

**NORTHERN TERRITORY OF AUSTRALIA**

**ACCOMMODATION PROVIDERS ACT 1981**

As in force at 1 October 2019

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 October 2019

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## ACCOMMODATION PROVIDERS ACT 1981

### An Act to regulate the liabilities and rights of accommodation providers

#### 1 Short title

This Act may be cited as the *Accommodation Providers Act 1981*.

#### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Interpretation

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

***accommodation establishment*** means, irrespective of whether it is licensed under the *Liquor Act 2019*:

- (a) a common inn or an establishment held out by an accommodation provider as providing, without special contract, sleeping accommodation to a person presenting himself who appears able and willing to pay a reasonable sum for the services and facilities offered and who is in a fit state to be received;
- (b) any premises used for the purposes of providing board and lodgings for members of the public as a commercial enterprise and includes a boarding-house, guest-house and lodging-house; and
- (c) a facility that is prescribed, or is of a type that is prescribed, for the purposes of this definition,

but (subject to paragraph (c)) does not include a caravan park or the erection or placement and use of tents, mobile homes or cabins for the purposes of providing board and lodgings for members of the public as a commercial enterprise.

***accommodation provider*** means the operator of an accommodation establishment.

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**vehicle** means a vehicle within the meaning of the *Motor Vehicles Act 1949*, a horse and carriage, and chattels used in connection with a vehicle.

- (1A) The Regulations may prescribe a facility or type of facility as an accommodation establishment for the purposes of the definition of **accommodation establishment** in subsection (1) despite that the facility is of a type that would otherwise be excluded by the terms of the definition.
- (2) Nothing in this Act shall affect the liability of a person for loss of, or damage to, property caused by his default, neglect or wilful act, or that of his servant.
- (3) The law in force immediately before the commencement of this Act relating to the rights and liabilities of an innkeeper with respect to the property of a guest shall cease to apply to an hotel-keeper on and from the commencement of this Act.
- (4) If a regulation prescribes a facility or type of facility to be an accommodation establishment for the purposes of this Act, the law in force immediately before the commencement of the regulation relating to the rights and liabilities of an innkeeper with respect to the property of a guest ceases to apply to the operator of the facility (or a facility of that type, as the case may be) on and from the commencement of the regulation.

#### **4 Guest at accommodation establishment**

- (1) For the purposes of this Act, a person shall be a guest at an accommodation establishment only where sleeping accommodation at the accommodation establishment has been engaged by or for him.

#### **5 Liability of accommodation provider**

Subject to sections 6, 7 and 8, an accommodation provider is liable, in his capacity as an accommodation provider, for loss of, whether by theft or otherwise, or damage to, property brought to an accommodation establishment by or on behalf of a guest.

#### **6 Restriction of accommodation provider's liability**

- (1) Subject to this section, the amount payable in respect of the liability of an accommodation provider to any one person who is a guest at the accommodation establishment with respect to property that, while at the accommodation establishment, is lost, whether by theft or otherwise, or damaged shall not exceed \$200 or, if the Regulations prescribe another amount for the purposes of this subsection, that amount.

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- (1A) The amount that applies in respect of the loss of or damage to property referred to in subsection (1) is the amount that is prescribed at the time the loss or damage occurred.
- (2) Subsection (1) shall not have effect unless, at the time the property in question was brought to an accommodation establishment, a copy printed in plain type of the notice appearing in the Schedule was conspicuously displayed in the sleeping accommodation occupied by a guest and in a place where it could conveniently be read by the guest at or near the reception office or desk or, where there is no reception office or desk, at or near the main entrance to the accommodation establishment.
- (3) Notwithstanding compliance with subsection (2), subsection (1) shall not have effect where the property in question:
- (a) was lost, whether by theft or otherwise, or damaged through the default, neglect or wilful act of the accommodation provider or his servant;
  - (b) was deposited by or on behalf of a guest expressly for safekeeping with the accommodation provider or his servant authorized or appearing to be authorized for the purpose and, if so required by the accommodation provider or his servant, deposited in a container fastened or sealed by the depositor; or
  - (c) was offered to the accommodation provider or a servant authorized or appearing to be authorized for the purpose for deposit for safekeeping and the accommodation provider or the servant refused to receive it or, through the default of the accommodation provider or the servant, was unable to receive it.

## **7 Liability for vehicles**

- (1) An accommodation provider is not liable, in his capacity as an accommodation provider, for loss of, whether by theft or otherwise, or damage to, a vehicle brought to the accommodation establishment by or on behalf of a guest or to property left in or on the vehicle.
- (2) An accommodation provider, in his capacity as an accommodation provider, shall not have a lien over property referred to in subsection (1).

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## **8 Defences**

An accommodation provider is not liable, in his capacity as an accommodation provider, for loss of, whether by theft or otherwise, or damage to, property of a guest if the accommodation provider establishes:

- (a) that the loss or damage was due to the misconduct or negligence of the guest or his servant or a person accompanying the guest or an act of God or the Crown's enemies; or
- (b) that the guest had assumed exclusive charge and custody of the room in which the property was at the time of the loss or damage.

## **9 Lien over guest's property**

Subject to section 7(2), an accommodation provider has a right of lien over property brought to an accommodation establishment by or on behalf of a guest for the accommodation provider's charges for food, drink, accommodation or services provided to the guest or on that guest's account.

## **10 Sale of property**

- (1) Where an accommodation provider's charges for food, drink, accommodation or services remain unpaid for 28 days after they become due and payable, the accommodation provider may, in addition to any other remedy provided by law, sell by public auction property that he has held in pursuance of section 9.
- (2) An accommodation provider shall give notice of a proposed sale under subsection (1) not later than 7 days before the proposed sale:
  - (a) by placing an advertisement in a newspaper published or circulating in the area where the accommodation establishment is located; and
  - (b) by posting a notice by registered mail to the last-known place of residence or business of the guest whose property he proposes to sell or by serving upon that guest personally a notice of the proposed sale.
- (3) A notice under subsection (2) of a proposed sale shall indicate:
  - (a) the name of the guest;
  - (b) the amount of the guest's indebtedness;

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- (c) the time and place of the proposed sale;
  - (d) the property to be sold; and
  - (e) the name of the auctioneer.

## **11 Application of proceeds of sale**

- (1) The proceeds of a sale made under section 10 shall be applied by an accommodation provider, in order of preference, in payment of:
  - (a) the amount owed to the accommodation provider; and
  - (b) the costs of the advertisement and sale made pursuant to section 10,and the surplus, if any, shall, upon application being made by the guest within one month after the date of the sale, be paid to that guest.
- (2) If no application is received under subsection (1) within the specified time for the surplus proceeds of a sale the accommodation provider shall pay the surplus to the Public Trustee as unclaimed moneys.

## **12 Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

## **Schedule**

### **NORTHERN TERRITORY OF AUSTRALIA**

#### ***ACCOMMODATION PROVIDERS ACT 1981***

section 6(2)

#### **NOTICE**

#### **LOSS OF OR DAMAGE TO GUEST'S PROPERTY**

Under the *Accommodation Providers Act 1981*, an accommodation provider of an accommodation establishment may, in certain circumstances, be liable to make good any loss of or damage to a guest's property even though it was not due to any fault of the accommodation provider or any servant in his employ.

This liability, however:

- (a) extends only to the property of guests who have engaged a room for sleeping;
- (b) is limited to \$200 (or any greater amount that is prescribed) to any one guest except in the case of property which has been deposited, or offered for deposit, for safekeeping; and
- (c) does not cover motor vehicles or other vehicles of any kind or property used in connection with a vehicle.



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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*****Hotel-keepers Act 1981 (Act No. 58, 1981)***

Assent date	14 July 1981
Commenced	11 December 1981 ( <i>Gaz G49</i> , 11 December 1981, p 2)

***Hotel-keepers Amendment Act 2002 (Act No. 36, 2002)***

Assent date	13 September 2002
Commenced	16 October 2002 ( <i>Gaz G41</i> , 16 October 2002, p 3)

***Liquor Act 2019 (Act No. 29, 2019)***

Assent date	3 September 2019
Commenced	1 October 2019 ( <i>Gaz G39</i> , 25 September 2019, p 2)

**3 GENERAL AMENDMENTS**

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1 and 3 and sch.

**4 LIST OF AMENDMENTS**

lt	amd No. 36, 2002, s 4
s 1	amd No. 36, 2002, s 5
s 3	amd No. 36, 2002, s 6; No. 29, 2019, s 336
s 4	amd No. 36, 2002, s 7
s 5	amd No. 36, 2002, s 10
s 6	amd No. 36, 2002, s 8
ss 7 – 11	amd No. 36, 2002, s 10
s 12	ins No. 36, 2002, s 9
sch	amd No. 36, 2002, s 10