

Serial 177
Housing and Other Legislation Amendment Bill 2011
Dr Burns

A Bill for an Act to amend the *Housing Act*, and for related purposes

NORTHERN TERRITORY OF AUSTRALIA

HOUSING AND OTHER LEGISLATION AMENDMENT ACT 2011

Act No. [] of 2011

Table of provisions

Part 1 Preliminary matters

1	Short title	1
2	Commencement	1

Part 2 Amendment of Housing Act

3	Act amended	1
4	Long title amended	2
5	Section 5 amended.....	2
6	Section 5A inserted	4
	5A Declared offences for Criminal Code	
7	Section 18A repealed	5
8	Parts 5, 6 and 7 inserted.....	5
	Part 5 Behaviour on public housing premises	
	Division 1 Key concepts	
	28A Meaning of <i>antisocial behaviour</i>	
	28B Meaning of <i>acceptable behaviour agreement</i>	
	Division 2 Agreements about acceptable behaviour	
	28C Acceptable behaviour agreements	
	Division 3 Powers when prescribed offences or antisocial behaviour happen	
	28D Power to require name and address and, if relevant, age	
	28E Power to give direction to person on public housing premises	
	28F Direction to leave must be in writing or by later written notice	
	28G Power to seize a dangerous article or a container of liquor	
	Part 6 Review of decisions	
	28H Review of particular decision of public housing safety officer	
	28J Application for reconsideration of original decision	
	28K Reconsideration by CEO	
	28L Application for review of reconsidered decision	
	28M Operation and implementation of reconsidered decision	
	28N Hearing procedure	
	28P Decision on review of reconsidered decision	

	Part 7	Public housing safety officers	
	Division 1	Appointed PHSO	
	28Q	Appointment of public sector employees as public housing safety officers	
	28R	Identity card	
	28S	Return of identity card	
	28T	Obligations with regard to identity card	
	28U	Disqualifying offences by appointed PHSO	
	28V	Code of conduct for appointed PHSO	
	Division 2	Provisions for all public housing safety officers	
	28W	Interaction with specific Acts	
	28X	Internal review	
9		Sections 31 to 31B replaced.....	17
	30A	Protection of public housing safety officers	
	31	Acquisition on just terms	
	31A	Delegation by CEO	
10		Section 36 replaced.....	18
	Division 2	Further offences and related matters	
	36	Giving misleading document to Chief Executive Officer (Housing)	
	36A	Failing to notify about change in income	
	36B	Giving misleading information or document to public housing safety officer	
	36C	Obstructing public housing safety officer	
	36D	Security cameras or surveillance devices	
	36E	Prosecutions	
11		Section 37 amended.....	21
12		Part 12 inserted	22
	Part 12	Transitional provisions for Housing and Other Legislation Amendment Act 2011	
	51	Existing acceptable behaviour agreement	
13		Act further amended	23
	Part 3	Amendment of Residential Tenancies Act	
14		Act amended	23
15		Section 99A amended	23
	Schedule	Housing Act further amended	



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2011

An Act to amend the *Housing Act*, and for related purposes

[Assented to [] 2011]
[Second reading [] 2011]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Housing and Other Legislation Amendment Act 2011*.

2 Commencement

This Act commences on the day fixed by the Administrator by *Gazette* notice.

Part 2 Amendment of Housing Act

3 Act amended

This Part amends the *Housing Act*.

4 Long title amended

Long title, after "sale,"

insert

matters relating to tenants and others on leased housing or other accommodation,

5 Section 5 amended

(1) Section 5

omit

, unless the contrary intention appears

(2) Section 5, definitions **acceptable behaviour agreement** and **antisocial behaviour**

omit

(3) Section 5

insert (in alphabetical order)

acceptable behaviour agreement, see section 28B.

affected person, for Part 6, see section 28J(1).

antisocial behaviour, see section 28A.

appointed PHSO means a public sector employee appointed under section 28Q(1) as a public housing safety officer.

Note

There are 2 types of public housing safety officers. Police officers are public housing safety officers while other public housing safety officers are appointed.

CEO is an acronym for the Chief Executive Officer.

common property means:

- (a) common property, as defined in section 4 of the *Unit Titles Act*, or
- (b) common property of a scheme, as defined in section 33(1) of the *Unit Title Schemes Act*.

dangerous article means anything designed, or capable of being used, to inflict harm on a person.

disqualifying offence means an offence prescribed by regulation as a disqualifying offence.

liquor, see section 4(1) of the *Liquor Act*.

on, in relation to a place (however described), includes at or in the place.

original decision, see section 28H.

prescribed offence means an offence against any of the following:

- (a) section 241 of the Criminal Code or any other provision of the Code if assault is an element of the offence;
- (b) section 75, 101AE or 101L of the *Liquor Act*;
- (c) section 47, 47AA or 50 of the *Summary Offences Act*;
- (d) section 5, 7 or 8 of the *Trespass Act*.

public housing development means a building development consisting of:

- (a) units for which the Chief Executive Officer (Housing) is the registered proprietor, or lessee, of all units in the development; or
- (b) apartments, flats or townhouses (but not units) for which the Chief Executive Officer (Housing) is the registered proprietor or lessee of the lot on which the building development is situated.

public housing premises means:

- (a) premises owned or leased by the Chief Executive Officer (Housing) for the purpose of providing residential accommodation; and
- (b) if the premises mentioned in paragraph (a) are:
 - (i) a unit in a public housing development – any common property in the development; or
 - (ii) an apartment, flat or townhouse in a public housing development – any common areas in the development.

public housing safety officer means:

- (a) an appointed PHSO; or

(b) a police officer.

reasonably believes means believes on grounds that are reasonable in the circumstances.

recognised occupier, of premises, means someone whom the tenant of the premises has notified the Chief Executive Officer (Housing), in writing, is or will be occupying the premises and the Chief Executive Officer (Housing) has made a notation in relation to the lease about the occupancy.

reconsidered decision, for Part 6, see section 28K(1).

tenant of public housing premises means the person specified in the lease for the public housing premises as the tenant of those premises.

unit means:

- (a) a unit, as defined in section 4 of the *Unit Titles Act*, or
- (b) a unit of a scheme, as defined in section 37 of the *Unit Title Schemes Act*.

(4) Section 5, definition **house**, paragraph (a)

omit, insert

- (a) an apartment, flat, hostel, townhouse, transportable home or unit; and

(5) Section 5, definition **house**, paragraph (b)

omit

notice in the *Gazette*

insert

Gazette notice

6 Section 5A inserted

After section 5, in Part 1

insert

5A Declared offences for Criminal Code

Part IIAA of the Criminal Code applies to an offence against this Act.

Note for section 5A

Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.

7 Section 18A repealed

Section 18A

repeal

8 Parts 5, 6 and 7 inserted

After section 28

insert

Part 5 Behaviour on public housing premises

Division 1 Key concepts

28A Meaning of *antisocial behaviour*

Behaviour is ***antisocial behaviour*** if it:

- (a) involves abusive or violent behaviour directed to a person; or
- (b) creates alarm or fear in, or annoyance to, neighbours or others in the vicinity; or
- (c) involves graffiti, littering or vandalism.

Example of what may create annoyance

Making excessive noise.

28B Meaning of *acceptable behaviour agreement*

An ***acceptable behaviour agreement*** is a written undertaking entered into by a tenant of public housing premises about not engaging in antisocial behaviour on those premises and any place within 50 m of those premises.

Division 2 Agreements about acceptable behaviour

28C Acceptable behaviour agreements

- (1) If the Chief Executive Officer (Housing) reasonably believes a tenant of public housing premises, or a recognised occupier of

those premises, is likely to engage in antisocial behaviour, the Chief Executive Officer (Housing) may, by written notice, require the tenant to enter into an acceptable behaviour agreement.

- (2) The notice must include the following information about the acceptable behaviour agreement:
 - (a) the period within which the tenant is required to enter into it (being not less than 28 days after the notice is given);
 - (b) the period for which the agreement is to have effect;
 - (c) a description of the antisocial behaviour and the terms of the agreement;
 - (d) a statement about the operation of the agreement as specified by subsection (4);
 - (e) a statement that the Chief Executive Officer (Housing) may apply to a court under section 99A of the *Residential Tenancies Act* for termination of the lease if the tenant:
 - (i) fails or refuses to enter into the agreement; or
 - (ii) seriously or repeatedly breaches the terms of the agreement.
- (3) The Chief Executive Officer (Housing) may form the belief mentioned in subsection (1) having regard to the following matters, including matters that happened before the commencement of this section:
 - (a) the history of the tenancy or a former tenancy involving the tenant whether as a tenant or recognised occupier;
 - (b) the history of another tenancy involving a recognised occupier of the tenant, whether the recognised occupier was the tenant or a recognised occupier in relation to the other tenancy;
 - (c) other matters the Chief Executive Officer (Housing) considers relevant.
- (4) The operation of the acceptable behaviour agreement extends to the behaviour of:
 - (a) a recognised occupier of the relevant public housing premises; and
 - (b) any other person occupying those premises with the consent of the tenant of those premises.

- (5) Subject to section 99A(3) of the *Residential Tenancies Act*, if a recognised occupier of public housing premises, or other person occupying those premises with the consent of the tenant of those premises, engages in behaviour in breach of an acceptable behaviour agreement entered into by the tenant, the tenant is taken to have breached the agreement.
- (6) The acceptable behaviour agreement is of no effect if the notice requiring the tenant to enter into the agreement does not contain the matters required by subsection (2).

Division 3 Powers when prescribed offences or antisocial behaviour happen

28D Power to require name and address and, if relevant, age

- (1) This section applies if a public housing safety officer reasonably believes a person:
 - (a) has engaged, is engaging or is about to engage in conduct on public housing premises that constitutes a prescribed offence or antisocial behaviour; or
 - (b) may be in a position to help with the investigation of a prescribed offence or antisocial behaviour on, or partially on, public housing premises.
- (2) The public housing safety officer may require the person to state the person's name and address and, if the officer reasonably believes the person may be under 18 years of age, the person's age.
- (3) The public housing safety officer may require the person to give evidence of the correctness of the person's name if the officer reasonably believes a name given by the person is false.
- (4) In making a requirement under subsection (2) or (3), the public housing safety officer must inform the person it is an offence to contravene the requirement unless the person establishes a reasonable excuse.
- (5) A person given a requirement under subsection (2) or (3) must comply with it.

Maximum penalty: 20 penalty units.
- (6) An offence against subsection (5) is an offence of strict liability.
- (7) It is a defence to a prosecution for an offence against subsection (5) if the defendant establishes a reasonable excuse.

28E Power to give direction to person on public housing premises

- (1) This section applies if a public housing safety officer reasonably believes a person on public housing premises has been, is or will be engaging in conduct, or permitting conduct to be engaged in, on public housing premises that constitutes a prescribed offence or antisocial behaviour.
- (2) The public housing safety officer may direct the person not to engage, or to stop engaging, in specified conduct on the public housing premises to the extent the officer reasonably believes necessary to prevent the prescribed offence or antisocial behaviour.
- (3) Also, if the person is not a tenant of the public housing premises or a recognised occupier of those premises, the public housing safety officer may direct the person to leave the public housing premises immediately and not enter all or part of those premises for a specified period of not more than 12 months.
- (4) A person given a direction under subsection (2) or (3) must comply with it.

Maximum penalty: 20 penalty units.

- (5) An offence against subsection (4) is an offence of strict liability.
- (6) It is a defence to a prosecution for an offence against subsection (4) if the defendant establishes a reasonable excuse.

28F Direction to leave must be in writing or by later written notice

- (1) A public housing safety officer must give a direction under section 28E(2) or (3) by written notice unless the officer reasonably believes it is not practicable to do so and gives it orally to the person or persons to whom the direction relates.
- (2) If a person is given a direction orally, it ceases to have effect at the end of 2 days after the day it is given unless, within that period, a public housing safety officer gives written notice about the direction to the person.
- (3) A written notice about a direction as mentioned in subsection (2) is taken to be a written notice given under section 28E(2) or (3), as the case may be.
- (4) A written notice must state the following:
 - (a) the name of the person to whom the direction relates;

- (b) the name of the public housing safety officer giving the direction;
 - (c) if the notice is given under:
 - (i) section 28E(2) – the conduct the person is not to engage in, or the person is to stop engaging in, on the public housing premises; or
 - (ii) section 28E(3) – the period of not more than 12 months for which the person named in the direction must not enter specified public housing premises;
 - (d) the reasons for giving the direction;
 - (e) that a person affected by the decision may apply for it to be reconsidered, and how the application must be made, as mentioned in section 28J;
 - (f) any other matter prescribed by regulation.
- (5) A direction given orally is not invalid only because it does not include a matter mentioned in subsection (4).

28G Power to seize a dangerous article or a container of liquor

- (1) This section applies when a public housing safety officer is on public housing premises.
- (2) The public housing safety officer may seize an article or container (a **seized item**) if:
 - (a) the officer reasonably believes the article is a dangerous article or the container contains liquor; and
 - (b) the article or liquor is located on common property or a common area within the public housing premises; and
 - (c) the article or liquor is not under the immediate control of an adult.
- (3) In addition, the public housing safety officer may seize any container (also a **seized item**) if:
 - (a) the officer reasonably believes the container contains liquor; and
 - (b) the container is located anywhere within the public housing premises; and

- (c) if the container does contain liquor, its location within those premises is in contravention of section 75, 101AE or 101L of the *Liquor Act*.
- (4) The public housing safety officer who seized it must:
 - (a) for a seized item that is a dangerous article:
 - (i) retain the dangerous article; or
 - (ii) give the article to a police officer; or
 - (b) for seized item that is a container of liquor:
 - (i) if it is open – empty the container immediately; or
 - (ii) otherwise – retain the container or give it to a police officer.
- (5) The public housing safety officer must affix a receipt about the seizure of a seized item to something at the place of seizure.
- (6) Within 3 months after the date of seizure of a seized item, a public housing safety officer must return it to a person who claims to be the owner and whom the officer reasonably believes is the owner.
- (7) If a seized item is not returned under subsection (6), it is forfeited to the Territory on the day after the end of the 3 month period.
- (8) Subsections (6) and (7) do not apply if, during the 3 month period, a public housing safety officer or a police officer decides, in writing, that the seized item must be retained as evidence of an offence.

Part 6 Review of decisions

28H Review of particular decision of public housing safety officer

Each of the following decisions of a public housing safety officer is an ***original decision***:

- (a) a decision under section 28E(2) directing a person not to engage, or to stop engaging in, specified conduct on public housing premises;
- (b) a decision under section 28E(3) directing a person to leave public housing premises immediately and not to enter all or part of those premises for a specified period;
- (c) a decision under section 28G(2) or (3) to seize an article or container;

- (d) a decision prescribed by regulation as an original decision.

28J Application for reconsideration of original decision

- (1) A person affected by an original decision (an ***affected person***) may apply to the CEO for reconsideration of the original decision.

Note for subsection (1)

A person affected by an original decision may be the person given the direction or a tenant who had invited the person into the tenant's residence or who has a family relationship with the person given the direction.

- (2) The application must be:
- (a) in writing; and
 - (b) made within 28 days after the original decision was given to the person to whom it relates.
- (3) The making of the application does not affect the operation of the original decision.

28K Reconsideration by CEO

- (1) Within 28 days after an application for reconsideration of an original decision is made, the CEO must reconsider the original decision and give the applicant written notice about the CEO's decision (the ***reconsidered decision***).
- (2) The CEO may reconsider the original decision in any way he or she considers appropriate.
- (3) The notice about the reconsidered decision must include the following:
- (a) the reconsidered decision and the reasons for it;
 - (b) that the applicant for the reconsideration may apply to the Local Court for a review of the merits of the reconsidered decision;
 - (c) the period allowed for applying for a review of the reconsidered decision;
 - (d) how to apply for a review.

28L Application for review of reconsidered decision

- (1) The applicant for a reconsideration of an original decision may apply to the Local Court for a review of the merits of the reconsidered decision.

- (2) The application must be made within 28 days after the day:
 - (a) the applicant received notice about the reconsidered decision; or
 - (b) if the affected person did not receive a notice for the reconsidered decision – the applicant becomes aware of the decision.
- (3) However, on application by the applicant, the Local Court may at any time extend the period for applying for a review of the merits of the reconsidered decision.

28M Operation and implementation of reconsidered decision

- (1) An application under section 28L does not affect the operation or implementation of the reconsidered decision.
- (2) However, the Local Court may make an order staying or otherwise affecting the operation or implementation of so much of the reconsidered decision as the Court considers appropriate to effectively decide the application.
- (3) The order is subject to the conditions stated in it.
- (4) The order has effect for the period stated in it or, if no period is stated, until the Court decides the application.

28N Hearing procedure

- (1) In hearing an application under section 28L, the Local Court must review the merits of the reconsidered decision.
- (2) The Local Court must consider the matter afresh and is not bound by anything considered by the CEO in making the reconsidered decision.
- (3) Without limiting subsection (2), the Local Court may:
 - (a) admit evidence that was not considered by the CEO in making the reconsidered decision; or
 - (b) refuse to admit evidence that was considered by the CEO in making the reconsidered decision.

28P Decision on review of reconsidered decision

- (1) In deciding the application, the Local Court may:
 - (a) confirm the reconsidered decision; or

- (b) vary the reconsidered decision; or
 - (c) set aside the reconsidered decision and substitute its own decision.
- (2) The Local Court may make the orders it considers appropriate to give effect to its decision.
 - (3) A decision under subsection (1)(b) or (c) is taken for this Act (other than this Part) to be a decision of the CEO.

Part 7 Public housing safety officers

Division 1 Appointed PHSO

28Q Appointment of public sector employees as public housing safety officers

- (1) The CEO may appoint a public sector employee as a public housing safety officer if the employee has been suitably trained to exercise the powers or perform the functions under this Act of a public housing safety officer.
- (2) However, a public sector employee is not eligible for appointment if the employee has a previous conviction for a disqualifying offence.
- (3) Despite the *Criminal Records (Spent Convictions) Act* and the *Anti-Discrimination Act*:
 - (a) before a public sector employee may be appointed under subsection (1), the employee must authorise the CEO to obtain from the Commissioner of Police a criminal record about the employee, including spent convictions; and
 - (b) the CEO may take the criminal record (including any spent convictions) into account in deciding whether to appoint the employee; and
 - (c) if the employee is appointed, the CEO may retain the criminal record for as long as the employee is an appointed PHSO.
- (4) In this section:

criminal record, see section 3(1) of the *Criminal Records (Spent Convictions) Act*.

spent conviction, see section 3(1) of the *Criminal Records (Spent Convictions) Act*.

28R Identity card

- (1) The CEO must give an appointed PHSO an identity card stating the person's name and that the person is a public housing safety officer.
- (2) The identity card must:
 - (a) show a recent photograph of the appointed PHSO; and
 - (b) show the card's date of issue; and
 - (c) be signed by the appointed PHSO.
- (3) This section does not prevent the issue of a single identity card to a person for this and another Act.

28S Return of identity card

- (1) A person who ceases to be an appointed PHSO must return the person's identity card to the CEO within 14 days after the cessation.
Maximum penalty: 20 penalty units.
- (2) An offence against subsection (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against subsection (1) if the person establishes a reasonable excuse.

28T Obligations with regard to identity card

- (1) An appointed PHSO must not exercise a power under this Act unless the officer holds an identity card issued under this Act.
- (2) Before exercising a power under this Act in relation to a person, an appointed PHSO must, wherever practicable, produce the identity card for inspection by the person (but the card need only be produced once even though 2 or more powers are exercised against the person).
- (3) Non-compliance by an appointed PHSO with subsection (2) is a defence to a charge based on non-compliance by the person to whom the identity card should have been produced with a requirement or request made by the appointed PHSO under this Act.
- (4) Subsection (3) applies even if the charge relates to an offence that is an offence of strict liability.

28U Disqualifying offences by appointed PHSO

- (1) If an appointed PHSO is charged with, or convicted of, a disqualifying offence, the officer must report the fact to the CEO as soon as practicable (but no later than 7 days after the officer is charged or convicted).

Maximum penalty: 100 penalty units.

- (2) An offence against subsection (1) is an offence of strict liability.
- (3) If an appointed PHSO is charged with a disqualifying offence, the CEO may suspend the officer's appointment as a public housing safety officer until the charge has been dealt with by a court.
- (4) If an appointed PHSO is convicted of a disqualifying offence, the CEO must revoke the officer's appointment as a public housing safety officer.

28V Code of conduct for appointed PHSO

- (1) The CEO may make a code of conduct:
- (a) to establish standards of behaviour applicable to each appointed PHSO; or
- (b) for other purposes related to the administration of this Act.

Note for subsection (1)

Police officers are subject to general orders made under section 14A of the Police Administration Act.

- (2) The CEO must ensure the code of conduct, as in force from time to time, is available on the Agency's website.
- (3) If an appointed PHSO contravenes the code of conduct, the matter may be dealt with as a breach of discipline under the *Public Sector Employment and Management Act*.

Division 2 Provisions for all public housing safety officers**28W Interaction with specific Acts**

- (1) A public housing safety officer who is exercising, or about to exercise, a power under this Act to which the *Youth Justice Act* would apply if it were to be exercised by a police officer must comply with the obligations imposed by that Act on a police officer.

- (2) Despite the application of the *Residential Tenancies Act* to premises let under this Act, a public housing safety officer may:
- (a) lawfully enter a yard, garden or other area associated with public housing premises (but not the residence) if the officer enters the place to exercise a power under this Act at a reasonable time in the circumstances; and
 - (b) lawfully enter a residence at the invitation or with the consent of the tenant of the public housing premises.

Note for subsection (2)

Section 34 applies the Residential Tenancies Act. Under that Act, a landlord may only enter premises or ancillary premises in accordance with that Act. However, subsection (2) allows for entry in addition to Part 9 of the Residential Tenancies Act.

- (3) A public housing safety officer who enters a yard, garden or other area associated with public housing premises as mentioned in subsection (2)(a) may remain on the place for as long as the officer reasonably believes is necessary to exercise powers under this Act even if a tenant, recognised occupier or other person asks the officer to leave.
- (4) However, if a public housing safety officer has entered a residence as mentioned in subsection (2)(b), the officer must leave the residence if asked to do so by the tenant of the public housing premises.

28X Internal review

- (1) The CEO must establish a system of administrative review for dealing effectively with complaints about the conduct of public housing safety officers.
- (2) The procedures for making a complaint, and the procedures on review, must be published on the Agency's website.
- (3) This section does not limit a person's right:
- (a) to make a complaint to the Ombudsman under the *Ombudsman Act*; or
 - (b) a right to make a public interest disclosure under the *Public Interest Disclosure Act*.

9 Sections 31 to 31B replaced

Sections 31 to 31B

repeal, insert

30A Protection of public housing safety officers

- (1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith in the exercise of a power or performance of a function as a public housing safety officer.
- (2) Subsection (1) does not affect any liability the Territory would, apart from that subsection, have for the act or omission.
- (3) 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.

31 Acquisition on just terms

If the exercise of a power or performance of a function as a public housing safety officer would, apart from this section, result in an acquisition of property from a person otherwise than on just terms:

- (a) the person is entitled to receive from the Territory the compensation necessary to ensure the acquisition is on just terms; and
- (b) a court of competent jurisdiction may decide the amount of compensation or make the orders it considers necessary to ensure the acquisition is on just terms.

31A Delegation by CEO

The CEO may delegate any of his or her powers and functions under this Act to a public sector employee.

10 Section 36 replaced

Section 36

*repeal, insert***Division 2 Further offences and related matters****36 Giving misleading document to Chief Executive Officer (Housing)**

- (1) A person commits an offence if the person:
- (a) gives the Chief Executive Officer (Housing) a document; and
 - (b) the document contains misleading information.
- Maximum penalty: 100 penalty units.
- (2) Strict liability applies to subsection (1)(b).
- (3) Subsection (1) does not apply if the person, when giving the document:
- (a) draws the misleading aspect of the document to the attention of the Chief Executive Officer (Housing); and
 - (b) to the extent to which the person can reasonably do so – gives the Chief Executive Officer (Housing) the information necessary to correct the document.
- (4) A prosecution for an offence against subsection (1) must not, in relation to a loss or damage incurred by or to the Chief Executive Officer (Housing) as a consequence of the offence, interfere with or lessen a right or remedy by civil process by the Chief Executive Officer (Housing) against a person charged with that offence.
- (5) In this section:

Chief Executive Officer (Housing) includes a person acting with the authority of the Chief Executive Officer (Housing), but does not include a public housing safety officer.

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

36A Failing to notify about change in income

- (1) This section applies to a person if:
- (a) the person gives the Chief Executive Officer (Housing) details (the **income details**) of the person's income in an application for the grant of a rebate of rental under this Act or under a housing scheme administered by the Chief Executive Officer (Housing) under this Act; and
 - (b) the application is granted.
- (2) The person commits an offence if:
- (a) the income details change during the period the person receives a rebate or participates in the housing scheme; and
 - (b) the person knows about the change; and
 - (c) the person does not tell the Chief Executive Officer (Housing), or a person acting with the authority of the Chief Executive Officer (Housing), about the change.

Maximum penalty: 100 penalty units.

36B Giving misleading information or document to public housing safety officer

- (1) A person commits an offence if:
- (a) the person gives information to another person; and
 - (b) the other person is a public housing safety officer; and
 - (c) the person knows the information is misleading; and
 - (d) the person knows the other person is exercising powers or performing functions under, or otherwise related to the administration of, this Act as a police officer or otherwise as a public housing safety officer.

Maximum penalty: 20 penalty units.

- (2) A person commits an offence if:
- (a) the person gives a document to another person; and
 - (b) the other person is a public housing safety officer; and
 - (c) the person knows the document contains misleading information; and

- (d) the person knows the other person is exercising powers or performing functions under, or otherwise related to the administration of, this Act as a police officer or otherwise as a public housing safety officer.

Maximum penalty: 20 penalty units.

- (3) Strict liability applies to subsections (1)(b) and (2)(b).
- (4) Subsection (2) does not apply if the person, when giving the document:
- (a) draws the misleading aspect of the document to the attention of a public housing safety officer; and
- (b) to the extent to which the person can reasonably do so – gives a public housing safety officer the information necessary to correct the document.

- (5) In this section:

misleading information means information that is misleading in a material particular or because of the omission of a material particular.

36C Obstructing public housing safety officer

- (1) A person commits an offence if the person:
- (a) obstructs a person exercising powers or performing functions under, or otherwise related to the administration of, this Act as a police officer or otherwise as a public housing safety officer; and
- (b) knows the person is a police officer, or otherwise is a public housing safety officer, exercising powers or performing functions under, or otherwise related to the administration of, this Act.

Maximum penalty: 50 penalty units or imprisonment for 3 months.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse.
- (3) In this section:

obstruct includes:

- (a) resist; and

- (b) hinder; and
- (c) incite or encourage another to obstruct.

36D Security cameras or surveillance devices

- (1) A person commits an offence if the person engages in conduct that results in damage to, or interference with, a security camera or a surveillance device on public housing premises.

Maximum penalty: 100 penalty units.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant establishes a reasonable excuse for engaging in the conduct.

36E Prosecutions

- (1) In proceedings for an offence against this Act, a certificate that appears to have been signed by the CEO certifying that a person named in the certificate was, on a particular day or for a particular period, a public housing safety officer is admissible as proof of the matter so certified.
- (2) A complaint under the *Justices Act* may be made in relation to an offence against section 36, 36A or 36B within 2 years after the date on which the offence is alleged to have occurred.

11 Section 37 amended

- (1) Section 37(1)

omit, insert

- (1) The Administrator may make regulations under this Act.

- (2) Section 37(2)

omit

Without limiting the generality of subsection (1), the

insert

The

- (3) Section 37(2)(a) to (ea), at the end

insert

and

- (4) Section 37(2)(f)
omit
all words from "the Commonwealth" to "housing scheme;"
insert
the Territory or the Commonwealth in the administration of a Territory or Commonwealth housing scheme; and
- (5) Section 37(2)(fa)
omit
- (6) Section 37(2)(g)
omit
shall be
insert
is
- (7) Section 37(2)(h)
omit
\$1,000
insert
8 penalty units

12 Part 12 inserted

After section 50

insert

Part 12 Transitional provisions for Housing and Other Legislation Amendment Act 2011

51 Existing acceptable behaviour agreement

- (1) An existing agreement continues in force according to its terms as if it had been made under section 28C.

- (2) If, before the commencement, the Chief Executive Officer (Housing) had given a person written notice as mentioned in section 18A as in force before the commencement and that notice had effect as stated in section 18A(6), the notice continues to have effect as if it had been given to the person under section 28C.
- (3) In this section:

commencement means the commencement of this section.

existing agreement means an acceptable behaviour agreement entered into under section 18A as in force before the commencement if the agreement had not ended before the commencement.

13 Act further amended

The Schedule has effect.

Part 3 Amendment of Residential Tenancies Act

14 Act amended

This Part amends the *Residential Tenancies Act*.

15 Section 99A amended

Section 99A(1)(a) and (b) and (2)(b)

omit

section 18A

insert

section 28C

Schedule Housing Act further amended

section 13

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part I, heading	whole heading	Part 1 Preliminary matters
Part II, heading	Part II	Part 2
Part 2, Division 1, heading	Chief Executive Officer (Housing)	Establishment and related matters
section 6(1)	by this Act a Commission	an entity
section 6(2)(a), at the end		and
section 6(2)(b)	shall have	has
section 6(3)	all words from "shall take" to "shall presume"	must take judicial notice of the seal of the Chief Executive (Housing) affixed to a document and must presume
section 11(1)	all words from "Where" to "Act," he shall he becomes (Housing) shall	If the CEO , the CEO must he or she becomes (Housing) must
section 11(2)	all words from "to him" to ", direct" all words from "which caused" to "disclosure"	, direct
section 14(1B) to (3)	whole subsection	
section 14(1A)	(1A) The	(2) The

section 15(a), at the end		and
section 15(b)	Commonwealth or Territory	Territory or Commonwealth
section 16(2)	may,	may do any of the following
section 16(2)(h)	Commonwealth or Territory <i>(all references)</i>	Territory or Commonwealth
section 16(2)(k) and (m)	approval in writing of the Minister	Minister's written approval
section 16(2)(m)	Commonwealth or Territory; and	Territory or Commonwealth;
section 16(2)(n)	Commonwealth's or the Territory's	Territory's or the Commonwealth's
section 16(3)	shall	must
section 16(3B)	shall remain	remains
section 16(4)	by instrument	
section 18(1)	upon, <i>(all references)</i> servants and workmen upon and upon that	on, employees and workers and on that
sections 18(2)	all words from "upon" to "shall" by him	under subsection (1) must
section 19(1)	shall	must
section 19(2)	servants and workmen	employees and workers
section 19(3)	all words from "shall be" to "(Housing) by"	are a debt due and payable to it by
section 20(1)	by him notice in writing	by the tenant written notice

section 20(2)	upon him notice in writing servants and workmen	on the tenant written notice employees and workers
section 20(3)	all words from "shall be" to "(Housing) by"	are a debt due and payable to it by
Part III, heading	whole heading	Division 3 Funding for Chief Executive Officer (Housing)
section 21(a), (b), (c) and (d)	the Chief Executive (Housing)	it
section 21(a) and (b), at the end		and
Part IV, heading	Part IV	Part 3
section 22	all words from "shall" to "Minister"	must not, except with the Minister's written consent
section 23(1)	notice in the <i>Gazette</i>	<i>Gazette</i> notice
Part V, heading	Part V	Part 4
section 24(1)	to the Chief Executive (Housing)	to it
section 24(2)	subsection (1)	this section
section 25(1)	Notwithstanding	Despite
section 25(2)	shall	must
section 25(2)(a) and (c)	the Chief Executive (Housing)	it
section 25(2)(a), at the end		and
section 26	the purposes of enable the person	enable the person to do one or more of the following
section 26(j)	and	

section 27	the purposes of	
section 28	Part VIII	Part 9
Part VII, heading	whole heading	Part 8 Miscellaneous matters
		Division 1 Annual report, liability and other matters
section 30(b)	person,	person;
section 32(1)	Notwithstanding	Despite
section 32(1)(a) and (b)	community government area	shire
section 32(1)(a)	land for the purposes	as mentioned in section 141
section 35(b)	amount,	amount;
section 35	shall (<i>all references</i>)	must
Part VIII, heading	Part VIII	Part 9
section 42(2)(a), at the end		and
Part IX, heading	Part IX	Part 10
Part X, heading	Part X	Part 11
