has also been given a notice under section 55A(1) of the Act, the Court may amend or revoke that other notice if the Court considers it appropriate to do so.
  - (9) The Commissioner cannot be compelled to give evidence relating to the giving of the notice or the basis on which the notice was given.

**Schedule**

regulation 8

**No.** .....

***Summary Offences Act***

**NOTICE ALLEGING OFFENCE AGAINST SECTION 45D**

1. To: .....  
(Given Names) (Surname)

of .....  
(Address)

2. It is alleged that at ..... am/pm on / /  
(Time) (Date)

at .....  
(Public Place or (Town)  
unoccupied private land)

you committed the offence, marked "X" below, contrary to section 45D:

- Drink liquor in a public place within 2 kilometres of licensed premises.
- Drink liquor on unoccupied private land within 2 kilometres of licensed premises.

3. Circumstances causing the member to believe that an offence was being committed against section 45D:

.....  
.....  
.....

4. Description of liquid (liquor) seized / destroyed:

.....  
.....

5. It is averred that:

- (a) at the time specified in item 2, the place or land specified in that item was within a radius of 2 kilometres of premises licensed under Part III of the *Liquor Act* for the sale of liquor;

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**\*\***(b) at the time specified in item 2, the public place specified in that item was not the subject of a Certificate of Exemption issued under section 45E; and

(c) the liquid specified in item 4 was liquor within the meaning of the *Liquor Act*.

Date issued	Name, rank and number of member (print)	Signature of member	Station to which member attached

**NOTE: If you do nothing, a Court of Summary Jurisdiction shall, after 28 days, make an order that you committed the offence specified above, and any person's interest in the liquor shall be forfeited to the Territory.**

**If you think you have not committed the offence specified above and you wish the matter to be dealt with by the Court, you must apply in writing to the Court of Summary Jurisdiction at ..... This notice, or a copy of this notice, must be attached to the application.**

**\*\*** (*Strike out all of paragraph (b) if the offence occurred on unoccupied private land*)

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**ENDNOTES**
**1 KEY**

Key to abbreviations

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

**2 LIST OF LEGISLATION*****Summary Offences Regulations (SL No. 51, 1994)***

Notified	16 December 1994
Commenced	16 December 1994

***Amendment of Summary Offences Regulations (SL No. 6, 1996)***

Notified	14 February 1996
Commenced	26 February 1996 (r 1, s 2 <i>Summary Offences Amendment Act 1995</i> (Act No. 61, 1995) and <i>Gaz G7</i> , 14 February 1996, p 3)

***Amendments of Summary Offences Regulations (SL No. 13, 1996)***

Notified	10 April 1996
Commenced	10 April 1996

***Amendments of Summary Offences Regulations (SL No. 53, 1996)***

Notified	29 November 1996
Commenced	1 December 1996 (r 1, s 2 <i>Summary Offences Amendment Act (No. 3) 1996</i> (Act No. 46, 1996) and <i>Gaz G48</i> , 27 November 1996, p 2)

***Amendment of Summary Offences Regulations (SL No. 2, 1997)***

Notified	5 March 1997
Commenced	5 March 1997

***Summary Offences Amendment Regulations 2007 (SL No. 5, 2007)***

Notified	21 March 2007
Commenced	21 March 2007



**3**

**LIST OF AMENDMENTS**

r 3	amd No. 13, 1996, r 1; No. 53, 1996, r 2
r 4	amd No. 13, 1996, r 2
r 4A	ins No. 13, 1996, r 3 amd No. 53, 1996, r 3
r 5	rep No. 13, 1996, r 4
r 7	amd No. 13, 1996, r 5
r 8	ins No. 6, 1996, r 2
rr 9 – 10	ins No. 5, 2007, r 3
sch	ins No. 6, 1996, r 2 amd No. 2, 1997