

Serial 335
Public Order and Anti-Social Conduct Bill 2001
Mr Reed

**A BILL
for
AN ACT**

to provide members of the Police Force and the Court of Summary Jurisdiction
with certain powers relating to public order and anti-social behaviour

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NORTHERN TERRITORY OF AUSTRALIA
PUBLIC ORDER AND ANTI-SOCIAL CONDUCT ACT 2001

No. of 2001

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NORTHERN TERRITORY OF AUSTRALIA

No. of 2001

AN ACT

to provide members of the Police Force and the Court of Summary Jurisdiction
with certain powers relating to public order and anti-social behaviour

[Assented to 2001]
[Second reading 2001]

The Legislative Assembly of the Northern Territory enacts as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Public Order and Anti-Social Conduct Act 2001*.

2. Commencement

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

3. Definitions

In this Act, unless the contrary intention appears –

"anti-social conduct" means conduct, behaviour or an incident (whether amounting to criminal conduct or not) by or involving a person in, at or in the vicinity of a place that –

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- (a) causes apprehension, harassment, alarm or distress to a reasonable person entering, at or leaving the place;
- (b) obstructs the movement of pedestrian or vehicular traffic in, on or through the place;
- (c) interferes with trade or business at the place by unnecessarily obstructing, hindering or impeding a person entering, at or leaving the place;
- (d) disrupts the peaceful and orderly conduct of an event, entertainment or gathering at the place;
- (e) interferes with the reasonable enjoyment of other persons using the place for the purpose or purposes for which it was intended or using a private place adjacent to the place; or
- (f) disrupts peace or good order in the place or in the vicinity of the place;

"Court" means the Court of Summary Jurisdiction;

"place of anti-social conduct" means a place declared by an order under section 8 to be a place of anti-social conduct;

"prescribed place" means –

- (a) a shop;
- (b) a child-care centre;
- (c) a pre-school centre;
- (d) a public park;
- (e) a public recreation area;
- (f) a public open space;
- (g) a mall;
- (h) a school within the meaning of the *Education Act*;
- (i) premises licensed under the *Liquor Act*;
- (j) a railway station, railway yards and any other land used for the purposes of a railway;
- (k) a service station;

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- (l) the immediate vicinity of an automatic teller machine; or
- (m) a place prescribed by regulation;

"public place" includes –

- (a) a 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) a place to which the public is admitted on payment of money, the test of the admittance being the payment of the money only;
- (c) a private place that is unoccupied and adjacent to a public place and to which the public resort and includes vacant land; and
- (d) a road, street, footway, court, alley or thoroughfare that the public is allowed to use despite that it may be formed on private property.

4. Act does not affect other powers of Court and police

- (1) This Act or any order made under this Act is not in derogation of any other order that the Court may make with respect to a person or place.
- (2) This Act or any order made under this Act does not affect –
 - (a) the powers, obligations, duties and liabilities of a constable, whether under statute or at common law; or
 - (b) the powers a member of the Police Force may lawfully exercise as a member of the public.

PART 2 – MAINTAINING PUBLIC ORDER

Division 1 – Anti-social conduct in public places and prescribed places

5. Preventing anti-social conduct and maintaining public order etc.

- (1) If a member of the Police Force has a reasonable apprehension that a person has engaged in, is engaging in or is about to engage in anti-social conduct –
 - (a) in a public place or prescribed place; or
 - (b) in a private place adjacent to a public place or prescribed place that is affecting persons who are in the public place or prescribed place,

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the member may direct the person to do all or any of the following:

- (c) to stop engaging in anti-social conduct;
- (d) to leave the place and not return within a stated reasonable time (being not more than 72 hours);
- (e) to move from a particular location for a stated distance, in a stated direction and not return to or be within the stated distance from the location for a stated reasonable time (being not more than 72 hours).

(2) If a person fails to comply with a direction given under this section, the member of the Police Force must warn the person it is an offence to fail to comply with the direction.

(3) A member of the Police Force must not give a direction under subsection (1) that interferes with a person's right or freedom of peaceful association, assembly or expression unless it is reasonably necessary in the interests of –

- (a) public safety;
- (b) public order; or
- (c) the protection of the rights or freedoms of other persons.

(4) A person must not without reasonable excuse contravene or fail to comply with a direction given under this section.

Penalty: 20 penalty units or imprisonment for 6 months.

6. Power to detain goods etc.

(1) If a member of the Police Force has reasonable grounds to believe that it is necessary to give full effect to a direction given under section 5, the member may detain, for a period that is reasonable in the circumstances, an article or thing that a person given the direction has in his or her possession that has contributed to the anti-social conduct.

(2) An article or thing detained under subsection (1) is to be returned to the person from whom it is detained, or to his or her lawful agent, as soon as reasonably practicable after the grounds that gave rise to its detention cease to exist.

(3) If an article or thing detained under subsection (1) is unable to be returned to the person from whom it is detained, or to his or her lawful agent, it is to be dealt with under section 166 of the *Police Administration Act*.

7. Power to require name and address

(1) If a member of the Police Force exercises a power under section 5 or 6 in respect of a person, the member may require the person to state the person's name and address.

(2) If a person fails to comply with a requirement under subsection (1), the member of the Police Force must warn the person it is an offence to fail to state the person's name and address.

(3) The member of the Police Force may require the person to give evidence of the correctness of the person's name and address if the member suspects on reasonable grounds that the name or address given is false.

(4) A person must not without reasonable excuse fail to comply with a requirement under this section.

Penalty: 20 penalty units or imprisonment for 6 months.

PART 3 – PLACES OF ANTI-SOCIAL CONDUCT

8. Order to declare place of anti-social conduct

(1) A member of the Police Force may apply to the Court for an order under subsection (3) declaring the place specified in the application to be a place of anti-social conduct.

(2) An application under subsection (1) may only be made if –

(a) the owner of the place specified in the application has been served (which may be way of substituted service) with a copy of the application; and

(b) the occupiers of the place specified in the application have been given reasonable notice of the application –

(i) by being given a copy of the application; or

(ii) if it is not practicable to give the occupiers a copy of the application – by a copy of the application being attached to a conspicuous part of the place where it is able to be read by persons entering the place.

(3) The Court may make an order declaring a place to be a place of anti-social conduct if satisfied on the balance of probabilities that –

(a) a continuing or repeated course of anti-social conduct has occurred at or in connection with the place; and

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- (b) the order is reasonably necessary –
 - (i) to prevent anti-social conduct continuing at the place;
 - (ii) to create peace or good order in the neighbourhood of the place; or
 - (iii) to protect persons in the vicinity of the place from the anti-social conduct at the place.

(4) In determining an application under subsection (1), the Court is not bound by the rules of evidence.

(5) An order under subsection (3) has effect for the period specified in the order (being a period not less than 3 months and not more than 12 months) or until a further order of the Court amending, extending or revoking the order is made.

(6) The Court may revoke an order under subsection (3) on the application of a member of the Police Force or the owner of the place the subject of the order.

(7) An application under subsection (6) may only be made if a copy of the application has been served on –

- (a) if the applicant is a member of the Police Force – the owner of the place the subject of the order; or
- (b) if the applicant is the owner of the place the subject of the order – the Commissioner of Police.

9. Powers in respect of places of anti-social conduct

(1) If a member of the Police Force of the rank of superintendent or above is satisfied that anti-social conduct is occurring at a place declared to be a place of anti-social conduct, he or she may authorise a member of the Police Force to enter the place at any time with the assistance, and using the reasonable force, necessary.

- (2) A member of the Police Force authorised under subsection (1) –
 - (a) may give reasonable directions to a person in, about to enter or in the vicinity of the place declared to be a place of anti-social conduct relating to anti-social conduct at or in connection with the place;
 - (b) may exercise any of the powers of a member of the Police Force under sections 5, 6 and 7 as if the place of anti-social conduct were a public place or prescribed place; and

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- (c) if the member reasonably suspects that there is on the place, or in the possession of a person on the place, a thing connected with or relating to an offence – may, with the assistance necessary, do any of the following:
- (i) search the place;
 - (ii) search a vehicle found on the place and, for that purpose, stop and detain the vehicle and use the reasonable force necessary to break into and enter the vehicle;
 - (iii) subject to subsection (3), search the person of, the clothing that is being worn by and property in the immediate control of, a person who is on the place and is reasonably suspected by the member to be carrying a thing connected with or relating to an offence;
 - (iv) use the reasonable force necessary to open any cupboard, drawer, chest, trunk, box, package or other receptacle (whether a fixture or not) found in or on the place or in or on a vehicle on the place;
 - (v) use the reasonable force necessary to carry out a search of a person under subparagraph (iii);
 - (vi) seize a thing connected with or relating to an offence that the member finds in or on the place, in or on a vehicle on the place, or in the course of a search conducted under this paragraph, if the member believes on reasonable grounds that it is necessary to do so to prevent the loss or destruction of the thing.
- (3) The search of a person under subsection (2)(iii) is to be carried out only by –
- (a) a member of the Police Force of the same sex as the person being searched; or
 - (b) if no such member is available – a person of the same sex as the person being searched who is authorised by the member to carry out the search, which person has the same powers, and is subject to the same protection, for the purposes of the search as a member of the Police Force.
- (4) A person must not without reasonable excuse contravene or fail to comply with a direction or requirement of a member of the Police Force given

under this section.

Penalty: 20 penalty units or imprisonment for 6 months.

(5) In this section –

"thing connected with or relating to an offence" has the same meaning as in section 116(1) of the *Police Administration Act*.

PART 4 – MISCELLANEOUS

10. Regulations

The Administrator may make regulations, not inconsistent with this Act, prescribing matters –

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.