

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 159 of 1979

## AN ACT

To amend the Summary Offences Act

[Assented to 12 December 1979]

**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:

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| 1. This Act may be cited as the <u>Summary Offences Act</u> (No. 4) 1979.  | Short title                             |
| 2. The <u>Summary Offences Act</u> is in this Act referred to as the Principal Act.  | Principal Act                           |
| 3. This Act shall come into operation on a date to be fixed by the Administrator by notice in the <u>Gazette</u> .   | Commencement                            |
| 4.(1) The amendments effected by sections 5, 6, 7 and 8 shall remain in force until the expiration of 12 months after the commencement of this Act and, on the expiration of that period, sections 12 and 15 of the <u>Interpretation Act</u> shall apply as though that expiration were a repeal of those amendments. | Amendments effective for limited period |
| (2) On the expiration of the amendment effected by section 6, section 53 of the Principal Act, as in force immediately before the commencement of this Act, shall revive.  |   |
| 5. Section 5 of the Principal Act is amended by adding at the end the following definition:<br><br>"undue noise" means any noise that causes unreasonable distress, annoyance or irritation to any person by reason of its level or character or the time at which it is made."  | Interpretation                          |
| 6. Section 53 of the Principal Act is amended by omitting sub-sections (2) to (6) inclusive.   | Obscenity                               |

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7. The Principal Act is amended by inserting after section 53 the following sections:

Undue noise at  
social gather-  
ing after  
midnight

"53A.(1) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any premises or part of premises where a social gathering is being held, being a complaint in respect of noise made after midnight on any night and where he considers that such noise constitutes undue noise, direct -

- (a) the person apparently at the time in charge of the premises or part of the premises, as the case may be; or
- (b) if that person cannot be ascertained, any person at the time on the premises or part of the premises, as the case may be, who is participating in that social gathering,

to stop or abate the noise.

"(2) Subject to sub-section (3), where, at any time during the night after the period of 10 minutes immediately after a person has been directed under sub-section (1) to stop or abate undue noise, such noise comes from the premises or part of the premises in respect of which the complaint was made, each person who is on the premises or part of the premises, as the case may be, and who is taking part in the social gathering, is guilty of an offence.

Penalty: \$200.

"(3) It is a defence to a prosecution for an offence against sub-section (2) if the person charged proves -

- (a) that he was unable, by all reasonable efforts on his part, to prevent the noise occurring; or
- (b) he did not know that a direction under sub-section (1) had been given.

Undue noise

"53B.(1) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any premises or part of premises and where he considers that such noise constitutes undue noise, direct -

- (a) the person making or causing or permitting the noise to be made; or

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(b) the person apparently at the time in charge of the premises or part of the premises, as the case may be,

to stop or abate the noise.

"(2) A member of the Police Force may, in response to a complaint from a person that undue noise is coming from any unoccupied land and where he considers that such noise constitutes undue noise, direct the person making the noise or causing or permitting the noise to be made to stop or abate the noise.

"(3) Subject to sub-section (4), a person who has been directed to stop or abate undue noise and who -

(a) continues to make the noise or continues to cause or permit the noise to be made; or

(b) does not abate the noise,

after the period of 10 minutes immediately after being so directed, is guilty of an offence.

Penalty: \$200.

"(4) It is a defence to a prosecution for an offence against sub-section (3) if the person charged proves that he was unable, by all reasonable efforts on his part, to stop or abate the noise.

"53C. In a prosecution for an offence against section 53A or 53B a certificate by a member of the Police Force stating that a complaint of a kind referred to in those sections had, at a specified time and on a specified date, been made is prima facie evidence of the matters stated in the certificate.

Certificate  
of member of  
Police Force  
to be evidence

"53D.(1) Where a person occupying premises makes a complaint to a Justice alleging that his occupation of those premises is affected by undue noise, the Justice may issue his summons for the appearance before him or any other Justice of the person who is -

Noise abate-  
ment orders

(a) alleged to be making or causing or permitting the noise to be made; or

(b) the occupier or person apparently in charge of the premises or part of the premises from which the noise is alleged to be emitted.

"(2) If the Court is satisfied that an alleged undue noise exists, or that although abated it is likely to

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recur on the same premises or part of the premises, the Court may, where it finds that such noise is not justified in the circumstances, make an order directing the person summoned under sub-section (1) to stop or abate the noise or to confine the making of the noise to within such hours as the Court may fix and the Court may, in making the order, impose such other conditions as it thinks fit.

"(3) A person shall not contravene or fail to comply with an order made under sub-section (2).

Penalty: \$200."

8. The Principal Act is amended -

(a) by omitting "65A" (first occurring) and substituting "65AA"; and

(b) by adding at the end of section 65AA "Penalty: \$200."

9. The Principal Act is amended by inserting after section 91 the following Part:

### "PART IX - MISCELLANEOUS

#### Regulations

"92.(1) The Administrator may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act.

"(2) Without limiting the generality of sub-section (1), the Administrator may make regulations prescribing the hours during which the use of specified tools, equipment or machinery or classes of tools, equipment or machinery, the noise from which is or is likely to be audible in residential premises (including separate residential premises on the same allotment), is an offence and may prescribe a penalty not exceeding \$200 for that offence."

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