

Serial 137
Information Amendment Bill (No. 2) 2015
Mr Elferink

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

NORTHERN TERRITORY OF AUSTRALIA

INFORMATION AMENDMENT ACT (NO. 2) 2015

Act No. [] of 2015

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2015

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

[Assented to [] 2015]
[Second reading [] 2015]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Information Amendment Act (No. 2) 2015*.

2 Commencement

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

Part 2 Amendment of Information Act

3 Act amended

This Part amends the *Information Act*.

4 Section 4 amended

- (1) Section 4, definition *personal information*
omit

- (2) Section 4
insert (in alphabetical order)
personal information, see section 4A.
proceeding, in relation to the Tribunal, see section 113.
Tribunal means the Civil and Administrative Tribunal.
- (3) Section 4, definition **complainant**, after "the complaint"
insert
and includes a person joined as a complainant under section 109A
- (4) Section 4, definition **person**, after "means"
insert
, subject to section 4B,
- (5) Section 4, definition **respondent**, after "complaint"
insert
and includes a person joined as a respondent under section 109A
- (6) Section 4, at the end
insert
Note for section 4
The Interpretation Act contains definitions and other provisions that may be relevant to this Act.

5 Sections 4A and 4B inserted

After section 4

insert

4A Personal information

- (1) Government information that discloses a person's identity or from which a person's identity is reasonably ascertainable is **personal information**.

(2) However, the government information is not **personal information** to the extent that:

- (a) the person's identity is disclosed only in the context of having acted in an official capacity for a public sector organisation; and
- (b) the government information discloses no other personal information about the person.

(3) In this section:

acted in an official capacity, in relation to a public sector organisation, means having exercised a power or performed a function as, or on behalf of, the organisation.

4B Application of offence provisions

(1) Section 4, definition **person** does not limit the application of the offence provisions to persons who are individuals.

(2) In this section:

offence provisions means the provisions of this Act that create or relate to offences (including in relation to criminal responsibility, defences and penalties).

6 Section 5 amended

Section 5(5)(b) before "a tribunal"

insert

except as expressly provided in Parts 7A and 8 –

7 Section 9A inserted

After section 9 in Part 1

insert

9A Application of Criminal Code

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

Note for section 9A

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.

8 Section 30 amended

- (1) Section 30(6) and (7)

omit

Part 7 (Complaints to Information Commissioner) applies

insert

Parts 7 and 7A apply

- (2) Section 30(7) and (8)

omit

(Complaints to Information Commissioner)

9 Section 39 amended

- (1) Section 39(1)(a) and (b)

omit, insert

(a) subject to subsection (2), review the decision the subject of the application and notify the applicant in writing of the outcome of the review; or

(b) send the application to the Commissioner under section 39A.

- (2) After section 39(2)

insert

(2A) If a decision is required to be reviewed under this Division as the result of a referral by the Commissioner under section 103(2):

(a) the reference in subsection (1) to 30 days after receiving an application in accordance with section 38 is taken to be a reference to 30 days after receiving the referral; and

(b) subsection (2) does not apply to the review.

- (3) Section 39(4)(a)

omit

(Accessing government information) or Division 3 (Correcting personal information),

insert

or 3,

10 Section 39A inserted

After section 39

insert

39A Application for review may be sent to Commissioner

- (1) Instead of reviewing a decision, a public sector organisation may send an application mentioned in section 39(1) to the Commissioner to be dealt with under section 103(4).
- (2) If the public sector organisation is required under section 103(2)(b) to conduct a further review of the decision, subsection (1) does not apply and the decision must be reviewed under section 39.

11 Section 82 amended

Section 82(3)(b)

omit

, Division 1 (Complaints procedure)

12 Section 84 replaced

Section 84

repeal, insert

84 Report about non-compliance

- (1) If the Commissioner is satisfied that a public sector organisation has failed to comply with a compliance notice, the Commissioner may report to the Minister on:
 - (a) the organisation's contravention mentioned in section 82(1); and
 - (b) the specified action that the compliance notice required the organisation to take; and
 - (c) the organisation's failure to take that action.

- (2) Before giving the report to the Minister, the Commissioner must:
 - (a) give the public sector organisation a reasonable opportunity to consider and comment on its content; and
 - (b) take into account those comments in finalising the report.
- (3) The Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after receiving it.
- (4) Section 101(3) does not apply to a public sector organisation's failure to comply with a compliance notice.

13 Section 87 amended

- (1) Section 87(2)(d), after "records"
insert
, or other things,
- (2) Section 87(2)(e), after "record"
insert
or other thing

14 Section 95 amended

- (1) Section 95(1) and (2)
omit, insert
 - (1) A member of the Legislative Assembly cannot be appointed as the Commissioner or to act as the Commissioner.
 - (2) Subject to subsection (3), the appointment of a person as the Commissioner or to act as the Commissioner ceases on the person becoming a member of the Legislative Assembly.
- (2) Section 95(3)
omit
complaint is determined
insert
person's functions in respect of the complaint are completed

15 Section 98 amended

Section 98(6)

omit

lay a copy of the report before

insert

table a copy of the report in

16 Section 101 replaced

Section 101

repeal, insert

101 Obstruction, improper influence and contravention of requirement or direction

- (1) A person commits an offence if:
- (a) the person intentionally obstructs another person; and
 - (b) the other person is the Commissioner; and
 - (c) the person knows the Commissioner is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (2) A person commits an offence if:
- (a) the person intentionally and improperly influences another person; and
 - (b) the other person is the Commissioner; and
 - (c) the person knows the Commissioner is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (3) A person commits an offence if:
- (a) the Commissioner makes a requirement of, or gives a direction to, the person under this Act; and

- (b) the person intentionally engages in conduct; and
- (c) the conduct results in the person failing to comply with the requirement or direction.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

- (4) Strict liability applies to subsections (1)(b), (2)(b) and (3)(a).
- (5) It is a defence to a prosecution for an offence against subsection (1), (2) or (3) if the person has a reasonable excuse.
- (6) In this section:

acting in an official capacity, in relation to the Commissioner, means the Commissioner is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

obstruct includes hinder and resist.

17 Section 102 amended

Section 102(b)

omit

, Division 1 (Complaints procedure)

18 Part 7, Division 1 heading omitted

Part 7, Division 1 heading

omit

19 Section 103 replaced

Section 103

repeal, insert

103 Complaint after review by public sector organisation

- (1) A person aggrieved by a decision of a public sector organisation on an application for review by the organisation under Part 3, Division 4 (including a decision made on a further review mentioned in subsection (2)(b)) may make a complaint to the Commissioner about the decision.

- (2) If the Commissioner considers it appropriate to do so, the Commissioner may:
 - (a) refer the complaint back to the public sector organisation that made the decision; and
 - (b) require the organisation to conduct a further review of the decision under Part 3, Division 4.
- (3) Subsection (2) does not apply to a complaint about a decision made on a further review mentioned in subsection (2)(b).
- (4) If an application for a review of a decision of a public sector organisation is sent to the Commissioner by the organisation under section 39A(1), the Commissioner must deal with the application as a complaint about the decision under subsection (1).
- (5) Subsections (2) and (3) apply to an application that is dealt with under subsection (4) as a complaint as if the references in subsection (2)(b) and (3) to a further review were references to a review.

20 Section 104A inserted

After section 104

insert

104A Complaints may be dealt with jointly

The Commissioner may deal with 2 or more complaints jointly if:

- (a) the complaints concern the same or related facts or circumstances; or
- (b) the Commissioner is satisfied it is otherwise appropriate for the complaints to be dealt with jointly.

21 Section 106 amended

- (1) Section 106, heading

omit

or reject

insert

, reject or refer

- (2) Section 106(1)(a)
omit, insert
- (a) decide whether to accept or reject the complaint or to refer the complaint under section 103(2); and
- (3) Section 106(2)
omit
or reject
insert
, reject or refer

22 Section 107 amended

- (1) Section 107, heading
omit
or rejection
insert
, rejection or referral
- (2) Section 107(1)(a)
omit
or reject
insert
, reject or refer

23 Section 109A inserted

After section 109

insert

109A Commissioner may join person as party

The Commissioner may, by written notice served on a person, join the person as a party to a complaint.

24 Section 110 amended

- (1) After section 110(2)
- insert*
- (2A) If the matter complained of is a decision of a public sector organisation relevant to providing access to information about a third party, the Commissioner may require the public sector organisation:
- (a) to seek the views of the third party in relation to the disclosure of the information; and
 - (b) if the third party's views are obtained – to inform the Commissioner of those views.
- (2B) Subsection (2C) applies if:
- (a) the complaint is made by a third party under section 30(6) or section 103 in relation to a public sector organisation's decision to provide access to information about the third party (the ***third party information***); and
 - (b) during the investigation, the Commissioner is satisfied the applicant no longer wishes to be provided with access to the third party information; and
 - (c) the public sector organisation consents to the Commissioner acting under subsection (2C).
- (2C) If this subsection applies, the Commissioner may, instead of completing the investigation, determine the complaint by deciding that the applicant must not be provided with access to the third party information.
- (2D) The Commissioner may dismiss the complaint if, during the investigation or mediation of the matter complained of, the Commissioner is satisfied for any reason, including the complainant not complying with a direction or requirement of the Commissioner, that the complainant no longer wishes to pursue the complaint.
- (2E) At any time after accepting a complaint, the Commissioner may refer the matter to mediation under section 111.
- (2F) If the matter is resolved by mediation or other agreement before the investigation is completed, the Commissioner must discontinue the investigation.

(2) Section 110(4)

omit, insert

- (4) If there is sufficient evidence and the matter has not been referred under subsection (2E) to mediation, the Commissioner must refer the matter to mediation under section 111.

(3) Section 110(6)

omit, insert

- (6) The Commissioner must notify the relevant parties in writing of how the Commissioner has dealt with the complaint under this section.

25 Section 110A inserted

After section 110

insert

110A Powers to compel evidence

For an investigation under section 110, the Commissioner may, in writing, require a person to do one or more of the following:

- (a) to attend before the Commissioner and produce a record or other thing in the person's possession or control;
- (b) to give evidence on oath;
- (c) to answer a question;
- (d) without attending before the Commissioner, to give the Commissioner a record or other thing in the person's possession or control.

26 Section 111 amended

(1) Section 111, heading

omit

hearing

insert

Tribunal proceeding

(2) Section 111(1)

omit

Commissioner must not hold a hearing in relation to a complaint

insert

Tribunal must not conduct a proceeding in relation to a complaint referred to the Tribunal under section 112A(4)

(3) After section 111(1)

insert

- (1A) Subsection (1) does not apply to a complaint that is the subject of an application under section 112A(1)(b).

27 Section 112 amended

Section 112(2)

omit (second reference)

Commissioner

insert

Tribunal

28 Sections 112A to 112D inserted

After section 112

insert

112A Referral of complaints to Tribunal

- (1) The complainant may apply to the Commissioner to refer a complaint to the Tribunal if:
- (a) the Commissioner decides under section 110(3) there is sufficient prima facie evidence to substantiate the matter complained of and that matter is not resolved by mediation or other agreement; or
 - (b) the Commissioner dismisses the complaint under section 110(5).

- (2) The respondent may apply to the Commissioner to refer a complaint to the Tribunal if the Commissioner decides under section 110(3) there is sufficient prima facie evidence to substantiate the matter complained of and that matter is not resolved by mediation or other agreement.
- (3) For subsections (1)(a) and (2), the application must be made within 28 days after the applicant has been given both of the following:
 - (a) notification under section 110(6) of the Commissioner's decision under section 110(3) that there is sufficient prima facie evidence to substantiate the matter complained of;
 - (b) a mediator's certificate under section 111(4) in relation to the matter complained of.
- (4) For subsection (1)(b), the application must be made within 28 days after the complainant has been given notification under section 110(6) of the Commissioner's decision to dismiss the complaint.
- (5) If the Commissioner receives an application under this section, the Commissioner must:
 - (a) refer the complaint to the Tribunal; and
 - (b) inform the Tribunal whether or not there has been an attempt to resolve the matter complained of by mediation.

112B Commissioner to prepare report if complaint is referred to Tribunal

- (1) Within 60 days after referring a complaint to the Tribunal under section 112A(5), the Commissioner must:
 - (a) prepare a written report in relation to the complaint and the investigation under section 110 of the matter complained of; and
 - (b) provide a copy of the report, and any document or other material the Commissioner believes on reasonable grounds will be relevant to the proceeding, to the Tribunal, the complainant and the respondent.
- (2) The Commissioner may modify a copy of the report or material provided to the complainant or respondent under subsection (1) to omit any information if the Commissioner is satisfied:
 - (a) the information is not sought by the complainant or is otherwise not relevant to the complaint; or

- (b) the disclosure of the information:
 - (i) is a matter to be determined by the Tribunal in the proceeding; or
 - (ii) is otherwise not permitted under this Act.
- (3) This section does not prevent the Tribunal from taking any other evidence in relation to the proceeding.
- (4) This section does not apply if a report in relation to the complaint has previously been prepared and provided to the Tribunal, unless a further report would provide additional information to the Tribunal.

112C Effect of complaints on acts and decisions

- (1) The making of a complaint under section 103 does not affect the operation of the decision complained of unless the Commissioner or Tribunal orders otherwise.
- (2) The making of a complaint under section 104 does not prevent the respondent from repeating or continuing the act complained of, or similar acts, unless the Commissioner or Tribunal orders otherwise.

112D Role of Ombudsman or Health Complaints Commissioner

The Ombudsman or the Health Complaints Commissioner is not entitled to investigate a matter that could be the subject of a complaint under section 103 or 104 unless the Commissioner:

- (a) refers the complaint to the Ombudsman or the Health Complaints Commissioner under section 108; or
- (b) otherwise agrees that the Ombudsman or the Health Complaints Commissioner may investigate the matter.

29 Section 113 replaced

Section 113

*repeal, insert***Part 7A Tribunal****Division 1 Definitions****113 Definitions**

In this Part:

proceeding means the hearing of a matter by the Tribunal in the jurisdiction conferred by section 113A(1).

referred to the Tribunal means referred to the Tribunal under section 112A(4).

Division 2 Jurisdiction of Tribunal to deal with complaints**113A Jurisdiction**

- (1) The Tribunal has the jurisdiction specified in this Part in relation to a complaint referred to the Tribunal.
- (2) To avoid doubt, the jurisdiction conferred by subsection (1) forms part of the Tribunal's review jurisdiction mentioned in section 33 of the *Northern Territory Civil and Administrative Tribunal Act*.

113B Tribunal must conduct proceeding

The Tribunal must conduct a proceeding in relation to a complaint referred to the Tribunal.

113C Tribunal may require public sector organisation to seek views of third party before conducting proceeding

If a complaint referred to the Tribunal relates to a decision of a public sector organisation relevant to providing access to information about a third party, before conducting a proceeding the Tribunal may require the public sector organisation:

- (a) to seek the views of the third party in relation to the disclosure of the information; and
- (b) if the third party's views are obtained – to inform the Tribunal of those views.

113D Proceeding in relation to dismissed complaint

- (1) This section applies if the Commissioner decides to dismiss a complaint under section 110(5) on the grounds that there was insufficient prima facie evidence to substantiate the matter complained of.
- (2) If the Tribunal confirms the Commissioner's decision, the Tribunal may make the orders the Tribunal considers necessary or incidental to give effect to the Tribunal's decision.
- (3) If the Tribunal decides there was sufficient prima facie evidence to substantiate the matter complained of, the Tribunal may:
 - (a) refer the complaint to the Commissioner for mediation under section 111, whether or not there was an attempt to resolve the matter complained of by mediation before the complaint was dismissed by the Commissioner under section 110(5); or
 - (b) conduct a proceeding in relation to the matter complained of.
- (4) Sections 114 and 115 apply to a proceeding mentioned in subsection (3)(b).
- (5) If a complaint is referred to the Commissioner under subsection (3)(a) and the matter complained of is not resolved by mediation or other agreement, the complainant or respondent may apply to the Commissioner under section 112A to refer the complaint to the Tribunal.
- (6) For section 112A as applied by subsection (5):
 - (a) the Commissioner is taken to have decided under section 110(3) that there is sufficient prima facie evidence to substantiate the matter complained of; and
 - (b) section 112A(3)(a) does not apply.

30 Section 114 amended

- (1) Section 114(1)

omit

hearing in relation to a complaint under section 103, the Commissioner

insert

proceeding in relation to a complaint under section 103 that is referred to the Tribunal, the Tribunal

- (2) Section 114(1)(b)

omit

(Accessing government information) or Part 3, Division 3
(Correcting personal information)

insert

or 3

- (3) Section 114(2)

omit (all references)

Commissioner

insert

Tribunal

31 Section 115 amended

- (1) Section 115(1)

omit

hearing in relation to a complaint under section 104, the
Commissioner

insert

proceeding in relation to a complaint under section 104 that is referred to the Tribunal, the Tribunal

- (2) Section 115(2) to (5)

omit (all references)

Commissioner

insert

Tribunal

32 Section 116 amended

(1) Section 116(1)

omit

Commissioner

insert

Tribunal

(2) Section 116(1)(c)

omit

hearing of a complaint;

insert

proceeding in relation to the complaint; and

(3) After section 116(1)(c)

insert

(ca) if the Commissioner is not a party to the proceeding, the Commissioner;

(4) Section 116(1)(d) and (e), after "section"

insert

113D,

(5) Section 116(2)

omit

Commissioner makes

insert

Tribunal makes

33 Section 117 repealed

Section 117

repeal

34 Section 118 amended

- (1) Section 118, heading

omit, insert

118 Tribunal may dismiss complaint

- (2) Section 118(1) and (2)

omit, insert

- (1) The Tribunal may dismiss a complaint if the Tribunal is satisfied for any reason, including the complainant not complying with a direction or requirement of the Tribunal, that the complainant no longer wishes to pursue the complaint.
- (2) If the Tribunal dismisses a complaint, the Tribunal must notify the Commissioner, the complainant and the respondent as soon as practicable, in writing, that the complaint has been dismissed.

- (3) Section 118(3)

omit

discontinued

insert

dismissed

35 Sections 119 and 120 replaced

Sections 119 and 120

repeal, insert

Division 3 Procedures**119 Parties**

- (1) The parties to a proceeding are:
- (a) the complainant; and
 - (b) the respondent; and
 - (c) if the proceeding relates to a complaint dismissed by the Commissioner under section 110(5) – the Commissioner; and
 - (d) any other person who is joined as a party by the Tribunal.

- (2) The Commissioner is not a party to a proceeding referred to in subsection (1)(c) if:
- (a) the Commissioner informs the Tribunal, in writing, that the Commissioner does not wish to be a party; and
 - (b) the Commissioner is not joined as a party by the Tribunal under subsection (1)(d).

36 Part 7, Division 2 heading omitted

Part 7, Division 2 heading

omit

37 Sections 121 and 122 repealed

Sections 121 and 122

repeal

38 Section 123 amended

- (1) Section 123, heading

omit, insert

123 Matters relating to proceeding

- (2) Section 123(1)

omit, insert

- (1) Despite section 60 of the *Northern Territory Civil and Administrative Tribunal Act*, a proceeding is closed to the public unless the Tribunal orders otherwise.

- (3) Section 123(2) and (3)(a) and (b)

omit (all references)

hearing

insert

proceeding

(4) Section 123(2)(d), after "Commissioner's"

insert

or Tribunal's

(5) Section 123(2)(f) and (3)

omit (all references)

Commissioner

insert

Tribunal

(6) Section 123(4)

omit

39 Section 124 repealed

Section 124

repeal

40 Section 125 amended

(1) Section 125

omit

complained of at a hearing

insert

the subject of a proceeding

(2) Section 125(a)

omit

(Exemptions in the public interest)

41 Sections 126 to 128 repealed

Sections 126 to 128

repeal

42 Part 8 heading amended

Part 8, heading, after "**Commissioner**"

insert

or Tribunal

43 Section 129 amended

(1) Section 129(1)

omit, insert

(1) A person aggrieved by an appealable decision may appeal to the Supreme Court on a question of law only.

(1A) An appeal must be made within 60 days after the appealable decision is made.

(2) Section 129(2)(b) after "Commissioner"

insert

or Tribunal, as the case requires

(3) Section 129(2)(c) after "Commissioner"

insert

or Tribunal, as the case requires,

(4) After section 129(2)

insert

(3) Section 141 of the *Northern Territory Civil and Administrative Tribunal Act* does not apply to a decision of the Tribunal that is an appealable decision.

(4) In this section:

appealable decision means:

(a) a decision of the Commissioner under this Act; or

(b) a decision of the Tribunal in the jurisdiction conferred by section 113A(1).

44 Section 145 amended

(1) Section 145(1)

omit, insert

(1) A person commits an offence if:

- (a) the person intentionally deletes or otherwise disposes of a record; or
- (b) the person intentionally transfers or offers to transfer the possession or control of a record; or
- (c) the person is knowingly a party to an arrangement to transfer the possession or control of a record; or
- (d) the person intentionally takes or sends a record out of the Territory; or
- (e) the person intentionally damages or alters a record; or
- (f) the person:
 - (i) intentionally treats a record in a way that is likely to result in the record being damaged; and
 - (ii) is reckless as to the record being damaged.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) Section 145(3)

omit

the defendant proves that

45 Section 146 replaced

Section 146

repeal, insert

146 Misleading information

(1) A person commits an offence if:

- (a) the person intentionally gives information to another person or to a body; and

- (b) the other person or the body is the Commissioner or a public sector organisation; and
- (c) the person knows the information is misleading; and
- (d) the person knows the Commissioner or organisation is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(2) A person commits an offence if:

- (a) the person intentionally gives a record to another person or to a body; and
- (b) the other person or the body is the Commissioner or a public sector organisation; and
- (c) the person knows the record contains misleading information; and
- (d) the person knows the Commissioner or organisation is acting in an official capacity.

Maximum penalty: 200 penalty units or imprisonment for 12 months.

(3) Strict liability applies to subsections (1)(b) and (2)(b).

(4) Subsection (2) does not apply if the person, when giving the record:

- (a) draws the misleading aspect of the record to the attention of the Commissioner or public sector organisation; and
- (b) to the extent to which the person can reasonably do so – gives the Commissioner or organisation the information necessary to remedy the misleading aspect of the record.

(5) A person commits an offence if:

- (a) the person makes a statement with the intention of gaining access under this Act to:
 - (i) another person's personal information; or
 - (ii) information about another person's business, professional, commercial or financial affairs; and

- (b) the person knows the statement contains misleading information.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (6) In this section:

acting in an official capacity means:

- (a) in relation to the Commissioner – the Commissioner is exercising powers or performing functions under, or otherwise related to the administration of, this Act; and
- (b) in relation to a public sector organisation given information or a record – the organisation is given the information or record in connection with the administration of this Act.

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

46 Section 147 amended

- (1) Section 147(1)

omit, insert

- (1) A person commits an offence if:

- (a) the person intentionally conceals, or destroys or otherwise disposes of, information; and
- (b) the information is government information; and
- (c) the person is reckless that concealing, or destroying or otherwise disposing of, the information prevents a public sector organisation from providing access to or correcting the information.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- (1A) Strict liability applies to subsection (1)(b).

- (2) Section 147(2)

omit

(Accessing government information)

47 Section 148 replaced

Section 148

repeal, insert

148 Confidentiality of information

- (1) A person commits an offence if the person:
- (a) obtains information in the course of performing functions connected with the administration of this Act; and
 - (b) intentionally engages in conduct; and
 - (c) the conduct results in the disclosure or use of the information or a record being made of the information.

Maximum penalty: 400 penalty units or imprisonment for 2 years.

- (2) Strict liability applies to subsection (1)(a).
- (3) Subsection (1) does not apply if:
- (a) the person discloses, uses or makes a record of the information:
 - (i) for the administration of this Act; or
 - (ii) with the consent of the person to whom the information relates; or
 - (iii) for legal proceedings arising out of the operation of this Act; or
 - (b) the information is otherwise available to the public.

Note for subsection (3)

In addition to the circumstances mentioned in section 148(3), a person who discloses confidential information or uses, or makes a record of, confidential information will not be criminally responsible for an offence if disclosing, using, or making a record of, the information is justified or excused by or under a law (see section 43BE of the Criminal Code).

48 Section 151 replaced

Section 151

repeal, insert

151 Protection from liability

(1) A person is not civilly or criminally liable for an act done or omitted to be done by the person in good faith:

(a) in the exercise of a power or performance of a function under this Act; or

(b) in compliance with a requirement under this Act.

(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:

compliance, with a requirement, includes the purported compliance with the requirement.

exercise, of a power, includes the purported exercise of the power.

performance, of a function, includes the purported performance of the function.

49 Part 13 inserted

After section 161

insert

Part 13 Transitional matters for Information Amendment Act (No. 2) 2015**162 Definition**

In this Part:

commencement means the commencement of the *Information Amendment Act (No. 2) 2015*.

163 Complaints made before commencement

This Act, as in force before the commencement, continues to apply in relation to a complaint that was made before the commencement.

164 Offence provisions – before and after commencement

- (1) The offence provisions, as amended by the *Information Amendment Act (No. 2) 2015*, apply only in relation to offences committed after the commencement.
- (2) The offence provisions, as in force before the commencement, continue to apply in relation to offences committed before the commencement.
- (3) For this section, if any of the conduct constituting an offence occurred before the commencement, the offence is taken to have been committed before the commencement.
- (4) In this section:

offence provisions means the provisions of this Act that create or relate to offences (including in relation to criminal responsibility, defences and penalties).

Part 3 Consequential amendment of Alcohol Mandatory Treatment Act**50 Act amended**

This Part amends the *Alcohol Mandatory Treatment Act*.

51 Section 140 amended

Section 140(5), definition **information**

omit, insert

information includes personal information, as defined in section 4A of the *Information Act*, and **sensitive information**, as defined in section 4 of that Act.

Part 4 Expiry**52 Expiry of Act**

This Act expires on the day after it commences.