

Serial 98
Police Administration Amendment Bill 2014
Mr Giles

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

NORTHERN TERRITORY OF AUSTRALIA

POLICE ADMINISTRATION AMENDMENT ACT 2014

Act No. [] of 2014

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2014

An Act to amend the *Police Administration Act*, and for related purposes

[Assented to [] 2014]
[Second reading [] 2014]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Police Administration Amendment Act 2014*.

2 Commencement

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

Part 2 Amendment of Police Administration Act

3 Act amended

This Part amends the *Police Administration Act*.

4 Section 4 amended

Section 4(1)

insert (in alphabetical order)

infringement notice offence, for Part VII, Division 4AA, see section 133AA.

5 Section 76 amended

(1) Section 76(d)

omit

all words from "(including" to "84D(c);"

insert

, including general orders and instructions issued under section 14A(1) and directions, instructions or orders given in relation to a breach of discipline or an alleged breach of discipline; or

(2) After section 76(d)

insert

(da) gives misleading information to the Commissioner or a member or person having authority over the member in relation to a breach of discipline or an alleged breach of discipline; or

(db) fails to be of good behaviour for a period fixed under section 84D(c); or

(3) Section 76(a) to (c), (e) and (f)(ii), at the end

insert

or

(4) Section 76(h), after "(d),"

insert

(da), (db),

6 Section 79A inserted

Before section 79 in Part IV, Division 3

insert

79A Member to answer questions or give information in relation to breach of discipline

- (1) This section applies to a member who is required by the Commissioner or a prescribed member to answer questions or provide information in relation to an alleged or suspected breach of discipline by a member, whether or not an investigation has been initiated under section 81(3).
- (2) The member is not excused from answering a question or providing information when required to do so in relation to the breach of discipline or alleged breach of discipline on the ground that the answer to the question or the information may:
 - (a) incriminate the member; or
 - (b) make the member liable to a penalty.
- (3) However, the answer to the question or the information is not admissible as evidence against the member:
 - (a) in any other proceedings against the member under this Act; or
 - (b) in civil or criminal proceedings in a court.
- (4) Subsection (3) does not apply in relation to proceedings for the following matters:
 - (a) perjury;
 - (b) employment;
 - (c) a claim in tort against the Territory made by a member.

Note for section 79A

Failure to comply with this section may constitute a breach of discipline under section 76(d) or (da).

7 Part VII, Division 4AA inserted

After section 133

insert

Division 4AA Taking person into custody for infringement notice offence**133AA Definition**

In this Division:

infringement notice offence means an offence under another Act for which an infringement notice may be served and which is prescribed for this Division by regulation.

133AB Taking person into custody for infringement notice offence

- (1) This section applies if:
 - (a) a member of the Police Force has arrested a person without a warrant under section 123; and
 - (b) the person was arrested because the member believed on reasonable grounds that the person had committed, was committing or was about to commit, an offence that is an infringement notice offence.
- (2) The member may take the person into custody and:
 - (a) hold the person for a period up to 4 hours; or
 - (b) if the person is intoxicated – hold the person for a period longer than 4 hours until the member believes on reasonable grounds that the person is no longer intoxicated.
- (3) The member, or any other member, on the expiry of the period mentioned in subsection (2), may:
 - (a) release the person unconditionally; or
 - (b) release the person and issue the person with an infringement notice in relation to the infringement notice offence; or
 - (c) release the person on bail; or
 - (d) under section 137, bring the person before a justice or court for the infringement notice offence or another offence allegedly committed by the person.

- (4) For deciding how to deal with the person under subsection (3), the member, or another member, may question the person about the infringement notice offence, or any other offence in relation to which the person is of interest to police.

133AC When person taken into custody

- (1) A member of the Police Force who takes a person into custody under section 133AB, or another member, must establish the person's identity by taking and recording the person's name and further information relevant to the person's identification, including photographs, fingerprints and other biometric identifiers.
- (2) A member who takes a person into custody under section 133AB may:
- (a) search or cause the person to be searched; and
 - (b) remove, or cause to be removed, from the person for safekeeping:
 - (i) any money or valuables; and
 - (ii) any item that is likely to cause harm to the person or another person; and
 - (iii) any item that could be used by the person or another person to cause harm to the person or another person.
- (3) Any item removed from a person under subsection (2)(b):
- (a) must be recorded in a register kept for that purpose; and
 - (b) must be returned to the person on the person being released from custody.
- (4) Subsection (3)(b) does not apply if possession of the item by the person would be unlawful.
- (5) The person must acknowledge receipt of any items returned under subsection (3)(b) by signing or making a mark in the register.
- (6) For subsection (2)(a), a search of a female may only be carried out:
- (a) by a female member of the Police Force; or
 - (b) if a female member of the Police Force is not available, a female authorised by a member to carry out the search.

- (7) A member, or a person authorised under subsection (6)(b), may use the force that is reasonably necessary to exercise a power under this section.
- (8) A person authorised under subsection (6)(b) to carry out a search of a female has, for that search, the same powers and protections as a member.

8 Part X, Division 1 heading amended

Part X, Division 1 heading

omit

Transitional matters for

9 Part X, Division 2 heading amended

Part X, Division 2 heading

omit

Transitional matters for

10 Part X, Division 3 heading amended

Part X, Division 3 heading

omit

Transitional matters for

11 Part X, Division 4 inserted

After section 170

insert

Division 4 Police Administration Amendment Act 2014**171 Application of section 79A to breach of discipline**

Section 79A, as inserted by the *Police Administration Amendment Act 2014* (the **amending Act**), applies to an alleged breach of discipline as mentioned in section 76, whether or not the breach is alleged to have been committed prior to the commencement of the amending Act.

Part 3 Amendment of Police Administration Regulations

12 Regulations amended

This Part amends the *Police Administration Regulations*.

13 Part 4AA inserted

After regulation 19

insert

Part 4AA Police powers

19A Infringement notice offence

For section 133AA of the Act, each of the following is prescribed as an infringement notice offence:

- (a) an offence for which an infringement notice may be served under regulation 3 of the *Summary Offences Regulations*;
- (b) a police infringement offence as defined in regulation 7(1) of the *Liquor Regulations*;
- (c) an offence as defined in section 20A of the *Misuse of Drugs Act*.

Part 4 Expiry of Act

14 Expiry of Act

This Act expires on the day after it commences.