

NORTHERN TERRITORY OF AUSTRALIA
SUMMARY OFFENCES AMENDMENT BILL (NO. 2) 1995

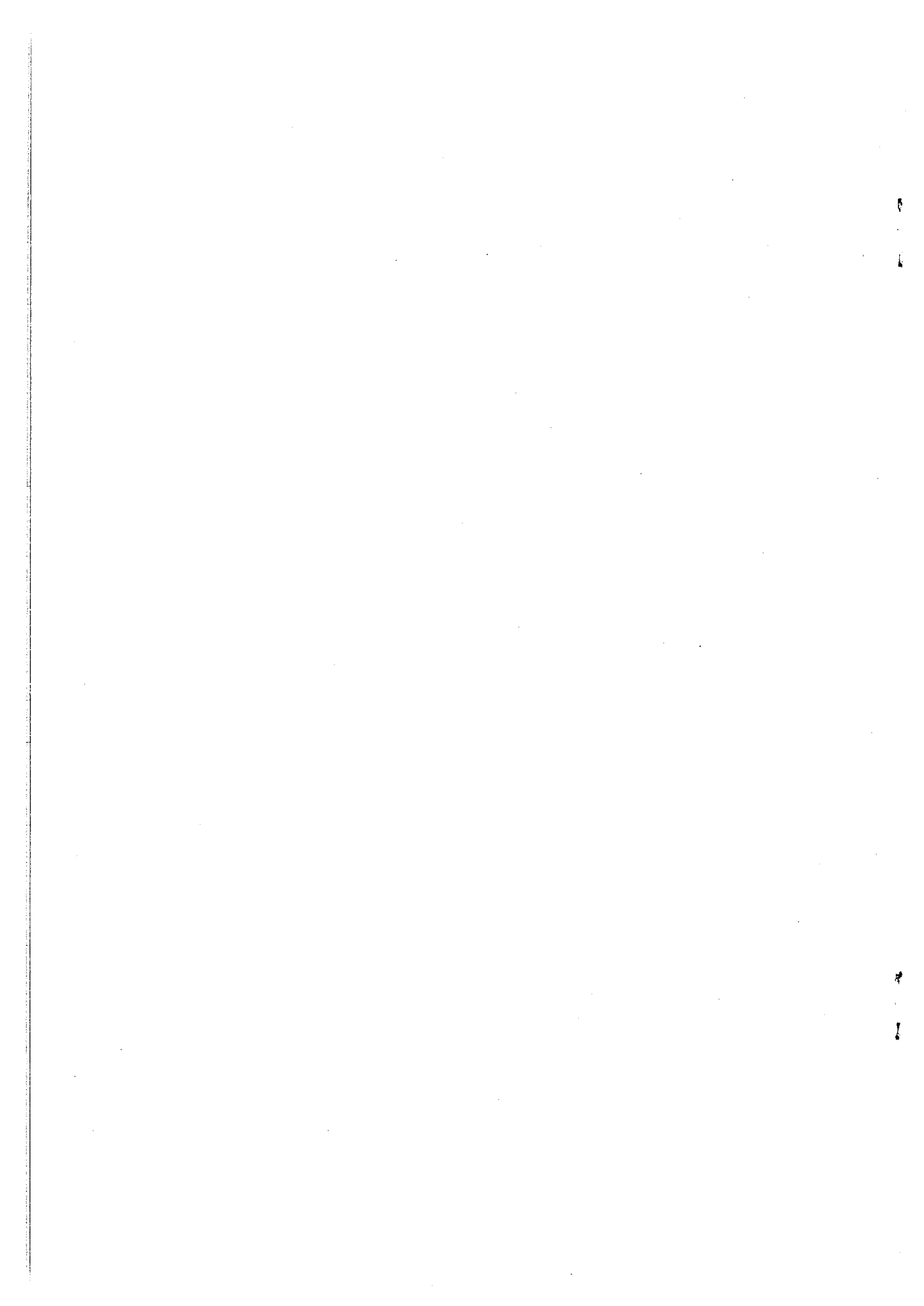
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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Summary Offences Act*

BE 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 (No. 2) 1995*.

2. Commencement

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

3. Principal Act

The *Summary Offences Act* is in this Act referred to as the Principal Act.

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4. Definitions

Section 45C of the Principal Act is amended -

- (a) by inserting after the definition of "Commission" the following:

"'Court' means the Court of Summary Jurisdiction;"; and

- (b) by inserting after the definition of "liquor" the following:

"'prescribed notice' means a notice prescribed for the purposes of section 45G(1);".

5. Drinking in a public place

Section 45D of the Principal Act is amended -

- (a) by omitting "A person shall not" and substituting "A person who";

- (b) by omitting "drink liquor" and substituting "drinks liquor";

- (c) by inserting after "unoccupied private land" the word "is";

- (d) by omitting from paragraph (b) "exempt area." and substituting "exempt area,";

- (e) by inserting after paragraph (b) the following:

"guilty of an offence and the penalty for the offence is the forfeiture of the liquor seized under section 45H at the time of the commission of the offence."; and

- (f) by omitting "Penalty: \$200.".

6. Repeal and substitution

Section 45G of the Principal Act is repealed and the following substituted:

"45G. Notices

"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 prescribed notice -

- (a) specifying -

- (i) the name of the alleged offender; and

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- (ii) the date, time and place of the alleged offence;
- (b) describing the circumstances causing the member to believe that an offence was being committed against section 45D;
- (c) describing the liquor seized under section 45H(1) in relation to the alleged commission of the offence and, where possible, the type and quantity of the liquor seized;
- (d) specifying the name and rank of the member serving the notice and the name of the police station to which the member is attached; and
- (e) explaining that a person who is named in the notice as an alleged offender may, if he so wishes, have the matter dealt with by the Court."

7. Powers of police officers

Section 45H of the Principal Act is amended -

- (a) by omitting from subsection (1) "; and having seized may empty,";
- (b) by omitting from subsection (2) "or empty any" and substituting "an"; and
- (c) by adding at the end the following:

"(3) Where a member has seized an open or unopened cask, flask, bottle, can or other container under subsection (1), he shall destroy the liquor, if any, contained in the container -

- (a) by immediately emptying the container; or
- (b) where the member has reason to believe that the immediate emptying of the container would incite a disturbance or disorderly behaviour, or further disturbance or disorderly behaviour, by causing the container to be emptied after the expiration of such a period of time which, in his opinion, avoids the risk of such a disturbance or disorderly behaviour.

"(4) For the purposes of this section, an opened or unopened cask, flask, bottle, can or other container which -

- (a) is in the immediate vicinity, or in the possession of any other person in the immediate vicinity, of the person the member

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believes to have committed an offence against section 45D;
and

- (b) the member has reason to believe is a source of liquor from which the person is likely to continue to drink on that or another place or land to which section 45D applies,

shall, whether or not owned by or in the possession or control of the person the member believes to have committed the offence, be taken to be in the possession of the person.

"(5) Where liquor is destroyed in pursuance of this section, any interest in the liquor is, by virtue of the destruction, converted into an interest in the money equivalent to the value of the liquor."

8. Repeal and substitution

Section 45HA of the Principal Act is repealed and the following substituted:

"45HA. Procedure where application made for matter to be dealt with by Court

"(1) Where a person named in a prescribed notice wishes the matter the subject of the notice to be dealt with by the Court, the person shall, not later than 28 days after the date of the offence alleged in the notice, apply to the Court.

"(2) An application under subsection (1) shall be in writing, signed by the person, and accompanied by a copy of the prescribed notice.

"(3) The clerk of the Court shall, on receiving an application under subsection (1), fix a time and date for the Court to deal with the matter and shall inform the person of that time and date and shall notify the member in charge of the police station referred to in the notice of the time and date.

"(4) For the purposes of the Court dealing with a matter the subject of a prescribed notice, the notice shall be deemed to be a complaint alleging the person named in the notice committed an offence against section 45D at the time and place and in the circumstance contained in the notice.

"(5) A date fixed under subsection (3) shall not be earlier than 14 days after the last day for the making of an application under subsection (1) in respect of the particular matter.

"(6) Where the Court, in respect of a number of applications under subsection (1), is satisfied from the particulars contained in the prescribed notices accompanying those applications that the alleged offences arise out

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of the same facts, the matters shall be tried together and, for that purpose, the Court may adjourn the hearing of those matters.

"(7) Where, on the hearing of a matter under this section, the Court finds the person who made the application guilty of the offence against section 45D referred to in the prescribed notice, all interests in the money equivalent to the value of the liquor are, on that finding, forfeited to the Territory.

"45HB. Procedure where no application made for Court to deal with matter

"(1) Where a prescribed notice is served on a person under section 45G, the member in charge of the police station referred to in the prescribed notice or a person authorised by that member, shall forward a copy of the notice to the Court.

"(2) The Court shall, in respect of a prescribed notice forwarded to it under subsection (1), on being satisfied that an application under section 45HA has not been made within the time permitted by that section, make an order that the person named in the prescribed notice committed the offence against section 45D on the date specified in the prescribed notice and, on the order being made, all interests in the money equivalent to the value of the liquor are forfeited to the Territory."

9. Averments

Section 45J of the Principal Act is amended by omitting "an averment of the prosecutor in a complaint or information" and substituting "an averment in the prescribed notice that is before the Court".

10. Compensation

To the extent, if any, that anything done in pursuance or purported pursuance of Part VIA of the Principal Act as amended by this Act amounts to an acquisition of property within the meaning of the *Northern Territory (Self Government) Act 1978* of the Commonwealth, the Territory is liable to pay compensation on just terms.

