

NORTHERN TERRITORY OF AUSTRALIA

FIRE AND EMERGENCY LEGISLATION AMENDMENT ACT 2009

Act No. 39 of 2009

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 39 of 2009

An Act to amend the *Fire and Emergency Act* and the *Fire and Emergency Regulations*

[Assented to 15 December 2009]
[Second reading 19 October 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Fire and Emergency Legislation Amendment Act 2009*.

2 Commencement

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

Part 2 Amendment of Fire and Emergency Act

3 Act amended

This Part amends the *Fire and Emergency Act*.

4 Amendment of section 3 (Interpretation)

(1) Section 3(1)

omit

Act, unless the contrary intention appears –

substitute

Act:

(2) Section 3(1), definition **hazard reduction**

omit, substitute

hazard reduction means taking precautionary action and conducting inspections, other than as part of the response to an existing incident, to eliminate or reduce danger by fire or other emergency to life or property.

5 Amendment of section 6 (Role of Fire and Rescue Service)

(1) Section 6(cb)

omit, substitute

(cb) to undertake hazard reduction:

- (i) to eliminate or reduce danger to life or property by fires (other than bushfires) and other emergencies anywhere in the Territory; and
- (ii) to eliminate or reduce danger to life or property by bushfires in an emergency response area; and

(2) Section 6(a) to (ca), (cc) and (d) at the end

insert

and

6 Repeal and substitution of sections 25 and 26

Sections 25 and 26

repeal, substitute

24A Definition

In this Division:

place means land, a building, a vehicle or a vessel.

25 Hazard reduction powers of entry and inspection

- (1) For the purpose of hazard reduction, the Director or an authorised person may enter a place as follows:
 - (a) at any time to determine if a law for the prevention of fire or the protection of life or property from danger arising from fire is being complied with;
 - (b) if the place is in an emergency response area and the Director or authorised person reasonably believes that a hazard in relation to a fire exists in relation to the place – at any time to conduct a strategic burn-off to eliminate or reduce the hazard;
 - (c) if the Director or authorised person knows or reasonably suspects that explosive, flammable or combustible material is being kept at the place – at any time to determine if a law relating to the keeping of the material is being complied with;
 - (d) if the Director or authorised person reasonably believes that a hazard exists in relation to the place – at a reasonable time to inspect the place, and the arrangement and condition of anything at the place, to determine if the hazard exists.
- (2) If the Director or an authorised person reasonably believes that a hazard exists in relation to a place, the Director or authorised person may serve a notice on one of the following persons requiring the person to take action to eliminate or reduce the hazard:
 - (a) the owner of the place if, in the opinion of the Director or authorised person, the hazard arises from the state of repair of the place;
 - (b) the occupier or owner (where there is no occupier) of the place if, in the opinion of the Director or authorised person, the hazard arises from:
 - (i) the arrangement and condition of anything at the place; or
 - (ii) the storage of explosive, flammable or combustible material at the place; or
 - (iii) a failure, in relation to the place, to comply with a law for the prevention of fire or the protection of the public from danger arising from fire.
- (3) The notice must specify:

- (a) the action the person must take to eliminate or reduce the hazard; and
 - (b) the time within which the person must take the action; and
 - (c) that failure to comply with the notice is an offence.
- (4) The person must comply with the notice.
- (5) If the person does not comply with the notice the Director or authorised person may:
- (a) take the action; and
 - (b) for taking the action, enter, by reasonable force if necessary, the place with the necessary workers and equipment.
- (6) In addition to a penalty for which the person may be liable for failing to comply with the notice, the cost of taking an action under subsection (5):
- (a) is a debt due and payable to the Territory by the person; and
 - (b) if the action taken relates to land or a building on land – is a statutory charge, as defined in section 4 of the *Land Title Act*, on the land.
- (7) In this section:

hazard means a direct or indirect danger by fire or other emergency to life or property.

strategic burn-off means the lighting of a fire as a hazard reduction measure.

26 Review of requirement

- (1) A person who is served with a notice under section 25(2) may apply to the Chief Executive Officer for review of a requirement specified in the notice.
- (2) The application must:
- (a) be in writing; and
 - (b) state in detail the grounds on which the application is based and the particulars that support those grounds; and
 - (c) be lodged with the Chief Executive Officer within the shorter of the following:

- (i) the period ending 3 days after the person is served with the notice;
 - (ii) the period for compliance with the notice specified in the notice.
- (3) The Chief Executive Officer must, as soon as practicable after the application is made, decide to:
 - (a) confirm that the requirement must be complied with and substitute a further period for compliance with the notice; or
 - (b) amend the notice; or
 - (c) cancel the notice.
- (4) The operation of the notice is suspended until the Chief Executive Officer decides the application.
- (5) However, if, in the opinion of the Chief Executive Officer, the danger to life or property in relation to which the notice was issued is imminent:
 - (a) the Chief Executive Officer may refuse to consider the application; and
 - (b) subsection (4) does not apply.
- (6) The decision of the Chief Executive Officer under subsection (3) is final.

7 Amendment of section 27 (Liability where notice not complied with)

Section 27(1)(b)

omit

on the land or in the building, vehicle or vessel

substitute

at the place

8 Amendment of section 27A (Certain buildings to be inspected regularly for fire safety etc.)

(1) Section 27A, heading

omit, substitute

27A Certain buildings to be inspected regularly

(2) Section 27A(1) and (3)

omit

authorised member

substitute

authorised person

Part 3 Amendment of Fire and Emergency Regulations**9 Regulations amended**

This Part amends the *Fire and Emergency Regulations*.

10 Amendment of regulation 11 (Duties of owners and occupiers of certain buildings)

(1) Before regulation 11(1)

insert

(1AA) The classes of buildings (***prescribed buildings***) specified in Schedule 2 are prescribed for section 27A(1) of the Act.

(2) Regulation 11(7)

omit