

**NORTHERN TERRITORY OF AUSTRALIA**

**ALCOHOL HARM REDUCTION ACT 2017**

As in force at 11 December 2023

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 11 December 2023

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## ALCOHOL HARM REDUCTION ACT 2017

**An Act to reduce the misuse of alcohol and the resulting harm by providing a framework for registering adults on the banned drinker register, to repeal the *Alcohol Mandatory Treatment Act 2013* and *Alcohol Protection Orders Act 2013*, and for related purposes**

### **Part 1 Preliminary matters**

#### **1 Short title**

This Act may be cited as the *Alcohol Harm Reduction Act 2017*.

#### **2 Commencement**

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

#### **3 Object**

The object of this Act is to reduce the harm associated with the misuse of alcohol and improve the health, safety and wellbeing of people in the Territory by providing a legislative framework for:

- (a) making banned drinker orders to enable adults to be registered on the banned drinker register; and
- (b) preventing the misuse of alcohol; and
- (c) protecting people who are misusing alcohol from severe or serious harm because of the misuse; and
- (d) protecting people, particularly children, from harm or nuisance resulting from the misuse of alcohol by others.

#### **4 Definitions**

In this Act:

**7 day police BDO** means a BDO made under section 9A or 9B.

**administrative error** includes an error that results in a person being incorrectly identified.

**alcohol** means liquor as defined in section 4(1) of the *Liquor Act 2019*.

**alcohol-related infringement notice** means an infringement notice in relation to an offence against any of the following:

- (a) section 143(2), 144(2), 173(1), 183(1), 189(1), 218(1), 224(1) or 228(2) of the *Liquor Act 2019*;
- (b) section 25(3) or 26(1) of the *Traffic Act 1987*;
- (c) section 47 or 53(1)(a) or (7) of the *Summary Offences Act 1923*, if the police officer giving the infringement notice believes on reasonable grounds that the alleged offender is, at that time, affected by alcohol.

**alcohol-related offence** means any of the following:

- (a) an offence for which the maximum penalty is imprisonment for a term of at least 6 months, if a police officer believes on reasonable grounds that the alleged offender was affected by alcohol during the commission of the offence;
- (b) an immediate suspension offence as defined in section 19(1) of the *Traffic Act 1987* that involves alcohol;
- (c) an offence against section 42(1);
- (d) another offence that involves alcohol (for example, stealing alcohol);
- (e) an offence prescribed by regulation.

**alcohol-related protective custody**, see section 5A.

**banned adult** means an adult who is subject to a BDO.

**banned drinker register** means the register of persons who are banned for the purposes of the identification system established under section 128 of the *Liquor Act 2019*.

**BDO**, see section 7.

**BDR Registrar**, see section 35.

**charged**, in relation to an alcohol-related offence, includes being charged at a police station.

**child protection worker** means a person appointed as an authorised officer under section 304(1)(a) of the *Care and Protection of Children Act 2007*.

**clinician** means:

- (a) a medical practitioner; or
- (b) a nurse; or
- (c) a person employed in the Agency as an alcohol or other drugs clinician; or
- (d) a person prescribed by regulation.

**family member**, see section 5.

**first police BDO** means a BDO made under section 10.

**income management** means the income management regime under Part 3B of the Social Security Administration Act.

**income management order** means an order under section 27.

**information sharing authority** means:

- (a) a public sector employee who is acting under a law of the Territory in relation to a banned adult; or
- (b) a licensee as defined in section 4(1) of the *Liquor Act 2019*; or
- (c) a legal representative of a banned adult; or
- (d) a person or body prescribed by regulation.

**nurse** means a person registered under the Health Practitioner Regulation National Law to practise in the nursing profession (other than as a student).

**police DVO**, see section 41(1) of the *Domestic and Family Violence Act 2007*.

**proceedings**, see section 31.

**publication**, see section 31.

**second police BDO** means a BDO made under section 13(1).

**Secretary** means the Secretary under the Social Security Administration Act.

**Social Security Administration Act** means the *Social Security (Administration) Act 1999* (Cth).

**subsequent police BDO** means a BDO made under section 13(2) or (3).

**Tribunal** means the Civil and Administrative Tribunal.

**Tribunal Act** means the *Northern Territory Civil and Administrative Tribunal Act 2014*.

*Note for section 4*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

## **5 Family member**

- (1) A **family member** of an adult is:
- (a) the spouse or de facto partner of the adult; or
  - (b) any other relative of the adult.
- (2) A relative of the adult includes a person who is related to the adult in accordance with customary law or tradition (including Aboriginal customary law or tradition).

*Notes for section 5*

- 1 *A relative of an adult may include (for example) a parent, step-parent, grandparent, aunt, nephew, cousin, half-brother, mother-in-law or aunt-in-law.*
- 2 *Section 19A of the Interpretation Act 1978 contains definitions of certain domestic relationships, including spouse and de facto partner.*

## **5A Alcohol-related protective custody**

An adult is taken into **alcohol-related protective custody**:

- (a) if the adult is apprehended and taken into custody under section 128 of the *Police Administration Act 1978*; or
- (b) in other circumstances prescribed by regulation.

## **6            Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 6*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2            Banned drinker orders (BDOs)**

### **Division 1        BDO**

#### **7            What is a BDO**

A **BDO** is a banned drinker order, in the form approved by the BDR Registrar, that states the following:

- (a) the name of the adult who is subject to the order;
- (b) that the adult is prohibited from purchasing, possessing or consuming alcohol during the period for which the order is in force;
- (c) the reason why the order has been made;
- (d) for a BDO made by a police officer – the name, rank and place of duty of the police officer, and the date and time it is made;
- (e) that the order comes into force when it is registered, regardless of whether the adult actually receives a copy of the order;
- (f) the period for which the order remains in force;
- (g) the consequences of a contravention of the order and a description of what constitutes a contravention;
- (h) any entitlement of the adult to apply to the Tribunal for review of the decision to make the order;

- (i) that the adult may apply to the BDR Registrar for referral for assessment, which may result in reduction of the period of the BDO.

*Note for section 7*

*A BDO may be made in various ways:*

- (a) a police officer may make a BDO under section 10;*
- (b) a second or subsequent police BDO may be made under section 13;*
- (c) the BDR Registrar may make a BDO under Division 3 or 4.*

## **8            Notice of BDO**

- (1) A person who makes a BDO must take all reasonable steps to give particulars of the BDO to the adult for whom it is made as soon as practicable after making it.
- (2) For subsection (1), particulars of a BDO may be given to the adult for whom it is made by:
  - (a) informing the adult, verbally or in writing, of the making and terms of the BDO; or
  - (b) providing the person with a physical or electronic copy of the BDO.

## **9            Registering BDO**

- (1) The Commissioner of Police must ensure that a BDO made by a police officer is registered.
- (2) The BDR Registrar must ensure that a BDO made by the BDR Registrar is registered.
- (3) A BDO is registered, and comes into force, when the name of the adult for whom it is made, and other relevant details, are entered on the banned drinker register.
- (4) Subsection (3) applies regardless of whether the adult for whom the BDO is made receives a copy of the BDO.

## **Division 2            BDO made by police officer**

### **9A           Making 7 day police BDO**

- (1) A police officer must make a BDO for an adult if:
  - (a) the adult is taken into alcohol-related protective custody; or
  - (b) the adult is given an alcohol-related infringement notice; or

- (c) the adult is found to be in contravention of section 171(1) of the *Liquor Act 2019*; or
  - (d) the adult is issued with a banning notice under section 212 of the *Liquor Act 2019*.
- (2) Subsection (1) does not apply in relation to an adult if:
- (a) the adult is already subject to a BDO made under this Division or Division 4; or
  - (b) the occurrence mentioned in subsection (1)(a) to (d) results in the making of a first police BDO.

### **9B            Consequence of contravention of 7 day police BDO**

- (1) If a police officer believes on reasonable grounds that a banned adult has contravened a 7 day police BDO:
- (a) the police officer must make another 7 day police BDO for the adult; and
  - (b) the first 7 day police BDO ceases to be in force.
- (2) Subsection (1) does not apply in relation to a banned adult if the contravention results in the making of a first police BDO.

### **9C            7 day police BDO ceases to be in force**

If a first police BDO or a BDO under Division 4 is made for an adult who is subject to a 7 day police BDO, the 7 day police BDO ceases to be in force.

### **10            Making first police BDO**

- (1) A police officer must make a BDO for an adult if:
- (a) the adult is, in relation to an alcohol-related offence:
    - (i) arrested and charged; or
    - (ii) summoned as a defendant; or
    - (iii) served with a notice to appear before a court as a defendant; or
  - (b) the adult is named as the defendant in a police DVO, if the police officer who makes the DVO believes on reasonable grounds that the defendant was affected by alcohol at the time of engaging in the conduct to which the DVO relates; or

- (c) any of the following events, in any combination, occur in relation to the adult 3 times:
- (i) the adult is taken into alcohol-related protective custody;
  - (ii) the adult is given an alcohol-related infringement notice;
  - (iii) the adult is found to be in contravention of section 171(1) of the *Liquor Act 2019*;
  - (iv) the adult is issued with a banning notice under section 212 of the *Liquor Act 2019*.

*Examples for subsection (1)(c)*

- 1 *An adult is taken into alcohol-related protective custody for a third time.*
- 2 *An adult who has previously been issued with 2 alcohol-related infringement notices is taken into alcohol-related protective custody.*
- 3 *An adult who has previously been issued with a banning notice under section 212 of the Liquor Act 2019 and has previously been taken into alcohol-related protective custody is found to be in contravention of section 171(1) of the Liquor Act 2019.*

- (2) Subsection (1) does not apply in relation to an adult who is already subject to a first, second or subsequent police BDO or a BDO made under Division 4.

## **11 Period of BDO**

- (1AA) A 7 day police BDO remains in force for a period of 7 days.
- (1) A first police BDO remains in force for a period of 3 months.
  - (2) A second police BDO remains in force for a period of 6 months.
  - (3) A subsequent police BDO remains in force for a period of 12 months.
  - (4) This section is subject to sections 9B, 9C, 12, 13, 25 and 25A.

## **12 Court orders relating to BDO**

- (1) A court may make the orders it considers appropriate in relation to a BDO in force under this Division or extended under section 24 for a banned adult appearing in the court in relation to the matter that led to a police officer making or extending the BDO for the adult.
- (2) Without limiting subsection (1), the orders may include any of the following:
  - (a) the BDO continues in force for a stated period;

- (b) the BDO is varied as stated;
- (c) the BDO is revoked and the adult is subject to conditions relating to:
  - (i) the adult's purchase, possession or consumption of alcohol, as stated by the court; and
  - (ii) any other matter the court considers appropriate for the adult (for example, the assessment or treatment of the adult for alcohol misuse);
- (d) the BDO is revoked.

### **13            Consequence of contravention of first or second police BDO**

- (1) If a police officer believes on reasonable grounds that a banned adult has contravened a first police BDO:
  - (a) the police officer must make a second police BDO for the adult; and
  - (b) the first police BDO ceases to be in force.
- (2) If a police officer believes on reasonable grounds that a banned adult has contravened a second police BDO:
  - (a) the police officer must make a subsequent police BDO for the adult; and
  - (b) the second police BDO ceases to be in force.
- (3) If a police officer believes on reasonable grounds that a banned adult has contravened a subsequent police BDO:
  - (a) the police officer must make a further subsequent police BDO for the adult; and
  - (b) the previous BDO ceases to be in force.

### **13A          First police BDO taken to have been made**

- (1) Subsection (2) applies in relation to an adult if:
  - (a) a BDO was made under Division 4 for the adult; and
  - (b) the BDO was extended by a police officer under section 24; and
  - (c) the BDO is revoked within 3 months of the extension mentioned in paragraph (b) being made; and

- (d) if the BDO made under Division 4 had not been in force on the day the extension was made, a first police BDO would have been made for the adult instead.
- (2) A first police BDO is taken to have been made for the adult on the day of the extension.

*Example for section 13A*

*If a BDO was made for an adult under Division 4 on 1 January, extended by police under section 24 on 1 February and then revoked on 1 March, the adult is taken to be subject to a first police BDO until 30 April, as if it was made on 1 February.*

### **Division 3 BDO made by BDR Registrar – self-application**

#### **14 Self-application for BDO**

- (1) An adult who is not a banned adult may apply for a BDO to be made for themselves.
- (2) The application:
  - (a) must be lodged:
    - (i) with the BDR Registrar; or
    - (ii) at a police station; or
    - (iii) at a location, or by a method, prescribed by regulation; and
  - (b) may contain a request that the BDO be in force for a period of 3, 6 or 12 months.
- (3) An application lodged under subsection (2)(a)(ii) or (iii) must be forwarded to the BDR Registrar as soon as practicable.

#### **15 Making BDO**

Within 2 business days after receiving an application under section 14, the BDR Registrar must make a BDO for the applicant if satisfied as to the applicant's identity and that the applicant:

- (a) is not already a banned adult; and
- (b) consents to the terms of the BDO.

## **16 Period of BDO**

- (1) In making a BDO under section 15, the BDR Registrar must:
  - (a) take into account any request of the applicant under section 14(2)(b); and
  - (b) decide whether the BDO will be in force for a period of 3, 6 or 12 months; and
  - (c) specify the period in the BDO.
- (2) Subject to subsection (3), the BDO remains in force for the period specified in it unless it is revoked earlier under section 17.
- (3) If a first police BDO is made for an adult who is subject to a BDO under this Division, the BDO under this Division ceases to be in force.

## **17 Revocation of BDO**

- (1) An adult who is subject to a BDO made under this Division may request that the BDO be revoked.
- (2) The request must be lodged:
  - (a) with the BDR Registrar; or
  - (b) at a police station; or
  - (c) at a location, or by a method, prescribed by regulation.
- (3) As soon as practicable after the request is made, the BDR Registrar must revoke the BDO and take all reasonable steps to give the adult written notice that it has been revoked.

## **Division 4 BDO made by BDR Registrar – application by others**

### **18 Application for BDO**

- (1) Any of the following may apply to the BDR Registrar for the making of a BDO under this Division for an adult:
  - (a) a police officer;
  - (b) a child protection worker;
  - (c) a person registered under the Health Practitioner Regulation National Law (other than as a student);

- (d) a family member of the adult;
  - (e) a guardian or carer of the adult;
  - (f) the Public Guardian;
  - (g) a person prescribed by regulation.
- (2) An application must be in the form, contain the information, and be made in the manner specified by the BDR Registrar.

## **19 Referral for assessment**

- (1) If an application is made by a person mentioned in section 18(1)(d) to (f), the BDR Registrar must refer the adult to whom the application relates for assessment under section 20.
- (2) If an application is made by another person mentioned in section 18(1), the BDR Registrar may refer the adult to whom the application relates for assessment under section 20.

## **20 Assessment**

- (1) If, under section 19, an adult is referred by the BDR Registrar for assessment, a clinician must take all reasonable steps to assess the adult for section 21.
- (2) An assessment may be made in person or on the basis of information provided or otherwise available to the clinician.
- (3) Following the assessment, the clinician must make a report of the assessment to the BDR Registrar, containing the following:
- (a) a recommendation as to whether a BDO should be made for the adult;
  - (b) a recommendation as to any appropriate therapeutic support program for the adult.
- (4) If, despite taking all reasonable steps, the clinician is unable to assess the adult within a reasonable time:
- (a) the clinician must notify the BDR Registrar accordingly; and
  - (b) the application to which the referral for assessment relates lapses.

## **21 Making BDO**

- (1) Subject to subsection (2), the BDR Registrar may make a BDO under this Division for an adult if satisfied as to the adult's identity and that:
  - (a) the adult is misusing or has misused alcohol; and
  - (b) the adult's misuse of alcohol is a risk to the health, safety or wellbeing of the adult or any other person.
- (2) If the adult has been assessed under section 20, the BDR Registrar must consider the clinician's report of the assessment under section 20(3) in deciding whether to make a BDO.
- (3) The BDR Registrar cannot make a BDO under this Division on the application of a person mentioned in section 18(1)(d) to (f) unless:
  - (a) the adult for whom the BDO is proposed to be made has been assessed under section 20; and
  - (b) the BDR Registrar has received a report on the assessment under section 20(3).

## **22 Period of BDO**

- (1) In making a BDO under this Division, the BDR Registrar must:
  - (a) decide whether the BDO will be in force for a period of 3, 6 or 12 months; and
  - (b) specify the period in the BDO.
- (2) If an adult has been assessed under section 20, the BDR Registrar must consider the clinician's report of the assessment under section 20(3) in deciding the period of the BDO.
- (3) The BDO remains in force for the period specified in it unless it is:
  - (a) revoked earlier under section 25; or
  - (b) extended under section 23 or 24.

## **23 Extension of BDO by BDR Registrar**

- (1) The BDR Registrar may extend a BDO made under this Division if the BDR Registrar believes on reasonable grounds that:
  - (a) the banned adult has contravened the BDO; or
  - (b) the grounds for making the BDO continue to apply.

- (2) The extension is to be in accordance with the following:
- (a) a BDO for a period of 3 months may be extended to a period of 6 months;
  - (b) a BDO for a period of 6 months may be extended to a period of 12 months;
  - (c) a BDO for a period of 12 months may be extended for a further period of 12 months.

*Examples for subsection (2)*

- 1 A BDO that is for a period of 3 months commencing on 1 January and ending on 31 March may be extended to end on 30 June.
  - 2 A BDO that is for a period of 6 months commencing on 1 January and ending on 30 June may be extended to end on 31 December.
  - 3 A BDO that is for a period of 12 months commencing on 1 January and ending on 31 December that is contravened on 30 June may be extended to end on 30 June the following year.
- (3) The BDR Registrar must take all reasonable steps to give the banned adult particulars of an extension of the BDO under this section.
- (4) An extension under this section may be made on the application of a person mentioned in section 18(1) or on the BDR Registrar's own initiative.

## **24 Extension of BDO by police**

- (1) A police officer must extend a BDO made under this Division if any of the following occurs in relation to the banned adult:
- (a) the adult is, in relation to an alcohol-related offence:
    - (i) arrested and charged; or
    - (ii) summoned as a defendant; or
    - (iii) served with a notice to appear before a court as a defendant;
  - (b) the adult is named as the defendant in a police DVO, if the police officer who makes the DVO believes on reasonable grounds that the defendant was affected by alcohol at the time of engaging in the conduct to which the DVO relates;
  - (c) the adult is taken into alcohol-related protective custody;
  - (d) the adult is given an alcohol-related infringement notice;

- (e) the adult is found to be in contravention section 171(1) of the *Liquor Act 2019*;
  - (f) the adult is issued with a banning notice under section 212 of the *Liquor Act 2019*.
- (2) The extension is to be in accordance with the following:
- (a) a BDO for a period of 3 months may be extended to a period of 6 months;
  - (b) a BDO for a period of 6 months may be extended to a period of 12 months;
  - (c) a BDO for a period of 12 months may be extended for a further period of 12 months from the date of the event mentioned in subsection (1)(a) to (f).

*Examples for subsection (2)*

- 1 A BDO that is for a period of 3 months commencing on 1 January and ending on 31 March would be extended to end on 30 June.
  - 2 A BDO that is for a period of 6 months commencing on 1 January and ending on 30 June would be extended to end on 31 December.
  - 3 If an adult is subject to a BDO that is for a period of 12 months commencing on 1 January and ending on 31 December, and an event mentioned in subsection (1)(a) to (f) occurs on 30 June, the BDO would be extended to end on 30 June the following year.
- (3) The police officer must take all reasonable steps to give the banned adult particulars of an extension of the BDO under this section.

## **Division 5 General provisions for BDOs**

### **25 Variation or revocation of BDO by BDR Registrar**

- (1) Subject to any order made under section 12, the BDR Registrar may vary or revoke a BDO if satisfied:
- (a) that the banned adult has participated in and completed a therapeutic support program; or
  - (b) for a BDO made under Division 3 or 4 – that the variation or revocation is required because of an administrative error.
- (2) A variation or revocation may be made on the application of the banned adult or on the BDR Registrar's own initiative.

*Note for section 25*

*If a BDO made under Division 4 and extended under section 24 is revoked, the extension may be taken to be a first police BDO – see section 13A.*

## **25A Variation or revocation of BDO by police**

- (1) Subject to any order made under section 12, a police officer may vary or revoke a BDO made under Division 2 if satisfied:
  - (a) that the variation or revocation is required because of an administrative error; or
  - (b) for a BDO made under section 10(1)(a):
    - (i) that the charge was withdrawn, dismissed or not proceeded with; or
    - (ii) that the banned adult was found not guilty of the offence; or
  - (c) for a BDO made under section 10(1)(b) – that the police DVO was revoked; or
  - (d) that the variation or revocation is otherwise appropriate in the circumstances.
- (2) Subject to any order made under section 12, a police officer may vary or revoke an extension of a BDO made under section 24 if satisfied:
  - (a) that the variation or revocation is required because of an administrative error; or
  - (b) for an extension made under section 24(1)(a):
    - (i) that the charge was withdrawn, dismissed or not proceeded with; or
    - (ii) that the banned adult was found not guilty of the offence; or
  - (c) for an extension made under section 24(1)(b) – that the police DVO was revoked; or
  - (d) that the variation or revocation is otherwise appropriate in the circumstances.
- (3) A variation or revocation may be made on the application of the banned adult or on the police officer's own initiative.

## **26 Assessment of adults for treatment**

- (1) On application by a banned adult, the BDR Registrar may refer the adult to a clinician for assessment for treatment.

- (2) A clinician must take all reasonable steps to assess:
  - (a) an adult who is referred under subsection (1) by the BDR Registrar for assessment; or
  - (b) an adult who is subject to an order under section 12(2)(c)(ii) for assessment or treatment.
- (3) An assessment may be made in person or on the basis of information provided or otherwise available to the clinician.
- (4) Following the assessment, the clinician must make a report of the assessment to the BDR Registrar, containing a recommendation as to any appropriate therapeutic support program for the adult.

## **Part 3                    Income Management**

### **27                    Income management order may be made**

The BDR Registrar may make an order that an adult is required to be subject to income management, if the BDR Registrar is satisfied that:

- (a) either:
  - (i) a BDO is in force for the adult for a period of 12 months; or
  - (ii) a BDO will be in force for the adult for a period of 12 months when the income management order comes into force; and
- (b) the adult would benefit from the making of an income management order; and
- (c) the adult, or the adult's partner, is an eligible recipient of a category H welfare payment under Part 3B of the Social Security Administration Act.

### **28                    Period of income management order**

An income management order:

- (a) comes into force when it is made or when a BDO for the adult comes into force, whichever is later; and
- (b) remains in force for a period of 12 months.

**29 Variation and revocation of income management order**

- (1) An adult who is subject to income management may apply to the BDR Registrar for variation or revocation of an income management order.
- (2) On application:
  - (a) the BDR Registrar may vary the income management order if satisfied that it is appropriate to do so having regard to the criteria for making the order; or
  - (b) the BDR Registrar may revoke the income management order if satisfied that the adult no longer meets the criteria for making the order; or
  - (c) the BDR Registrar may refuse to vary or revoke the order.

**30 Notice to Secretary**

If the BDR Registrar makes, varies or revokes an income management order, the BDR Registrar must notify the Secretary and give the Secretary a copy of the order, variation or revocation.

**Part 4 Review by Tribunal****31 Definitions**

In this Part:

***proceedings*** means proceedings in the Tribunal in relation to a matter under this Act.

***publication*** includes broadcast and dissemination.

**32 Review by Tribunal**

- (1) The Tribunal has jurisdiction to review a decision (a ***reviewable decision***) specified in Schedule 1.
- (2) An ***affected person***, for a reviewable decision, is a person specified in Schedule 1 for the decision.
- (3) An affected person for a reviewable decision may apply to the Tribunal for review of the decision.

*Note for section 32*

*The Tribunal Act sets out the procedure for applying to the Tribunal for review and other relevant matters in relation to reviews.*

**33 Reasons may be given orally**

- (1) Despite section 105(2) of the Tribunal Act, the Tribunal may give the reasons for the decision in any proceedings and any relevant findings of fact (the **reasons**) orally to the parties to the proceedings.
- (2) A party to the proceedings may apply to the Tribunal to give the reasons in writing, and the Tribunal must do so within 28 days after the application is made.
- (3) A party to the proceedings who proposes to make an application under subsection (2) must do so within 28 days after the reasons are given orally.
- (4) Section 105(4) of the Tribunal Act applies to the time limit mentioned in subsection (2).

**34 No fees**

No application fees or other fees are payable in relation to proceedings.

**Part 5 Administration**

**Division 1 BDR Registrar**

**35 BDR Registrar**

- (1) The BDR Registrar is:
  - (a) the Chief Executive Officer; or
  - (b) the person appointed under subsection (2).
- (2) The Chief Executive Officer may appoint a public sector employee to be the BDR Registrar, if the Chief Executive Officer is satisfied that the employee is suitably qualified for appointment.

**36 Functions and powers**

- (1) The BDR Registrar has the functions conferred on the BDR Registrar under this or another Act.
- (2) The BDR Registrar may do all things necessary or convenient to be done for, or in relation to, the performance of the BDR Registrar's functions.

**37 Delegation**

The BDR Registrar may delegate any of the BDR Registrar's powers and functions under this Act to a public sector employee.

**38 Record keeping**

- (1) The BDR Registrar must keep the records in relation to the performance of the BDR Registrar's functions that are reasonable in the circumstances.

*Note for subsection (1)*

*See Part 9 of the Information Act 2002 for further requirements for record keeping.*

- (2) Without limiting what records must be kept, records must include the following:
- (a) the number of applications made to the BDR Registrar for a BDO;
  - (b) the number of BDOs made by the BDR Registrar;
  - (c) the number of variations and revocations of BDOs made by the BDR Registrar.

**Division 2 Information sharing**

**39 Sharing information**

- (1) A person who applies to the BDR Registrar for a BDO under Part 2, Division 4 may give the BDR Registrar any information about the adult to whom the application relates.
- (2) A police officer or the BDR Registrar may give an information sharing authority any information about a BDO that is in force.
- (3) The police officer or BDR Registrar may do so only if:
- (a) the police officer or BDR Registrar specifies the BDO when giving the information; and
  - (b) the police officer or BDR Registrar believes on reasonable grounds that the information would:
    - (i) assist the information sharing authority to provide a service to, or perform a function relating to, the adult who is subject to the BDO; and

- (ii) ensure the effective and efficient enforcement of the BDO.

#### **40 Restriction on use or disclosure of information**

- (1) Subject to this section, an information sharing authority given information under this Division must not use or disclose the information for any purpose other than the one for which it was given.
- (2) An information sharing authority given information under this Division may disclose the information:
  - (a) in a statistical form that does not identify the person to whom the information relates; or
  - (b) for the purpose of evaluating the effectiveness of the administration of this Act; or
  - (c) if authorised or required by another law in force in the Territory.

#### **41 Interaction with other laws**

This Division has effect despite the operation of any other law of the Territory that prohibits or restricts the disclosure of information.

## **Part 6 Miscellaneous matters**

#### **42 Offence to supply alcohol to persons subject to prohibition**

- (1) A person commits an offence if:
  - (a) the person intentionally supplies a substance to another person; and
  - (b) the substance is alcohol and the person has knowledge of that circumstance; and
  - (c) the other person is subject to a prohibition mentioned in section 128(1) of the *Liquor Act 2019* and the person has knowledge, or ought reasonably to have knowledge, of that circumstance.

Maximum penalty: 100 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes that the defendant is:
- (a) a licensee or a licensee's employee who used the identification system in accordance with the *Liquor Act 2019* which did not identify the other person as being subject to the prohibition; or
  - (b) a protected person as defined in section 4 of the *Domestic and Family Violence Act 2007*.
- (3) A person who is found guilty of an offence against subsection (1) is prohibited from purchasing alcohol for a period of 12 months starting on the day the person is found guilty.

#### **42A Identification of person**

For the purposes of making or extending a BDO for an adult, a police officer may take reasonable measures to verify the adult's identity.

#### **43 Police power to require breath test**

- (1) A police officer may require an adult to submit to a breath test to determine whether there is alcohol in the adult's breath, if:
- (a) the adult is in a public place; and
  - (b) the police officer believes on reasonable grounds that the adult:
    - (i) is a banned adult; and
    - (ii) has been consuming alcohol in contravention of the adult's BDO.

- (2) In this section:

***breath test***, see section 3(1) of the *Traffic Act 1987*.

#### **44 Protection from liability**

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as any of the following:
- (a) the BDR Registrar;
  - (b) a clinician.

(2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.

(3) In this section:

**exercise**, of a power, includes the purported exercise of the power.

**performance**, of a function, includes the purported performance of the function.

#### **45            Regulations**

The Administrator may make regulations under this Act.

## **Part 7            Repeals and transitional matters for Alcohol Harm Reduction Act 2017**

### **Division 1        Repeals**

#### **46            Acts repealed**

The following Acts are repealed:

- (a) *Alcohol Mandatory Treatment Act 2013* (Act No. 17 of 2013);
- (b) *Alcohol Protection Orders Act 2013* (Act No. 31 of 2013).

### **Division 2        Transitional matters**

#### **47            Definitions**

In this Division:

**APO Act** means the *Alcohol Protection Orders Act 2013* as in force immediately before its repeal.

**commencement** means the commencement of section 46(b).

**first alcohol protection order**, see section 7(3) of the APO Act.

**later alcohol protection order**, see section 7(3) of the APO Act.

**second alcohol protection order**, see section 7(3) of the APO Act.

**48 Alcohol protection orders become BDOs**

- (1) A first alcohol protection order in force immediately before the commencement is taken, on and after the commencement, to be a first police BDO for the remaining period for which it would have been in force if the APO Act had not been repealed.
- (2) A second alcohol protection order in force immediately before the commencement is taken, on and after the commencement, to be a second police BDO for the remaining period for which it would have been in force if the APO Act had not been repealed.
- (3) A later alcohol protection order in force immediately before the commencement is taken, on and after the commencement, to be a subsequent police BDO for the remaining period for which it would have been in force if the APO Act had not been repealed.

**Part 8 Transitional matters for Alcohol Harm Reduction Amendment Act 2023****49 Definitions**

In this Part:

***amending Act*** means the *Alcohol Harm Reduction Amendment Act 2023*.

***commencement*** means the commencement of the amending Act.

**50 BDOs made before commencement**

- (1) A BDO that is in force immediately before the commencement continues in force, according to its terms, after the commencement.
- (2) Subject to this Part, this Act as amended by the amending Act applies in relation to a BDO mentioned in subsection (1).

**51 Reviews commenced before commencement**

- (1) This section applies in relation to a review if, before the commencement:
  - (a) an affected person applied to the Tribunal for review under section 32; and
  - (b) the review had not been finalised.
- (2) The Tribunal must continue to deal with the review as if the amending Act had not commenced.

**52 Applications commenced before commencement**

- (1) This section applies in relation to an application for variation or revocation if, before the commencement:
  - (a) a banned adult applied to the BDR Registrar for variation or revocation under section 25; and
  - (b) the application had not been finalised.
- (2) The BDR Registrar must continue to deal with the application as if the amending Act had not commenced.

**53 Making BDOs – before and after commencement**

- (1) Section 9A, as inserted by the amending Act, applies only in relation to events occurring after the commencement.
- (2) Sections 10 and 24, as amended by the amending Act, apply only in relation to events occurring after the commencement.
- (3) Sections 10 and 24, as in force before the commencement, continue to apply in relation to events occurring before the commencement.
- (4) For this section, if any part of an event occurs before the commencement, the event is taken to have occurred before the commencement.

**54 Offences – before and after commencement**

- (1) Section 42, as amended by the amending Act, applies only in relation to offences committed after the commencement.
- (2) Section 42, as in force before the commencement, continues to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.

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**Schedule 1 Reviewable decisions**

section 32

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<b>Item</b>	<b>Reviewable decision</b>	<b>Affected person</b>
1	Making BDO by BDR Registrar under section 21	Adult for whom BDO is made
2	Extension of BDO by BDR Registrar under section 23	Adult subject to BDO
3	Extension of BDO by police under section 24	Adult subject to BDO
4	Refusal by BDR Registrar to vary or revoke BDO on application under section 25(2)	Applicant
5	Refusal by police to vary or revoke BDO or extension to BDO on application under section 25A(3)	Applicant
6	Making income management order by BDR Registrar under section 27	Adult for whom order is made
7	Refusal by BDR Registrar to vary or revoke income management order under section 29(2)(c)	Adult subject to order

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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

***Alcohol Harm Reduction Act 2017 (Act No. 16, 2017)***

Assent date	30 August 2017
Commenced	1 September 2017 ( <i>Gaz</i> S61, 31 August 2017)

***Health Practitioner Regulation (National Uniform Legislation) and Other Legislation Amendment Act 2018 (Act No. 28, 2018)***

Assent date	30 November 2018
Commenced	1 December 2018 (s 2)

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

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

***Alcohol Harm Reduction Amendment Act 2023 (Act No. 37, 2023)***

Assent date	6 December 2023
Commenced	11 December 2023 ( <i>Gaz</i> S86, 8 December 2023)

### 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, 4, 5, 10, 24, 38, 42 and 43.

### 4 LIST OF AMENDMENTS

s 4	amd No. 28, 2018, s 25; No. 29, 2019, s 338; No. 37, 2023, s 4
s 5A	ins No. 37, 2023, s 5
s 7	amd No. 37, 2023, s 6
s 8	sub No. 37, 2023, s 7
ss 9A – 9C	ins No. 37, 2023, s 8

## ENDNOTES

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s 10	amd No. 29, 2019, s 339 sub No. 37, 2023, s 8
s 11	amd No. 37, 2023, s 9
s 12	amd No. 37, 2023, s 10
s 13	amd No. 37, 2023, s 11
s 13A	ins No. 37, 2023, s 12
s 23	amd No. 37, 2023, s 13
s 24	amd No. 29, 2019, s 340; No. 37, 2023, s 14
s 25	amd No. 37, 2023, s 15
s 25A	ins No. 37, 2023, s 16
s 42	amd No. 29, 2019, s 341; No. 37, 2023, s 17
s 42A	ins No. 37, 2023, s 18
s 43	amd No. 29, 2019, s 342
pt 8 hdg	exp No. 16, 2017, s 61 ins No. 37, 2023, s 19
pt 8 div 1 hdg ss 49 – 50	exp No. 16, 2017, s 61 ins No. 37, 2023, s 19
pt 8 div 2 hdg ss 51 – 52	exp No. 16, 2017, s 61 ins No. 37, 2023, s 19
pt 8 div 3 hdg ss 53 – 54	exp No. 16, 2017, s 61 ins No. 37, 2023, s 19
pt 8 div 4 hdg ss 55 – 57	exp No. 16, 2017, s 61
pt 8 div 5 hdg ss 58 – 59	exp No. 16, 2017, s 61
pt 8 div 6 hdg s 60	exp No. 16, 2017, s 61
pt 8 div 7 hdg s 61	exp No. 16, 2017, s 61
sch 1	sub No. 37, 2023, s 20
sch 2	exp No. 16, 2017, s 61