

NORTHERN TERRITORY OF AUSTRALIA
POLICE ADMINISTRATION AMENDMENT ACT 2007

Act No. 29 of 2007

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 29 of 2007

An Act to amend the *Police Administration Act*, and for related purposes

[Assented to 12 December 2007]
[Second reading 17 October 2007]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Police Administration Amendment Act 2007*.

2 Commencement

- (1) This Part and sections 3 and 15 are taken to have commenced on 1 December 1996.
- (2) The remaining provisions commence on the date fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of *Police Administration Act*

3 Act amended

This Part amends the *Police Administration Act*.

4 Amendment of section 4 (Interpretation)

- (1) Section 4(1)

insert (in alphabetical order)

dangerous drug, see section 120A.

general orders means general orders and instructions, as in force from time to time, issued under section 14A.

merit, for appointment or promotion to a rank in the Police Force, see section 15A.

Police auxiliary means a person appointed as a Police auxiliary under section 19.

police dog means a dog used by the Police Force in the performance of the functions of the Police Force.

Police Gazette means a document published under section 165(1).

police horse means a horse used by the Police Force in the performance of the functions of the Police Force.

(2) After section 4(2)

insert

(3) Except in Part VII, a reference in this Act to a **member** includes a reference to a member of the Police Force who is on probation under section 16A and has not yet taken an oath or made an affirmation mentioned in section 26.

5 Amendment of section 5 (Northern Territory Police Force)

(1) Section 5

omit

There

substitute

(1) There

(2) After section 5(1)

insert

(2) The core functions of the Police Force are:

(a) to uphold the law and maintain social order; and

(b) to protect life and property; and

(c) to prevent, detect, investigate and prosecute offences; and

(d) to manage road safety education and enforcement measures;
and

(e) to manage the provision of services in emergencies.

6 New section 15A

After section 15

insert

15A Merit for appointment or promotion

A person has merit for an appointment or promotion to a rank in the Police Force if the person has the capacity to perform the duties of the rank, having regard to the person's:

- (a) knowledge, skills, qualification and experience; and
- (b) aptitude, diligence, good conduct and quality of service; and
- (c) potential for future development in the Police Force.

7 Amendment of section 16 (Commissioner may appoint or promote members)

(1) Section 16(1A) and (1B)

omit

(2) Section 16(3)

omit, substitute

(3) The Commissioner may promote a qualified member to a relevant rank if the Commissioner is satisfied there is no other member holding a rank next below the relevant rank:

- (a) who is qualified for promotion to the relevant rank; and
- (b) who has superior merit for the promotion.

(4) In subsection (3):

qualified member means a member who is qualified for promotion to a relevant rank.

relevant rank, in relation to a qualified member, means a rank that is 2 ranks above the rank the member holds on the day immediately preceding the day of promotion to the relevant rank.

8 Repeal and substitution of section 16A

Section 16A

*repeal, substitute***16A Members on probation**

- (1) This section applies to a person appointed to be a member of the Police Force under:
 - (a) section 16(1)(a); or
 - (b) section 16(1)(aa); or
 - (c) section 19.
- (2) The person is on probation, starting on the date on which the person commences duties in accordance with the person's appointment, for the following period:
 - (a) 2 years for a person appointed under section 16(a) or (aa);
 - (b) 12 months for a person appointed under section 19.
- (3) However, the Commissioner may direct that the person be appointed on probation for a shorter period than specified in subsection (2)(a) or (b) if the Commissioner is satisfied the person has relevant qualifications or experience.

Example for subsection (3)
Qualifications or experience gained in another jurisdiction.
- (4) The person remains a probationer until the person's appointment is confirmed or terminated in accordance with this section.
- (5) As soon as practicable after the end of the period of the person's probation, the Commissioner must:
 - (a) confirm the appointment; or
 - (b) terminate the appointment; or
 - (c) direct that the person continue on probation for a further specified period not exceeding 6 months.
- (6) The Commissioner may terminate the person's appointment at any time during the period of probation if the Commissioner is of the opinion that the person:

- (a) has committed a breach of discipline mentioned in section 76;
or
- (b) is unlikely to become an efficient member of the Police Force;
or
- (c) should not be a member of the Police Force, based on information about the person's integrity or character not considered by the Commissioner at the time of the person's appointment.

Note for section 16A

A member of the Police Force who is on probation and has not yet taken an oath or made an affirmation mentioned in section 26 must not exercise powers under Part VII or any other law of the Territory.

9 Amendment of section 17 (Preference for members, &c.)

- (1) Section 17, heading

omit, substitute

Requirements for appointment to rank other than constable

- (2) Section 17(a)(i) and (b)(iii)

omit

the skill and efficiency suitable

substitute

merit

10 Repeal and substitution of section 19

Section 19

repeal, substitute

19 Aboriginal Community Police and auxiliaries

- (1) The Commissioner may, in writing, appoint a person to be a member of the Police Force as an Aboriginal Community Police officer or Police auxiliary.
- (2) An appointment under subsection (1) may also be made by a member of the Police Force authorised by the Commissioner to make such an appointment.
- (3) Subject to the terms and conditions specified in the person's

instrument of appointment, an Aboriginal Community Police officer or Police auxiliary has the same powers, privileges, duties and obligations as other members of the Police Force.

11 Amendment of section 21 (Reappointment of person who resigned to contest elections)

Section 21(6)

omit

60 years, except as a Police auxiliary where the person has not attained the age of

12 Amendment of section 22 (Retirement)

Section 22(2)

omit, substitute

- (2) A member who attains the age of 65 years ceases to be a member of the Police Force.

13 Repeal and substitution of Part II, Division 4

Part II, Division 4

repeal, substitute

Division 4 Appointment and duties of Special Constables generally

29 Appointment of police of other jurisdictions as Special Constables

- (1) The Commissioner may at any time appoint or authorise the appointment, as a Special Constable, of a person who is a member of the police force (however described):
- (a) of the Commonwealth; or
 - (b) of a State; or
 - (c) of another Territory.
- (2) The appointment may be:
- (a) on the terms and conditions the Commissioner considers appropriate; and
 - (b) of persons identified by reference to:

- (i) a particular work location; or
 - (ii) a particular operational unit or work group; or
 - (iii) any other identifiable designation.
- (3) A Special Constable appointed under this section is taken to be a member of the Police Force and has the duties, obligations, powers and privileges imposed or conferred on a member under any law in force in the Territory.

30 Appointment of other persons as Special Constables

- (1) The Commissioner may at any time appoint or authorise the appointment, as a Special Constable, of a person to whom section 29 does not apply.
- (2) The appointment may be on the terms and conditions the Commissioner considers appropriate.
- (3) A Special Constable appointed under this section is taken to be a member of the Police Force and has the duties, obligations, powers and privileges specified in the instrument of appointment.

31 Revocation of appointment

The Commissioner may at any time revoke the appointment of a Special Constable.

32 Special Constable to take oath or make affirmation

- (1) Before a Special Constable begins to discharge the duties of office, the Special Constable must take and subscribe an oath or make and subscribe an affirmation in accordance with the form in the Schedule.
- (2) The oath or affirmation must be administered by a person authorised by the Commissioner to administer it.

33 Evidence of appointment

The Commissioner must issue to each Special Constable evidence of appointment which is, for all purposes, evidence of the appointment and authority of the Special Constable to whom it is issued.

34 Neglect of duty

A Special Constable must not neglect or refuse to obey any lawful order given to the Special Constable in connection with the

performance of the duties of office.

Maximum penalty: \$500 or imprisonment for 3 months.

Division 5 Special Constables and urgent cross-border assistance

34A Definitions

In this Division:

declaration means a declaration made under section 34B.

period of operation, of a declaration, means the period during which the declaration is in force (including any periods of extension under section 34C).

34B Declaration of incident requiring urgent cross-border assistance

- (1) The Commissioner may, orally or in writing, declare that an incident requires urgent cross-border assistance.
- (2) The declaration must specify the period it will be in force, which must not exceed 14 days inclusive of the day it is made.
- (3) In deciding whether to make a declaration, the Commissioner must have regard to the following matters:
 - (a) the nature, urgency and seriousness of the incident;
 - (b) the adequacy of the resources and capabilities of the Police Force to deal with the incident without the assistance of other jurisdictions;
 - (c) the expertise and assistance that could be expected to be provided by other jurisdictions.
- (4) The Commissioner must, as soon as practicable (but within 14 days) after making a declaration, forward to the Minister:
 - (a) if the declaration is in writing – a copy of the declaration; or
 - (b) if the declaration was made orally – written confirmation of its making.
- (5) A failure to comply with subsection (4) does not invalidate the declaration.

34C Extension of declaration

- (1) During the period a declaration is in force, the Commissioner may extend the operation of the declaration.
- (2) Section 34B applies to the extension of a declaration in the same way as it applies to the making of the declaration.
- (3) The Commissioner may extend a declaration in accordance with this section as many times as necessary.

34D Appointment of Special Constables

- (1) During the period of operation of a declaration, Special Constables may be appointed under section 29 orally or in writing.
- (2) If Special Constables are appointed during the period of operation of a declaration, the Commissioner must, as soon as practicable after the end of that period:
 - (a) forward written confirmation of the appointments to the Minister, specifying, in relation to each Special Constable:
 - (i) the person's name; and
 - (ii) the police force to which the person is permanently appointed and the rank held in that police force; and
 - (b) forward written confirmation to each Special Constable of the person's appointment, specifying the period of appointment.
- (3) Subsection (2) applies whether a Special Constable is appointed individually or by reference to a work location, operational unit, work group or other designation.
- (4) A failure to comply with subsection (2) does not invalidate the appointment of a Special Constable.

34E Oath or affirmation

- (1) Despite section 32, it is not necessary for a Special Constable appointed during the period of operation of a declaration to take an oath or make an affirmation before the Special Constable begins to discharge the duties of office.
- (2) However, a Special Constable appointed during that period must take and subscribe an oath or make and subscribe an affirmation in accordance with section 32 as soon as practicable after appointment.

- (3) If the oath or affirmation is administered outside the Territory, the person who administers it must, within 14 days, forward to the Commissioner:
- (a) a copy of the oath or affirmation as subscribed by the Special Constable; and
 - (b) a written statement, signed by the person, of the person's name and authority to administer the oath or affirmation.
- (4) A failure to comply with subsection (3) does not invalidate the appointment of a Special Constable.

34F Termination of appointment

Unless the appointment is revoked earlier under section 31, a Special Constable appointed during the period of operation of a declaration ceases to be a Special Constable at the end of that period.

14 Amendment of section 84G (Payment of salary during suspension)

Section 84G

omit

Minister

substitute

Commissioner

15 Repeal of section 85

Section 85

repeal

16 Amendment of section 94 (Inability or disciplinary appeals)

- (1) After section 94(1)(c)

insert

- (ca) a direction of the Commissioner under section 84G that the member not be paid salary during the period of the member's suspension under section 76A or 80; or

- (2) Section 94(1)(a), (b) and (c), at the end

insert

or

- (3) After section 94(1)(f)

insert

(fa) in the case of a direction referred to in paragraph (ca) – appeal to a Disciplinary Appeal Board against the direction; or

17 New Part VIA

After section 101

insert

Part VIA Use of dangerous drugs for training

Division 1 Preliminary matters

102 Object of Part

- (1) The object of this Part is to ensure that training in the Police Force about dangerous drugs is realistic and effective.
- (2) The object is to be achieved by putting in place arrangements:
 - (a) to allow members of the Police Force to have access to dangerous drugs for training; and
 - (b) to ensure those dangerous drugs:
 - (i) are carefully handled to ensure their effectiveness for training is not compromised; and
 - (ii) are subject to strict tracking and accountability requirements.

103 Definitions

In this Part:

agency arrangement, see section 104.

disposal, of a batch of a dangerous drug used for training, includes:

- (a) the destruction of the batch; and

- (b) the return of the batch to a relevant agency under an agency arrangement.

drug control officer, see section 106.

drug training direction, see section 105.

drug vault means a facility that is:

- (a) suitable for the storage of dangerous drugs in the possession of the Police Force for training under the authority of a drug training direction; and
- (b) secure against unauthorised entry.

register means the register of dangerous drugs used for training kept under section 109.

relevant agency means a department or other agency of the Commonwealth, a State or a Territory.

senior member means a member of or above the rank of Assistant Commissioner.

training means training in the Police Force about dangerous drugs.

Division 2 Administrative matters

104 Agency arrangement

- (1) An agency arrangement is an arrangement, or a series of arrangements, between the Commissioner and the chief executive officer (by whatever name known) of a relevant agency providing for the following:
- (a) the transfer of possession of a batch of a dangerous drug from the possession of the relevant agency into the possession of the Police Force;
- (b) that the batch of the dangerous drug is to be used for training in the Police Force;
- (c) the type and extent of the training for which the batch of the dangerous drug is to be used;
- (d) what is to be done with the batch of the dangerous drug at the end of the training;
- (e) anything else the parties to the arrangement consider appropriate.

Example for subsection (1)

A series of arrangements could consist of a first arrangement establishing basic principles to govern the supply by the relevant agency to the Police Force of dangerous drugs to be used for training, a second arrangement establishing particular procedures to be followed for transferring particular types of dangerous drugs between the relevant agency and the Police Force, and a third arrangement providing for special circumstances applying to a batch of one of the particular types of dangerous drugs mentioned in the second arrangement.

- (2) The Commissioner may enter into an agency arrangement only if the relevant agency is authorised to possess the batch of the dangerous drug the subject of the arrangement.
- (3) The Commissioner must ensure the Police Force complies with an agency arrangement.

105 Drug training direction

- (1) A drug training direction is a direction given by a senior member:
 - (a) authorising:
 - (i) the keeping of a batch of a dangerous drug; and
 - (ii) the use of the batch in training; and
 - (iii) the disposal of the batch at the end of the training; and
 - (b) stating the conditions under which the keeping, use and disposal of the batch of the dangerous drug is authorised.
- (2) A senior member may give a drug training direction for a batch of a dangerous drug only if the batch:
 - (a) is in the possession of the Police Force:
 - (i) having been forfeited, or ordered to be forfeited, to the Territory under an Act; or
 - (ii) having been ordered under an Act to be disposed of or destroyed; or
 - (b) comes into the possession of the Police Force under an agency arrangement.
- (3) The conditions stated in a drug training direction must include the following:
 - (a) the batch must be used only for the training purposes specified in the condition;

- (b) the training for which the batch is used must be of the type and extent specified in the condition;
- (c) if at any time the batch or part of the batch is not being stored in a drug vault, it must:
 - (i) be under the effective control of a drug control officer or one or more of the members specified in the condition; or
 - (ii) be kept securely in a way specified in the condition;
- (d) as soon as practicable after the end of the training, the disposal of the batch must be as specified in the condition.

Example of training purpose for subsection (3)(a)

Training police dogs to detect the odour of dangerous drugs.

- (4) Subsection (3) does not limit the conditions that may be included in a drug training direction.
- (5) A senior member who gives a drug training direction must ensure that members of the Police Force comply with the conditions stated in the direction.

106 Drug control officer

- (1) A drug control officer is a member of the Police Force of or above the rank of Superintendent who is authorised in writing by the Commissioner to perform the functions of administering and controlling the following:
 - (a) the receipt into the possession of the Police Force of batches of dangerous drugs to be used for training;
 - (b) the storage of the batches;
 - (c) the movement of the batches, or parts of the batches, in and out of storage for use in training;
 - (d) the disposal of the batches.
- (2) A drug control officer must perform the functions of the position in accordance with this Part and any conditions included in the authorisation given under subsection (1).
- (3) A drug control officer has power to do all things necessary to be done for the performance of the functions of the position.

Division 3 Keeping dangerous drugs for use in training**107 When dangerous drugs may be kept for training**

A batch of a dangerous drug may lawfully be kept in the possession of the Police Force and used for training if:

- (a) the keeping of the batch and its use for training is authorised under a drug training direction; and
- (b) the batch is kept and used for training in accordance with the conditions included in the drug training direction.

108 Requirements for keeping dangerous drugs for training

- (1) The following requirements apply in relation to the possession by the Police Force of dangerous drugs for training:
 - (a) each batch of a dangerous drug must be stored in a drug vault;
 - (b) when a batch of a dangerous drug is received into a drug vault for storage for the first time, it must be accompanied by a document certifying, in a way approved by the Commissioner, the weight and purity of the batch;
 - (c) a drug vault must not be used for storing a dangerous drug that is in the possession of the Police Force other than for training;
 - (d) a drug vault must be designed and constructed for ensuring (to the greatest practicable extent) that each batch of a dangerous drug stored in it keeps its level of effectiveness for training;
 - (e) a drug vault must include enough separate storage to ensure that no batch of a dangerous drug stored in the vault can be contaminated by another batch or can otherwise be made ineffective or less effective for training;
 - (f) the whole of a batch of a dangerous drug must be stored in a drug vault at all times, except to the extent the batch or a part of the batch is required to be held somewhere else for training;
 - (g) an audit of each drug vault must be conducted at least once every 3 months by a member of the Police Force who:
 - (i) is of or above the rank of Commander; and
 - (ii) is not otherwise directly associated with the keeping or

use of dangerous drugs for training;

- (h) when a batch of a dangerous drug leaves a drug vault for the last time:
 - (i) it must be accompanied by a document certifying, in a way approved by the Commissioner, the weight and purity of the batch; and
 - (ii) a copy of that certifying document must be kept at the drug vault or at another place the Commissioner directs.
- (2) Without limiting the scope of an audit under subsection (1)(g), the audit must include the following measures:
 - (a) weighing each batch of dangerous drugs in the drug vault to find out whether all quantities of dangerous drugs that should be in the drug vault at the time of the audit are in the vault;
 - (b) finding out whether the drug vault is storing any dangerous drugs, or anything else, that should not be stored in the vault;
 - (c) a review of the register.
- (3) Without limiting the requirements for an audit under subsection (1)(g), requirements for the audit include the following:
 - (a) the performance of the audit must be supervised by a member who:
 - (i) is a senior member; and
 - (ii) is not otherwise directly associated with the keeping or use of dangerous drugs for training;
 - (b) all batches of dangerous drugs stored in the drug vault must be the subject of analysis by an analyst as defined in the *Misuse of Drugs Act*;
 - (c) the accuracy of the scales used in measuring the weights of batches of dangerous drugs stored in the drug vault must be certified in a way approved by the Commissioner.

Division 4 Register of dangerous drugs used for training

109 Register

- (1) The Commissioner must keep a register of dangerous drugs used for training.

- (2) The register may form part of another register, whether kept under this or another Act.
- (3) The Commissioner:
 - (a) subject to subsection (4), may keep the register in the way the Commissioner considers appropriate, including by keeping it entirely or partly in electronic form; and
 - (b) must ensure the register is kept in a secure place.
- (4) The register must be kept in a way that (to the greatest practicable extent) enables a drug control officer, or a member performing a lawful function associated with the keeping of dangerous drugs in the possession of the Police Force under this Act (whether or not under this Part), to comply with the requirements of this Act.
- (5) An entry in the register may be made only by a drug control officer or a person authorised by the Commissioner to make entries in the register.
- (6) If a senior member gives a direction under section 111 restricting access to information in the register, a drug control officer or person authorised by the Commissioner under subsection (5) must ensure the information is recorded in a way that (to the greatest practicable extent) stops disclosure of the information to a person not authorised to have access to it.

110 Information to be recorded in register

- (1) The following information must be recorded in the register about each batch of a dangerous drug received into the possession of the Police Force to be used for training:
 - (a) the name of the dangerous drug;
 - (b) a description of the batch;
 - (c) the weight, in grams, of the batch;
 - (d) a description of any container or packaging, and of any other item, used for conveying the batch into the possession of the Police Force;
 - (e) the weight, in grams, of any container or packaging, and any other item, used for conveying the batch into the possession of the Police Force;
 - (f) when the batch was received into the possession of the Police Force;

- (g) the purity of the batch and details of the certification of the purity;
 - (h) a description of the circumstances in which the batch came into the possession of the Police Force.
- (2) The following information must be recorded in the register if all or part of a batch of dangerous drugs (***the drugs***) is taken from a drug vault to be used for training:
- (a) when the drugs leave the vault;
 - (b) the nature of the training for which the drugs are to be used;
 - (c) the condition of any container or packaging in which the drugs leave the vault;
 - (d) the weight, in grams, of the drugs when they leave the vault;
 - (e) the condition of any container or packaging in which the drugs are returned to the vault;
 - (f) the weight, in grams, of the drugs when they are returned to the vault.
- (3) The following information must be recorded in the register when a batch of dangerous drugs leaves a drug vault for the last time for disposal in accordance with a drug training direction:
- (a) the weight, in grams, of the batch when it leaves the vault;
 - (b) the weight, in grams, of any container or packaging in which the batch leaves the vault.
- (4) Recording under subsection (1), (2) or (3) must be performed as close as reasonably practicable to the occurrence of the event to which the recording relates.

111 Restriction on access to information in register

- (1) A senior member may give a direction that only the following persons may have access to information recorded in the register:
- (a) a drug control officer who reasonably needs the information for the performance of the officer's functions under this Part;
 - (b) a member who reasonably needs the information for conducting or supervising an audit of a drug vault under this Part;
 - (c) any other member who is performing a function associated

with the keeping of dangerous drugs in the possession of the Police Force under this Act (whether or not under this Part) and reasonably needs the information for the performance of the function;

- (d) any other person specified in the direction.
- (2) A direction under subsection (1) must state whether it applies to all information recorded in the register or only to information of a type specified in the direction.
- (3) A senior member may give a direction under subsection (1), and keep the direction in place, only if the senior member considers it is necessary to do so to ensure:
- (a) the security of a drug vault; or
 - (b) the safety of:
 - (i) a drug control officer; or
 - (ii) another person associated with keeping dangerous drugs in the possession of the Police Force for training; or
 - (iii) a person associated with a person mentioned in subparagraph (i) or (ii).
- (4) There must be a written record of the reasons for each direction given under subsection (1).

18 **Amendment of section 116 (Interpretation)**

Section 116(2)

insert (in alphabetical order)

ammunition, see the *Firearms Act*.

explosive includes the following:

- (a) a substance or compound that is, itself, or in combination with another substance or compound, by the application of a suitable stimulus to a small portion of its mass, capable of:
 - (i) being converted almost instantaneously into another substance, largely or entirely gaseous; and
 - (ii) creating an explosion;
- (b) a device made or adapted to enable it to be used in

combination with a substance or compound mentioned in paragraph (a) to create an explosion;

- (c) anything prescribed by regulation to be an explosive.

firearm, see the *Firearms Act*.

19 New Part VII, Division 1A

After section 116

insert

Division 1A Use of dogs and horses

116A Definitions

In this Division:

dangerous thing means any of the following:

- (a) a dangerous drug;
- (b) a precursor or drug manufacturing equipment as defined in section 120A;
- (c) an offensive weapon;
- (d) a controlled weapon or prohibited weapon as defined in the *Weapons Control Act*;
- (e) a firearm or ammunition;
- (f) an explosive;
- (g) a thing prescribed by regulation to be a dangerous thing;
- (h) a thing mentioned in paragraphs (c) to (g) in connection with a target of an authorisation under the *Terrorism (Emergency Powers) Act*.

detection, of a dangerous thing, includes the following:

- (a) deploying a detection dog in the vicinity of a person to ascertain whether the dog can detect the odour of a dangerous thing on the person;
- (b) deploying a detection dog in the vicinity of or at a place to ascertain whether the dog can detect the odour of a dangerous thing at the place.

detection dog, in relation to the detection of a dangerous thing, means a police dog trained to detect that dangerous thing.

116B Extended application of Division

- (1) This Division extends to the use by the Police Force of dogs that:
 - (a) are provided to the Police Force by another body (including an agency or department of the Commonwealth) to be used under this Division; and
 - (b) are under the control of a handler who is not a member of the Police Force.
- (2) If a police dog is under the control of a handler who is not a member of the Police Force:
 - (a) the handler is entitled to accompany the member using the dog and enter and remain at any place in accordance with section 116D; and
 - (b) sections 116E and 116G apply to the handler as if the handler were the member using the dog.

116C Authority to use police dogs and police horses

- (1) A member of the Police Force is authorised to use a police dog or a police horse to assist the member generally in the exercise of the member's powers or performance of the member's functions.
- (2) A member is authorised to use a detection dog to assist the member in the exercise of the member's powers or performance of the member's functions relating to the detection of a dangerous thing.
- (3) A member using a police dog or police horse must comply with this Division and any of the following that relate to the use of police dogs or police horses:
 - (a) general orders;
 - (b) orders, instructions or guidelines published in the *Police Gazette*.

116D Authority for entry of police dogs and police horses

- (1) Despite any other law in force in the Territory, if a member of the Police Force uses a police dog or police horse in accordance with section 116C, the dog or horse may accompany the member and enter and remain at any place the member may lawfully enter and

remain.

- (2) To avoid doubt, subsection (1) applies whether the member is authorised to enter the place:
 - (a) under a warrant; or
 - (b) by an Act, without a warrant.

116E Control of police dogs and police horses

- (1) A member of the Police Force using a police dog or police horse is required to keep the dog or horse under control to the extent that is reasonable in the circumstances.
- (2) A member using a detection dog to assist in the detection of a dangerous thing must take all reasonable precautions to prevent the dog touching a person.

116F Reasonable grounds for search without warrant on indication of detection dog

- (1) Subsection (2) applies if, before exercising a power under an Act to search a person or place without a warrant, a member of the Police Force is required to form a suspicion on reasonable grounds that:
 - (a) the person is carrying or has in the person's possession, or is in control of, a dangerous thing; or
 - (b) there is something at the place (including in a vehicle at a public place) that may be a dangerous thing.
- (2) There are reasonable grounds for the suspicion if a detection dog indicates it has detected the odour of a dangerous thing:
 - (a) on the person or on, or in, a thing in the person's immediate control; or
 - (b) on or in a thing, not in the person's immediate control but which the member suspects on reasonable grounds is connected with the person, that is at the place where the detection is being carried out; or
 - (c) at the place.

116G Protection from liability for use of police dog or police horse

- (1) A member of the Police Force is not civilly or criminally liable if a police dog or police horse, while being used by the member in good faith in the exercise of a power or performance of a function as a

member:

- (a) comes into physical contact with a person or a person's clothing; or
- (b) causes damage to a thing.

Example of physical contact for subsection (1)(a)

Restraining, pushing, biting or kicking a person.

- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act of the dog or horse.
- (3) A member of the Police Force or the Territory is not civilly or criminally liable merely because a police dog or police horse entered or was at a place.
- (4) 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.

116H Non-application of certain laws

- (1) The following provisions do not apply in relation to a police dog:
 - (a) section 75A of the *Summary Offences Act*;
 - (b) Part X of the *Law Reform (Miscellaneous Provisions) Act*.
- (2) Any other law of the Territory relating to dogs or horses does not apply in relation to police dogs or police horses.

20 New section 118A

After section 118

insert

118A Seizure authorised under search warrant

A member of the Police Force who executes a warrant issued under section 117 or 118 may, in addition to seizing anything of a nature described in the warrant, seize any other thing:

- (a) found in the course of executing the warrant; and
- (b) that the member believes on reasonable grounds is connected with any offence.

21 Amendment of section 119 (Searches and emergencies)

- (1) Section 119, heading

omit, substitute

Urgent searches without warrant

- (2) Section 119(1)

omit

all the words from "situated," to "place."

substitute

situated and search the place.

- (3) After section 119(1)

insert

- (1A) A member who exercises a power under subsection (1) may seize anything found in the course of the search if the member believes on reasonable grounds it is necessary to do so because the thing:

- (a) is connected with an offence; or
- (b) may significantly increase the risk to the health or safety of a particular person or the public.

- (4) After section 119(3)

insert

- (3A) The power of seizure under this section includes the power to:

- (a) remove the thing that is seized from the place where it is found; and
- (b) guard the thing that is seized at the place where it is found.

22 New section 119AA

After section 119

insert

119AA Search without warrant for explosive, offensive weapon etc.

- (1) This section applies if a member of the Police Force suspects on

reasonable grounds that an explosive, offensive weapon or ammunition, the possession of which is unlawful:

- (a) is in the possession or control of a person in a public place; or
 - (b) is being carried in an aircraft, ship, train or vehicle; or
 - (c) is at any other place.
- (2) The member may, without warrant:
- (a) search the person, clothing worn by the person and property in the person's immediate control; or
 - (b) enter the aircraft, ship, train, vehicle or other place and search the place and any person found at the place, clothing worn by the person and property in the person's immediate control.
- (3) The member may seize an explosive, offensive weapon or ammunition found during the search.
- (4) The power of seizure under subsection (3) includes the power to:
- (a) remove the thing that is seized from the place where it is found; and
 - (b) guard the thing that is seized at the place where it is found.
- (5) The powers given by this section are in addition to and do not derogate from any other powers of a member of the Police Force.

23 Amendment of section 119A (Powers incidental to search and entry powers)

- (1) After section 119A(1)(a)(iii)
- insert*
- (iv) section 119AA(2)(a); or
- (2) Section 119A(1)(a)(i) and (b)(i), at the end
- insert*
- or
- (3) Section 119A(1)(b)(iii)
- omit*
- (3).

substitute

(3); or

- (4) After section 119A(1)(b)(iii)

insert

(iv) section 119AA(2)(b).

24 Amendment of section 120A (Definitions)

Section 120A

insert (in alphabetical order)

public place includes the following:

- (a) every place to which free access is permitted to the public with the express or tacit consent of the owner or occupier of the place;
- (b) every place to which the public are admitted on payment of money, the test of the admittance being the payment of the money only;
- (c) every road, street, footway, court, alley or thoroughfare that the public are allowed to use, even if the road, street, footway, court, alley or thoroughfare is on private property;
- (d) every school, college, university or similar institution providing or offering to provide courses of instruction.

25 New section 120BB

After section 120BA

insert

120BB Seizure authorised under search warrant

A member of the Police Force who executes a warrant issued under section 120B may, in addition to seizing anything mentioned in section 120BA, seize any other thing:

- (a) found in the course of executing the warrant; and
- (b) that the member believes on reasonable grounds is connected with any offence.

26 Amendment of section 120C (Searching vehicles, &c.)

- (1) Section 120C, heading

omit, substitute

Searching without warrant

- (2) Section 120C

omit

may stop and search, and detain for the purposes of that search –

substitute

may, without warrant, stop, detain and search the following:

- (3) Section 120C(b)

omit, substitute

- (b) any person found on or in an aircraft, ship, train or vehicle being searched under paragraph (a);

27 Amendment of section 126 (Power to enter to make arrest or preserve peace)

Section 126(2AC)

omit, substitute

- (2AC) A member who searches a place under subsection (2AA) is authorised to use the force that is reasonably necessary:

- (a) to open any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found at the place; and
- (b) to carry out a search of a person at the place.

28 Amendment of section 128 (Circumstances in which person may be apprehended)

After section 128(5)

insert

- (6) A member may use the force that is reasonably necessary to exercise a power under this section.

29 New section 138A

After section 138 in Part 7, Division 6

insert

138A Time for holding intoxicated person before charging and bringing before justice or court

- (1) This section applies in relation to a person under arrest, despite section 137(1) and any provision of the *Bail Act* to the contrary, if:
 - (a) a member of the Police Force has reasonable grounds to believe the person is intoxicated; and
 - (b) section 137(2) does not apply in relation to the person.
- (2) The person may be held in lawful custody without being charged with an offence only for as long as it reasonably appears to the member that the person remains intoxicated.
- (3) The member must charge the person with an offence and bring the person before a justice or court (unless already granted bail under the *Bail Act*) as soon as practicable after it reasonably appears to the member that the person is no longer intoxicated.
- (4) In this section, ***intoxicated*** has the same meaning as in section 127A.

30 Amendment of section 142 (Electronic recording of confessions and admissions)

- (1) After section 142(2)(a)

insert

(ab) if the recording is in digitised format, issue a certificate stating that the recording has not been altered after being made and, if applicable, that the prescribed requirements in relation to the method of making the recording have been met; and

- (2) Section 142(2)(a) and (b), at the end

insert

and

(3) After section 142(3)

insert

- (4) An electronic recording in digitised format used in proceedings must be accompanied by the certificate relating to the recording issued under subsection (2)(ab).

31 Amendment of section 144 (Search of persons in lawful custody)

Section 144(1) and (2)

omit, substitute

- (1) A member of the Police Force may search a person in lawful custody, including the clothing the person is wearing and any property in the person's immediate possession, and may use the force that is reasonably necessary to conduct the search.
- (2) A member may seize any weapon or other article capable of being used to inflict injury on a person or assist an escape from custody, or anything relating to an offence, found as a result of a search under subsection (1).

32 Amendment of section 145A (Non-intimate procedures)

Section 145A(1)

omit

any general orders or directions issued or given from time to time by the Commissioner of Police, a member of the Police Force holding the rank of Superintendent

substitute

general orders, a member of the Police Force holding the rank of Senior Sergeant

33 Amendment of section 145B (Voluntary non-intimate procedures)

Section 145B(1)

omit

any general orders or directions issued or given from time to time by the Commissioner of Police, a member of the Police Force holding the rank of Superintendent

substitute

general orders, a member of the Police Force holding the rank of Senior Sergeant

34 **New Part VII, Division 7A**

After section 147F

insert

Division 7A Crime scenes

147G Definitions

In this Division:

crime scene means a place established as a crime scene under section 147J.

crime scene powers means powers conferred by section 147N.

investigations includes any type of examination, analysis or process associated with the investigation of a relevant offence at a crime scene.

relevant offence means:

- (a) an offence punishable by a term of imprisonment of 6 months or more; or
- (b) in relation to an act or omission that occurs outside the Territory and is not an offence against a law of the Territory – an act or omission that if done or omitted to be done in the Territory would constitute an offence punishable by a term of imprisonment of 6 months or more.

responsible member, for a crime scene, means:

- (a) the member of the Police Force who establishes the crime scene; or
- (b) if another member assumes control of the crime scene after it is established – that member.

senior member means a member of the Police Force of or above the rank of Superintendent.

147H Application of Division

- (1) This Division applies in relation to any place (including a public

place and private premises) despite any other law in force in the Territory, including the common law.

- (2) This Division does not require a member of the Police Force to obtain a search warrant in relation to a place before establishing it as a crime scene or exercising crime scene powers at the place.
- (3) However, this Division does not prevent a member of the Police Force from applying for a search warrant, or exercising any other power, under this Act at or in relation to a place (including a crime scene), and does not affect the exercise of the power.

147J Authority to enter place and establish crime scene

- (1) If a member of the Police Force suspects on reasonable grounds that a relevant offence has been, is being, or is about to be, committed at a place, the member may:
 - (a) enter and take control of the place and anything at the place; and
 - (b) remain at the place to establish and maintain a crime scene if the member is satisfied it is reasonably necessary to do so to preserve, or search for and gather, evidence of the commission of a relevant offence; and
 - (c) exercise crime scene powers at the place.
- (2) A member may enter any other place if it is necessary to do so to gain entry to a place mentioned in subsection (1).
- (3) To establish a crime scene, a member must, whenever practicable:
 - (a) identify what is the crime scene; and
 - (b) decide the boundaries necessary to protect the crime scene; and
 - (c) mark the boundaries in a way that sufficiently identifies the crime scene to the public.
- (4) A member who establishes a crime scene must comply with this Division and any of the following that relate to crime scenes:
 - (a) general orders;
 - (b) orders, instructions or guidelines published in the *Police Gazette*.
- (5) As soon as reasonably practicable after a member has established

a crime scene, the member must notify a senior member of its establishment.

147K Restricting access to crime scene

- (1) After establishing a crime scene, the responsible member must immediately take the steps the member considers reasonably necessary to protect anything at the crime scene from being damaged, interfered with or destroyed.
- (2) A person (other than the responsible member) must not enter a crime scene unless:
 - (a) the person has a special reason, associated with the investigations at the crime scene, for entering; or
 - (b) the person is a member who is asked to enter the crime scene by the responsible member or another member; or
 - (c) the person is assisting the responsible member at the crime scene; or
 - (d) the presence of the person is necessary to preserve life or property at the crime scene; or
 - (e) the person is authorised to enter by the responsible member.

147L Preserving evidence at crime scene

The responsible member for a crime scene must ensure that nothing at the crime scene is unnecessarily touched or moved.

147M Period for maintaining crime scene

- (1) The responsible member for a crime scene may maintain the crime scene for a reasonable period to enable necessary investigations to be conducted.
- (2) In deciding what is a reasonable period for maintaining a crime scene, the responsible member must take into account the following matters:
 - (a) the complexity of the relevant offence being investigated;
 - (b) the size of the crime scene;
 - (c) the availability of investigators or examiners with the appropriate knowledge to conduct investigations;
 - (d) any matter relevant to the exercise of crime scene powers.

147N Crime scene powers

- (1) During the period a crime scene is maintained, the responsible member has the power to do any of the following:
- (a) direct a person to leave the crime scene or remove a thing or animal from the crime scene;
 - (b) remove from the crime scene:
 - (i) a person who fails to comply with a direction to leave the crime scene; or
 - (ii) a thing or animal that a person fails to remove from the crime scene;
 - (c) direct a person not to enter the crime scene;
 - (d) prevent a person from entering the crime scene;
 - (e) prevent a person from removing a thing from or otherwise interfering with the crime scene or anything at the crime scene and, for that purpose, stop, detain and search the person;
 - (f) remove or direct the removal of an obstruction from the crime scene;
 - (g) conduct necessary investigations, including by searching the crime scene and inspecting anything at the crime scene to obtain evidence of the commission of a relevant offence;
 - (h) seize and detain all or part of a thing that might provide evidence of the commission of a relevant offence;
 - (i) open anything at the crime scene that is locked;
 - (j) take electricity, gas or any other utility for use at the crime scene;
 - (k) direct the occupier, or a person apparently involved in the management or control, of the place where the crime scene is located to maintain a continuous supply of electricity at the crime scene;
 - (l) photograph or otherwise record the crime scene and anything at the crime scene;
 - (m) dig up anything at the crime scene;
 - (n) remove walls, ceilings or floors of a building at the crime scene;

- (o) dismantle anything in or at the crime scene;
- (p) exercise any other power that:
 - (i) it is reasonably necessary to exercise; or
 - (ii) is reasonably incidental to a power conferred by this subsection.
- (2) The power conferred by subsection (1)(h) to seize and detain a thing at the crime scene includes the power:
 - (a) to remove the thing from the crime scene; and
 - (b) to guard the thing at the crime scene.
- (3) Crime scene powers may also be exercised by other members of the Police Force and other persons assisting the responsible member at the crime scene.
- (4) A member or person assisting the responsible member at the crime scene is subject to the directions of the responsible member.

35 Repeal of section 150

Section 150

repeal

36 Amendment of section 154 (False representation)

After section 154(2)

insert

- (3) A prosecution under this section must be commenced within 6 months after the Commissioner first becomes aware that the false representation has been made.

37 Amendment of section 159 (Hindering member)

(1) Section 159

omit

A

substitute

- (1) A

(2) After section 159(1)

insert

- (2) A person who hinders or obstructs a police dog or police horse being used by a member in the execution of the member's duty is taken to hinder or obstruct the member.

38 New section 159A

After section 159

insert

159A Killing or injuring police dogs or police horses

- (1) A person must not intentionally kill or injure a police dog or police horse:
- (a) knowing that the dog or horse is being used by a member of the Police Force in the execution of the member's duty; or
 - (b) as a consequence of, or in retaliation for, the use of the dog or horse by a member of the Police Force while in the execution of the member's duty.

Maximum penalty: \$25 000 or imprisonment for 5 years.

- (2) A court that finds a person guilty of an offence against subsection (1) may, in addition to any penalty that may be imposed, order the person to pay to the Commissioner a reasonable amount for:
- (a) the treatment, care, rehabilitation and retraining of the police dog or police horse concerned; or
 - (b) if it is necessary to replace the police dog or police horse – buying and training its replacement.

39 Further amendments

The Schedule has effect.

Part 3 Amendment of *Kava Management Act*

40 Act amended

This Part amends the *Kava Management Act*.

41 Amendment of section 32 (Powers of authorised officers)

(1) Section 32(1)

omit

to believe

substitute

to suspect

(2) Section 32(1)(d)(ii) and (f)

omit

believes

substitute

suspects

Part 4 Amendment of *Summary Offences Act***42 Act amended**This Part amends the *Summary Offences Act*.**43 Amendment of section 68A (False reports to police)**

Section 68A(1), penalty provision

omit, substitute

Maximum penalty: \$200 000 or imprisonment for 10 years.

Schedule Further amendments

section 39

Provision	Amendment	
	omit	substitute
sections 21(6), 125(3)(c), 144(3), 165(1) and 166(2)	authorize	authorise
sections 20(1)(a), 117(5)(a) and (b), 118(8), 120D(c), 120E(1)(b) and (c) and (2), 122(8) and 155(1)	authorized (all references)	authorised
sections 118(7), 120B(2), 120D and 122(7)	authorizes	authorises
sections 117(1) and (2), 120B(1) and (7) and 124(2)	authorizing (all references)	authorising
section 27	26,	26, or on probation under section 16A,
section 120D	or 126(2AA)	
section 137, heading	court	court generally
section 146(1)	any general orders or directions issued or given from time to time by the Commissioner of Police,	general orders,
section 165(2)(a)	<i>Gazette</i> , referred to in subsection (1)	<i>Gazette</i>
section 165(2)(b)	of the kind referred to in subsection (1)	
