



## NORTHERN TERRITORY OF AUSTRALIA

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No. 22 of 1982

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### AN ACT

To amend the *Summary Offences Act*

[Assented to 27 April 1982]

**B**E it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Summary Offences Amendment Act 1982*.

2. COMMENCEMENT

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

3. NEW PART

The *Summary Offences Act* is amended by inserting after Part VI the following:

"PART VIA - DRINKING IN PUBLIC PLACES

"45C. DEFINITIONS

"In this Part -

'Commission' means the Liquor Commission of the Northern Territory constituted under Part II of the *Liquor Act*;

'liquor' has the same meaning as in the *Liquor Act*;

'unoccupied private land' means land or premises, other than a public place, the lawful occupier of which is not present at the relevant time.

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"45D. DRINKING IN A PUBLIC PLACE

"Subject to sections 45E and 45F, a person shall not drink liquor in a public place or on unoccupied private land, being a public place or unoccupied private land within 2 kilometres of any premises licensed under Part III of the *Liquor Act* for the sale of liquor, unless the owner or lawful occupier of that place or land has given the person express permission, which has not been withdrawn, to do so.

Penalty: \$200.

"45E. CERTIFICATE OF EXEMPTION

"(1) The owner, or person responsible for the management of a public place may apply to the Commission for the issue to him of a Certificate of Exemption excluding that public place, or such part of the public place as is specified in the application, from the provisions of section 45D.

"(2) The Commission may require an applicant under sub-section (1) to cause to be published in such newspaper or newspapers as it nominates a notice -

- (a) in such form;
- (b) containing such particulars; and
- (c) on such occasions,

as it specifies of the fact that the applicant has applied for the issue to him of a Certificate of Exemption.

"(3) In considering an application made under sub-section (1), the Commission shall take into account -

- (a) the nature of the use to which the public place is generally put;
- (b) the provision made for the disposal of litter at that public place; and
- (c) any representations received in response to a notice published in accordance with sub-section (2).

"(4) The Commission may, and if required to do so by the Minister shall, conduct a hearing before issuing a Certificate of Exemption, and, if such a hearing is held -

- (a) the provisions of section 51 of the *Liquor Act*, other than sub-sections (6), (7), (10A) to (10D) inclusive and (11) shall apply to the hearing; and

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(b) for the purpose of construing section 51 of the *Liquor Act* in its application to the hearing, the word "party" means -

- (i) the applicant for a certificate of exemption; or
- (ii) a person who has made representations in response to a notice published under sub-section (2).

"(5) The Commission may, when issuing a Certificate of Exemption, specify -

- (a) the part or parts of the public place in respect of which the Certificate has been issued; and
- (b) the days and time or times of the day in respect of which the Certificate has been issued,

and section 45D shall not apply to the public place or the part or parts of the public place specified in the Certificate of Exemption accordingly.

"(6) A person to whom a Certificate of Exemption has been issued may -

- (a) apply to the Commission for cancellation of the Certificate; or
- (b) not less than 12 months after the issue to him of a Certificate, apply to the Commission for the variation of any conditions imposed under sub-section (5),

and sub-section (4) applies to an application under paragraph (b).

"(7) The Commission may, by notice in writing, suspend or cancel a Certificate of Exemption where the person or body to whom it was issued has contravened or failed to comply with the terms of the Certificate specified under sub-section (5), or has otherwise caused or allowed drinking in a public place in respect of which a Certificate has been issued to become a nuisance or annoyance to other persons using that place.

"(8) The Commission may require the person or body to whom a Certificate of Exemption has been issued to arrange for notices to be displayed in accordance with the instructions of the Commission at the public place in respect of which the Certificate has been issued, and the person or body shall comply with and not contravene those instructions.

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"45F. SPECIAL LICENCES

"Section 45D does not apply to a place or premises in respect of which a special licence has been issued under Part VI of the *Liquor Act* during the period or periods specified in that licence.

"45G. NOTICES

"(1) Where a member has reason to believe that an offence has been committed against section 45D, he may serve on the person who appears to have committed the offence a notice under this section.

"(2) A notice under this section shall -

- (a) clearly specify the date, time and place of the alleged offence;
- (b) clearly indicate the nature of the offence;
- (c) contain an indication to the person on whom it is served that, if he does not wish the matter to be dealt with by the Court, he may make a signed statement to that effect in the manner specified in the notice and pay the amount of the prescribed penalty within the period of 14 days after the date of the notice;
- (d) clearly specify the place at which, and the manner in which the amount of the prescribed penalty may be so paid; and
- (e) contain such other particulars as the Minister considers necessary.

"(3) Where a notice under this section has been served and, before the expiration of the specified period of 14 days or, where the person in authority so allows, at any time before the service of a summons in respect of the alleged offence, the amount of the prescribed penalty is paid in accordance with the notice and a statement, signed by the person on whom the notice was served, to the effect that he does not wish the matter to be dealt with by a court is received by the person in authority -

- (a) the liability of a person in respect of the alleged offence shall be deemed to be discharged;
- (b) no further proceedings shall be taken in respect of the alleged offence; and
- (c) no person shall be regarded as having been convicted of the alleged offence.

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"(4) Nothing in this section -

- (a) prevents the service of more than one notice in respect of the same offence, but it is sufficient for the application of sub-section (3) to a person on whom more than one such notice has been served for that person to pay the amount of the prescribed penalty and to make the statement referred to in that sub-section in accordance with any notice so served on him;
- (b) prevents or affects (except as provided by sub-section (3)) the institution of prosecution or proceedings in respect of an alleged offence or limits the amount of the fine that may be imposed by a court in respect of an offence under this Part; or
- (c) shall be construed -
  - (i) as requiring the serving of a notice before a person is prosecuted under this Part; or
  - (ii) as affecting the liability of a person to be prosecuted in a court in respect of an alleged offence in relation to which a notice has not been served.

"(5) Where the amount of the prescribed penalty in respect of an offence is paid by cheque, payment is to be deemed not to be made unless and until the cheque is cleared upon presentation.

"(6) For the purposes of this section, the prescribed penalty for an offence is \$20.

"(7) For the purpose of sub-section (3) 'the person in authority' means the person in charge, or apparently in charge, at the place specified under sub-section (2)(d) as the place at which the amount of the prescribed penalty may be paid.

"45H. POWERS OF POLICE OFFICERS

"A member may, where he has reason to believe that an offence has been committed against section 45D, whether or not he makes a complaint or issues a notice under section 45G, empty any opened cask, flask, bottle or can in the possession of a person whom he believes to be contravening section 45D.

"45J. AVERMENTS

"In any proceedings for an offence against section 45D, an averment of the prosecutor in a complaint or information that -

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- (a) a specified place or land was, at a specified time, within a radius of 2 kilometres of premises at that time licensed under Part III of the *Liquor Act* for the sale of liquor;
  - (b) a specified public place, at a specified time, was not the subject of a Certificate of Exemption issued under section 45E; or
  - (c) a specified liquid is liquor,
- is prima facie evidence of the fact averred."
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