

Serial 49
Associations and Liquor Amendment Bill 2022
Ms Fyles

A Bill for an Act to amend the *Associations Act 2003* and the *Liquor Act 2019*

NORTHERN TERRITORY OF AUSTRALIA

ASSOCIATIONS AND LIQUOR AMENDMENT ACT 2022

Act No. [] of 2022

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2022

An Act to amend the *Associations Act 2003* and the *Liquor Act 2019*

[Assented to [] 2022]
[Introduced [] 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Associations and Liquor Amendment Act 2022*.

2 Commencement

This Act commences on 16 July 2022.

Part 2 Amendment of Associations Act 2003

3 Act amended

This Part amends the *Associations Act 2003*.

4 Section 110 replaced

Section 110

repeal, insert

110 Disposing, charging or dealing with prescribed property

- (1) An incorporated association must not dispose of, charge or otherwise deal with any prescribed property contrary to this section.
- (2) An Aboriginal or Torres Strait Islander corporation must not dispose of, charge or otherwise deal with prescribed property that is community land contrary to this section.
- (3) Subject to subsections (13) and (14) and section 77, any disposal, charge or dealing of the prescribed property contrary to this section is void.
- (4) The disposal, charge or other dealing of the prescribed property requires the consent of the Minister and must be conducted in accordance with any conditions the Minister imposes on that consent.
- (5) The Minister may consent to the disposal, charge or dealing of the prescribed property in accordance with this section.
- (6) Despite subsections (4) and (8), the following transactions do not require consent of the Minister under this section:
 - (a) a disposal of prescribed property to the Territory;
 - (b) a charge on prescribed property as security for a loan or other benefit by the Territory;
 - (c) a lease or sublease of prescribed property for a term of 12 months or less;
 - (d) a disposal of, charge on or other dealing with a lease referred to in:
 - (i) section 6 of the *Special Purposes Leases Act 1953*; or
 - (ii) section 46 of the *Crown Lands Act 1992*.

Note for subsection (6)(d)

These transactions already require the consent of the Minister responsible for those Acts.

- (7) A copy of any consent given by a Minister under section 6 of the *Special Purposes Leases Act 1953* or section 46 of the *Crown Lands Act 1992* must be given by the Agency responsible for that Act to the Commissioner as soon as practicable.
- (8) The Minister must not consent to the disposal, charge or dealing of prescribed property that is community land, unless it is for one of the following purposes:
- (a) to register an easement or easement in gross under the *Land Title Act 2000*;
 - (b) to give effect to a recommendation under section 114 of the *Pastoral Land Act 1992* in relation to an abandoned Aboriginal community living area;
 - (c) to transfer an estate in fee simple in the land to an incorporated association, an incorporated trading association or an Aboriginal or Torres Strait Islander corporation, formed for objects similar to the objects of, and having substantially the same members as, the association or corporation from which the estate is to be transferred;
 - (d) to grant a lease of or licence to part of the land to enable the provision of health, education or housing services or the offering of financial services by an ADI to a class of persons that includes the members of the incorporated association or Aboriginal or Torres Strait Islander corporation seeking to grant the lease or licence;
 - (e) to grant a lease of or licence to part of the land for any use or development allowed for the land under the *Planning Act 1999*.
- (9) Despite subsections (4) and (8), the consent of the Minister is not required for a lease or licence referred to in subsection (8)(d) or (e) with a term of 10 years or less.
- (10) If the prescribed property to be disposed of, charged or otherwise dealt with was acquired wholly or partly from or using funds obtained under a grant from the Commonwealth, the Minister must not give consent under this section unless the Minister:
- (a) gives the Commonwealth reasonable notice of the Minister's intention to give consent with an invitation to submit comments within a specified period; and
 - (b) considers any submissions made by the Commonwealth within the specified period.

- (11) Unless otherwise provided by the Minister in a consent, the following are taken to be prescribed property:
- (a) any property exchanged for the prescribed property disposed, charged or otherwise dealt with;
 - (b) any funds realised on the disposal of prescribed property;
 - (c) any property acquired wholly or partly from funds referred to in paragraph (b).
- (12) An incorporated association must keep and maintain a register of its prescribed property in accordance with the Regulations.
- Maximum penalty: 100 penalty units.
- (13) The Minister may consent to a purported disposal, charge or dealing of prescribed property after it occurs if the Minister is of the opinion that refusing consent would, in the circumstances, be unjust to all parties to the purported disposal, charge or dealing.
- (14) Any disposal, charge or dealing consented to by the Minister under subsection (13) is taken to be valid and effective on and from the day on which the purported disposal, charge or dealing occurred.
- (15) To avoid doubt, any disposal, charge or dealing of prescribed property validly made in accordance with this section as in force before 16 July 2022 remains valid.
- (16) In this section:

Aboriginal or Torres Strait Islander corporation, see section 16-5 of the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth).

community land means land granted for an Aboriginal community living area under:

- (a) Part IV of the *Crown Lands Act 1931* before the commencement of the *Pastoral Land Act 1992*; or
- (b) Part 8 of the *Pastoral Land Act 1992*.

Part 3 Amendment of Liquor Act 2019

5 Act amended

This Part amends the *Liquor Act 2019*.

6 Part 8, Division 1 replaced

Part 8, Division 1

repeal, insert

Division 1 Interim alcohol protected areas**170 Definitions**

In this Division:

alcohol protected area means an alcohol protected area under the *Stronger Futures in the Northern Territory Act 2012* (Cth) as in force immediately before 16 July 2022.

interim alcohol protected area means an area declared by the Director under section 170A(5).

registered owner, see section 4 of the *Land Title Act 2000*.

170A Prohibition of liquor in former alcohol protected areas

- (1) Any person may request the Director to prohibit the sale and consumption of liquor in an area that was an alcohol protected area if the sale and consumption are not otherwise prohibited in the area under this Act.
- (2) The request must be made before 31 January 2023 in substantially the same form as an application under section 174.
- (3) The request will not be considered unless it is supported by the written consent of the registered owner of any land in the area that is subject to the request.
- (4) The Director must consider the request and the supporting consent on an urgent basis and make a decision whether to make a declaration under subsection (5) no later than 5 business days after the request is received.
- (5) The Director may, by *Gazette* notice, declare an area that was an alcohol protected area to be an interim alcohol protected area in which liquor is prohibited.
- (6) The declaration must specify the following:
 - (a) the boundaries of the interim alcohol protected area;
 - (b) the prohibitions in the interim alcohol protected area;

- (c) when the declaration expires;
 - (d) any other matters the Director considers appropriate.
- (7) The Director's decision on the request is not reviewable by NTCAT.
- (8) Within 28 days after the date of publication of the *Gazette* notice referred to in subsection (5), the Director must publish the following in a way determined by the Director:
 - (a) the boundaries of the interim alcohol protected area;
 - (b) the prohibitions in the interim alcohol protected area;
 - (c) any other relevant details of the declaration;
 - (d) any other matters the Director considers appropriate.
- (9) Subsection (8) applies to any variation or revocation of the declaration.
- (10) Section 179 applies to a declaration of an interim alcohol protected area under this section.
- (11) The Director must take all steps the Director considers necessary to warn the public of an interim alcohol protected area in the same manner as a warning for a general restricted area under section 181.
- (12) Sections 201 to 207 apply in relation to a permit to exempt a person from the prohibitions in an interim alcohol protected area.
- (13) The prohibitions in an interim alcohol protected area prevail over any inconsistent provisions of a general restricted area or special restricted area.
- (14) Subject to subsection (15), a declaration of an interim alcohol protected area under this section ceases to have effect on the earlier of the following:
 - (a) 16 July 2024;
 - (b) the day it expires;
 - (c) the day it is revoked.
- (15) If an application is made under section 174 for a general restricted area for the same or substantially the same area as an interim alcohol protected area before the declaration of the interim alcohol protected area ceases to have effect, that declaration continues in effect until the application is determined by the Commission under

section 177.

170B Offence for interim alcohol protected area

- (1) A person commits an offence if the person:
- (a) brings prohibited liquor into an interim alcohol protected area; or
 - (b) possesses prohibited liquor, or has prohibited liquor under the person's control, in an interim alcohol protected area; or
 - (c) consumes prohibited liquor in an interim alcohol protected area; or
 - (d) sells, supplies or serves prohibited liquor in an interim alcohol protected area.

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

- (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 defendant establishes that:
- (a) the defendant has a permit allowing the conduct constituting the offence; or
 - (b) the conduct constituting the offence occurred in an emergency and was necessary to protect life or property; or
 - (c) the liquor was for the purposes of worship associated with the celebration of a religious service by a person approved by the Director; or
 - (d) the liquor was being transported in unopened containers from a destination outside the interim alcohol protected area to another destination outside the interim alcohol protected area.
- (4) An offence against subsection (1) is taken to be a forfeiture offence.
- (5) In any proceeding for an offence against subsection (1), a certificate, purporting to be signed by the Director and stating that a place was or was not, at a specified time, within an interim alcohol protected area, is evidence of the facts stated.
- (6) In this section:

prohibited liquor means liquor that is prohibited in the interim alcohol protected area.

170C Enforcement

The powers of an inspector or a police officer under sections 238 and 241 may be exercised in relation to an interim alcohol protected area as if it were a general restricted area.

7 Section 234 amended (Forfeiture offences)

Section 234, note

omit

8 Section 246 repealed (Inclusion of section 95A of *Liquor Act 1978*)

Section 246

repeal

Part 4 Repeal

9 Repeal of Act

This Act is repealed on the day after it commences.