

Serial 283
Kava Management Amendment Bill 2000
Mr Baldwin

**A BILL
for
AN ACT**

to amend the *Kava Management Act*



NORTHERN TERRITORY OF AUSTRALIA
KAVA MANAGEMENT AMENDMENT ACT 2000

No. of 2000

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SCHEDULE





NORTHERN TERRITORY OF AUSTRALIA

No. of 2000

AN ACT

to amend the *Kava Management Act*

[Assented to 2000]
[Second reading 2000]

The Legislative Assembly of the Northern Territory enacts as follows:

1. Short title

This Act may be cited as the *Kava Management Amendment Act 2000*.

2. Commencement

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

3. Principal Act

The *Kava Management Act* is in this Act referred to as the Principal Act.

4. Long title

The long title of the Principal Act is amended by inserting "to encourage responsible practices and procedures in relation to the possession, supply and consumption of kava" before "and for related purposes".

5. Interpretation

Section 3 of the Principal Act is amended by inserting after the definition of "kava lactone" in subsection (1) the following:

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"'kava management plan' means a kava management plan referred to in section 58A(1), and includes an amended kava management plan or a replacement kava management plan;"

6. New section

The Principal Act is amended by inserting after section 12 the following:

"12A. Supply of kava to intoxicated person

"A person must not supply kava to a person who is intoxicated by kava, alcohol or a drug.

Penalty: For a first offence – 100 penalty units or imprisonment for 6 months.

For a second or subsequent offence – 200 penalty units or imprisonment for 12 months."

7. Obligations of retail licensee

Section 17 of the Principal Act is amended –

- (a) by omitting from paragraph (a) "licensee;" and substituting "licensee; or";
- (b) by omitting from paragraph (b) "issued; or" and substituting "issued."; and
- (c) by omitting paragraph (c).

8. New Division heading

Part 7 of the Principal Act is amended by inserting after the heading the following:

"Division 1 – Preliminary".

9. Definitions

Section 53 of the Principal Act is amended –

- (a) by omitting the definition of "resident";
- (b) by omitting "licence area." from paragraph (d) of the definition of "area" and substituting "licence area;"; and
- (c) by adding at the end the following:

"'community government council' has the same meaning as in the *Local Government Act*;

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'resident', in relation to an area in respect of which an application is made under section 54, means a person who –

- (a) is 18 or more years of age; and
- (b) resides in the area or has a right or interest in land within the area;

'right or interest in land' includes the entitlement by Aboriginal tradition, within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976* of the Commonwealth, to use or occupy land."

10. New Division heading

Part 7 of the Principal Act is amended by inserting after section 53 the following:

"Division 2 – Declaration of licence areas".

11. Application for declaration of licence area

Section 54 of the Principal Act is amended –

- (a) by omitting from subsection (1) "by notice in the *Gazette*" and substituting "in writing";
- (b) by inserting after subsection (1) the following:

"(1A) A community government council may apply to the Minister for the Minister to declare, in writing, that a part of the council area in respect of which the council is constituted is a licence area.";

- (c) by omitting from subsection 2(b) "applicant;" and substituting "applicant or, in the case of an application made under subsection (1A), a person authorised by the applicant; and";
- (d) by omitting from subsection (2)(c) "area; and" and substituting "area.";
- (e) by omitting subsection (2)(d).

12. Explanation of application

Section 55 of the Principal Act is amended by omitting subsection (1)(b) and substituting the following:

- "(b) fix a date, time and place for a meeting with those residents and other persons and advise them of that date, time and place,

in the manner the Minister considers appropriate."

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13. Consideration and decision of Minister

Section 57 of the Principal Act is amended –

- (a) by omitting from subsection (1)(a) "and" (last occurring);
- (b) by omitting from subsection (1)(b) "fit." and substituting "fit; and"; and
- (c) by inserting after subsection (1)(b) the following:
 - "(c) if the area is within or in the vicinity of a council area or an area controlled or managed by an incorporated association – must consult with the local government council for the council area or the incorporated association to ascertain its views regarding the area that the Minister should declare to be a licence area and any other matters relating to the possession, supply and consumption of kava within the proposed licence area that the Minister considers appropriate."

14. New Division

The Principal Act is amended by inserting after section 58 the following:

"Division 3 – Kava management plans

"58A. Kava management plan required for each licence area

- "(1) There is to be a kava management plan for each licence area.
- "(2) The Commission must not grant a retail licence in respect of a licence area unless a kava management plan has been prepared and approved under section 58C in respect of the licence area.

"58B. Purpose, form and content of kava management plans

- "(1) The purpose of a kava management plan is to set out –
 - (a) the practices and procedures for or in relation to the possession, supply and consumption of kava in the licence area where it applies; and
 - (b) measures relating to the minimisation of harm to residents and the amenity of the community that results from the possession, supply and consumption of kava in the licence area.
- "(2) A kava management plan –
 - (a) is to be in writing;
 - (b) may apply in one licence area only; and

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(c) is to specify the licence area where it applies.

"(3) The Regulations may –

(a) prescribe the content and form of a kava management plan;

(b) prescribe the manner in which a kava management plan is to be prepared; and

(c) provide for the publication of a kava management plan.

"58C. Preparation and approval of kava management plans

"(1) The person who applies or persons who apply under section 54(1) or (1A) to the Minister to declare an area a licence area must prepare a kava management plan for the licence area.

"(2) A person who prepares or the persons who prepare a kava management plan must, on completing it, give the kava management plan to the Commission for approval.

"(3) If the Commission is satisfied that a kava management plan –

(a) appropriately provides for the matters specified in section 58B(1)(a) and (b);

(b) complies with this Division and the Regulations; and

(c) in the case of a kava management plan that will be applying in a licence area that is within a council area or an area controlled or managed by an incorporated association – is supported by the local government council for the council area or the incorporated association,

the Commission must approve the kava management plan.

"(4) A kava management plan has no effect unless it is approved by the Commission.

"58D. Amendment or replacement of kava management plan

"(1) At least 10 residents of a licence area, or a community government council for a council area of which part is a licence area, may –

(a) prepare an amendment to the kava management plan applying in the licence area; or

(b) prepare a kava management plan to replace the kava management plan applying in the licence area.

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"(2) A person who prepares or the persons who prepare an amendment to a kava management plan or a replacement kava management plan must, on completing it, give the amendment or replacement kava management plan to the Commission for approval.

"(3) If the Commission is given an amendment of a kava management plan to approve and the Commission is satisfied that –

- (a) the kava management plan as amended by the amendment appropriately provides for the matters specified in section 58B(1)(a) and (b) and complies with this Division and the Regulations; and
- (b) in the case of an amendment of a kava management plan that amends a kava management plan applying in a licence area that is within a council area or an area controlled or managed by an incorporated association – the amendment is supported by the local government council for the council area or the incorporated association,

the Commission must approve the amendment of the kava management plan.

"(4) If the Commission is given a replacement kava management plan to approve and the Commission is satisfied that –

- (a) the replacement kava management plan appropriately provides for the matters specified in section 58B(1)(a) and (b) and complies with this Division and the Regulations; and
- (b) in the case of a replacement kava management plan that will apply in a licence area that is within a council area or an area controlled or managed by an incorporated association – the replacement kava management plan is supported by the local government council for the council area or the incorporated association,

the Commission must approve the replacement kava management plan.

"(5) An amendment to a kava management plan or a replacement kava management plan has no effect unless it is approved by the Commission."

15. Licences

Section 59 of the Principal Act is amended –

- (a) by omitting from subsection (2) "to persons ordinarily residing in the licence area"; and
- (b) by omitting subsection (5) and substituting the following:

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"(5) Nothing in this Act prevents –

- (a) a wholesale licensee applying for a retail licence; or
- (b) a retail licensee applying for a wholesale licence."

16. New section

The Principal Act is amended by inserting after section 65 the following:

"65A. Condition of licence that holder to comply with Act etc.

"It is a condition of a licence issued or renewed under section 64 or 65 that the holder of the licence must comply with this Act, the Regulations and the terms and conditions of the licence."

17. Making a complaint

Section 73 of the Principal Act is amended by omitting subsection (1) and substituting the following:

"(1) A person may make a complaint to the Commission regarding –

- (a) the conduct of a licensee; or
- (b) the possession, supply or consumption of kava in a licence area."

18. Further amendments

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

SCHEDULE

Section 18

Provision	Amendment	
	omit	substitute
Section 9	"\$10,000"	"100 penalty units"
Section 12(1)	"\$5,000"	"50 penalty units"
	"\$10,000"	"100 penalty units"
Section 12(2)	"\$10,000"	"100 penalty units"
Section 12(3)	"\$10,000"	"100 penalty units"
Section 13	"\$5,000"	"50 penalty units"
Section 15(1)	"\$10,000"	"100 penalty units"
	"\$50,000"	"500 penalty units"
Section 16	"\$5,000"	"50 penalty units"
	"\$25,000"	"250 penalty units"
	"\$10,000"	"100 penalty units"
	"\$50,000"	"500 penalty units"
	"\$100,000"	"1,000 penalty units"
Section 17	"\$5,000"	"50 penalty units"
	"\$25,000"	"250 penalty units"
	"\$10,000"	"100 penalty units"
	"\$50,000"	"500 penalty units"
	"\$100,000"	"1,000 penalty units"
Section 18(1)	"\$5,000"	"50 penalty units"
	"\$25,000"	"250 penalty units"

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Section 18(2)	"\$10,000"	"100 penalty units"
	"\$50,000"	"500 penalty units"
Section 19(1)	"\$5,000"	"50 penalty units"
	"\$25,000"	"250 penalty units"
Section 19(2)	"\$10,000"	"100 penalty units"
	"\$50,000"	"500 penalty units"
Sections 20, 21 and 22	"\$5,000"	"50 penalty units"
Section 30(3)	"\$500"	"5 penalty units"
Section 89(2)(t)	"\$10,000"	"100 penalty units"
	"\$50,000"	"500 penalty units"

