

NORTHERN TERRITORY OF AUSTRALIA
FIRE AND EMERGENCY AMENDMENT ACT 2004

Act No. 22 of 2004

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 22 of 2004

AN ACT

to amend the *Fire and Emergency Act*

[Assented to 28 April 2004]

[Second reading 19 February 2004]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Fire and Emergency Amendment Act 2004*.

2. Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3. Principal Act

The *Fire and Emergency Act* is in this Act referred to as the Principal Act.

4. Interpretation

Section 3 of the Principal Act is amended –

- (a) by inserting in subsection (1) after the definition of "flammable or combustible material" the following:

" 'hazard reduction' means taking action to eliminate or reduce danger by fire or other emergency to life or property;";

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- (b) by inserting in subsection (1) after the definition of "permit" the following:

" 'police officer' means a member of the Police Force;" and

- (c) by omitting from subsection (1) the definitions of "vehicle" and "vessel" and substituting the following:

" 'vehicle' includes –

- (a) any means of conveyance that runs on wheels;
- (b) a train or part of a train; and
- (c) an aircraft;

'vessel' means a ship, barge, boat or other vessel designed to float on water and includes –

- (a) an air-cushioned craft capable of being used as a means of transportation on water; and
- (b) a structure that floats or is designed to be floatable so as to allow the structure to be towed to a location offshore for oil or gas exploration or production or another industrial application;"

5. Emergency response areas

Section 4 of the Principal Act is amended –

- (a) by omitting "The Minister" and "*Government Gazette*" and substituting "(1) The Minister" and "*Gazette*" respectively; and
- (b) by adding at the end the following:

"(2) The declaration of an area as an emergency response area does not affect any contractual arrangements under which fire and rescue services are provided for the area, whether the contractual arrangements are entered into before or after the declaration."

6. Role of Fire and Rescue Service

Section 6 of the Principal Act is amended –

- (a) by omitting from paragraph (b) "road" and substituting "transport";
- (b) by omitting from paragraph (c) "member of the Police Force" and substituting "police officer"; and

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- (c) by inserting after paragraph (c) the following:
 - "(ca) to investigate the cause of a fire anywhere in the Territory;
 - (cb) to carry out hazard reduction within an emergency response area;
 - (cc) to conduct training courses (with or without charge) in relation to any aspect of fire safety;"

7. Powers and functions of Director

Section 8 of the Principal Act is amended –

- (a) by omitting from subsection (2)(d) "*Disasters Act*; and" and substituting "*Disasters Act*";
- (b) by omitting from subsection (2)(e) "this Act." and substituting "this Act;" and
- (c) by adding at the end of subsection (2) the following:
 - "(f) enter into contractual arrangements for the provision of fire and rescue services, whether within an emergency response area or not;
 - (g) enter into contractual arrangements for the provision of services ancillary to fire and rescue services, including (but not limited to) the supply, installation and monitoring of fire alarm systems; and
 - (h) enter into contractual arrangements for the provision (with or without charge) of training programs and public awareness programs."

8. Operation of fire and emergency response group

Section 12 of the Principal Act is amended by omitting subsections (4) and (5).

9. Powers of incident commander

Section 20 of the Principal Act is amended –

- (a) by inserting in subsection (2) after paragraph (m) the following:
 - "(ma) cause a fire or fires to be lit as a precautionary measure to prevent the spread of a larger fire;"
- (b) by omitting from paragraph (n) "emergency; or" and substituting "emergency;"

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- (c) by inserting in subsection (2) after paragraph (n) the following:
 - "(o) require any potentially contaminated person to undergo decontamination procedures if the nature of the fire or emergency gives rise to concern that a biological or chemical hazard exists; or";
- (d) by omitting from subsection (3) "member of the Police Force" (first reference) and substituting "police officer";
- (e) by omitting from subsection (3) "a member of the Police Force" (second reference) and substituting "police officer"; and
- (f) by omitting from subsection (4) "member of the Police Force" and substituting "police officer".

10. New sections

The Principal Act is amended by inserting after section 27 in Part 3, Division 3 the following:

"27A. Certain buildings to be inspected regularly for fire safety etc.

"(1) The Regulations may prescribe a class or classes of buildings that, because of the nature of their use or intended use, are to be inspected regularly by the Director or an authorised member to ensure that --

- (a) the requirements of any law in force in the Territory; and
- (b) the standards imposed by any Australian Standard as in force from time to time,

in relation to fire safety are met and continue to be met and that persons who work in any such building are trained in essential fire safety.

"(2) The Regulations may provide for obligations of the owner or occupier of a building or a class of building prescribed under subsection (1) in relation to safety in a fire or other emergency.

"(3) It is an offence for the owner or occupier (as the case may be) of a building prescribed under subsection (1) to fail to comply with a direction given by the Director or an authorised member to the owner or occupier to take specified action in order to reduce the danger by fire or other emergency to life or property in relation to the building.

"27B. Certain buildings may be treated as within different prescribed class

"(1) The Director may give notice in writing to the owner or occupier of a particular building that the building will be treated as being within a specified

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class of buildings prescribed under section 27A(1) that is different from the class of buildings to which the building would otherwise be considered to belong.

"(2) The notice may be given if, because of the nature of the use of the building or for other reasons, the Director considers it is necessary to reduce the danger from fire or other emergency to life or property.

"(3) Section 27A and the Regulations apply in relation to the particular building as if it were within the specified class of buildings.

"(4) An owner or occupier of a building who is aggrieved by a notice under subsection (1) may request the Chief Executive Officer to review the notice, or a requirement arising as a result of the issue of the notice, and section 26(2), (3), (4) and (5) applies (with the necessary changes) as if the notice were a notice issued under section 26(1)."

11. Occupier to extinguish fire

Section 33 of the Principal Act is amended by omitting all the words after "other Act," and substituting the following:

"the occupier of the land must –

- (a) immediately on becoming aware of the fire, take all reasonable steps to extinguish or control the fire (regardless of who lit it); and
- (b) if the fire is not extinguished – report the existence and location of the fire to a member or a police officer as soon as practicable."

12. Regulations

Section 54 of the Principal Act is amended –

- (a) by inserting in subsection (2) after paragraph (h) the following:
 - "(i) the withdrawal of a notice referred to in paragraph (h), whether or not a prescribed amount has been paid under the notice, for the purpose of prosecuting a person for the alleged offence; or";
- (b) by omitting from subsection (2)(j) "\$10,000" and substituting "100 penalty units for a natural person or 500 penalty units for a body corporate"; and
- (c) by omitting from subsection (3)(c) "*Government Gazette*" and substituting "*Gazette*".

13. Further amendments

The Principal Act is amended as set out in the Schedule.

SCHEDULE

Section 13

Provision	Amendment	
	omit	substitute
Section 25(1)	authorised member	authorised person
Section 25(2)	Director (first reference)	Director or an authorised person
	Director (second reference)	Director or authorised person
Section 25(4)	for that purpose,	for that purpose, the Director or an authorised person
Section 34(1)	in the emergency response area and	
	the land constitutes a fire risk to the land	his or her land constitutes a fire risk to his or her land
	at the direction of the occupier	on his or her direction
Section 34(1)(b)	to that land	to any of the land referred to in paragraph (a)
Section 34(2) and (3)	member of the Police Force (all references)	police officer
Section 41(1)	<i>Government Gazette</i>	<i>Gazette</i>
Section 42	member of the Police Force	police officer
Section 43(6)	<i>Government Gazette</i>	<i>Gazette</i>
Section 52	\$10,000	100 penalty units
	\$50,000	500 penalty units

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Section 53

\$500

5 penalty units

\$5,000

50 penalty units
