

Serial 96  
Police Legislation Further Amendment Bill 2023  
Mrs Worden

A Bill for an Act to amend the *Police Administration Act 1978*, the *Police Administration Regulations 1994* and the *Weapons Control Act 2001* and for related purposes



NORTHERN TERRITORY OF AUSTRALIA

POLICE LEGISLATION FURTHER AMENDMENT ACT 2023

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Act No. [ ] of 2023

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# NORTHERN TERRITORY OF AUSTRALIA

Act No. [ ] of 2023

An Act to amend the *Police Administration Act 1978*, the *Police Administration Regulations 1994* and the *Weapons Control Act 2001* and for related purposes

[Assented to [ ] 2023]  
[Introduced [ ] 2023]

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 Legislation Further Amendment Act 2023*.

### 2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 24 July 2024, it commences on that day.

## Part 2 Amendment of Police Administration Act 1978

### 3 Act amended

This Part amends the *Police Administration Act 1978*.

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**4 Section 4 amended (Interpretation)**

Section 4(1)

*insert*

**aircraft**, for Part VII, see section 116(2).

**ammunition**, for Part VII, see section 116(2).

**approved member**, for Part VII, Division 1C, see section 116K.

**at**, for Part VII, see section 116(2).

**explosive**, for Part VII, see section 116(2).

**hand held scanner**, for Part VII, Division 1C, see section 116K.

**hand held scanner authority**, for Part VII, Division 1C, see section 116KB(5).

**high risk area**, for Part VII, Division 1C, see section 116K.

**offence**, for Part VII, see section 116(2).

**place**, for Part VII, see section 116(2).

**premises**, for Part VII, see section 116(2).

**public place**, for Part VII, Division 1C, see section 116K.

**public transport facility**, for Part VII, Division 1C, see section 116KA.

**public transport vehicle**, for Part VII, Division 1C, see section 116K.

**restricted weapon**, for Part VII, see section 116(2).

**ship**, for Part VII, see section 116(2).

**suspected offence area**, for Part VII, Division 1C, see section 116KB(1).

**use**, for Part VII, Division 1C, see section 116K.

**vehicle**, for Part VII, see section 116(2).



**5 Section 116 amended (Interpretation)**

(1) Section 116(2)

*omit*

For

*insert*

In

(2) Section 116(2)

*insert*

***restricted weapon*** means:

(a) a firearm; or

(b) a controlled weapon, an offensive weapon or a prohibited weapon, each as defined in section 3 of the *Weapons Control Act 2001*.

(3) Section 116(5)

*omit*

**6 Section 116A amended (Definitions)**

Section 116A, definition ***dangerous thing***, paragraphs (d) and (e)

*omit, insert*

(d) a restricted weapon;

(e) ammunition;

---

**7 Part VII, Division 1C inserted**

After section 116J

*insert*

**Division 1C Use of hand held scanners without warrant in certain areas****116K Definitions**

In this Division:

***approved member*** means:

- (a) a member of or above the rank of Commander; or
- (b) a member who is approved, under section 116KN, to be a member who may issue a hand held scanner authority.

***hand held scanner*** means a device that may be passed over or around a person or the person's belongings to detect metal.

***hand held scanner authority***, see section 116KB(5).

***high risk area*** means an area declared to be a high risk area under section 210 of the *Liquor Act 2019*.

***public place*** means a place the public is entitled to use or that is open to or used by the public, whether on payment of money or otherwise.

***public transport facility***, see section 116KA.

***public transport vehicle*** means:

- (a) a bus being used for a route service, as defined in section 3 of the *Public Transport (Passenger Safety) Act 2008*; or
- (b) a ferry that is being used, under contract with the Territory, to carry prospective passengers along a specified route at specific times.

***suspected offence area***, see section 116KB(1).

***use***, a hand held scanner in relation to a person, means to pass the hand held scanner in close proximity to the person or the person's belongings.

**116KA Meaning of *public transport facility***

A ***public transport facility*** means:

- (a) a station, platform, wharf or other structure for the taking on and letting off of passengers of a public transport vehicle together with the following:
  - (i) car parks and set-down facilities for passengers of a public transport vehicle that makes scheduled stops at the station, platform, wharf or structure;
  - (ii) any other structure or facility for the use or convenience of passengers of a public transport vehicle that makes scheduled stops at the station, platform, wharf or structure;
  - (iii) landscaping associated with the station, platform, wharf or structure; or
- (b) a bus stop as defined in section 3 of the *Public Transport (Passenger Safety) Act 2008*.

*Example of a structure for paragraph (a)*

*A jetty at which a public transport vehicle makes scheduled stops.*

**116KB Use of hand held scanner to be authorised**

- (1) Subject to subsection (3), the Commissioner may, by issuing an authority, authorise the use of a hand held scanner in an area (a ***suspected offence area***) in which the Commissioner suspects, on reasonable grounds, that an offence involving a firearm, controlled weapon or prohibited weapon:
  - (a) has been committed within the last 12 hours; or
  - (b) is being committed; or
  - (c) is likely to be committed within the next 12 hours.
- (2) Subject to subsection (3), an approved member may, by issuing an authority, authorise the use of a hand held scanner:
  - (a) in a high risk area; or
  - (b) at a public transport facility and on public transport vehicles travelling to and from the facility.

- (3) The Commissioner or approved member may issue the authority only if:
- (a) any of the following happened in a public place in the affected place in the previous 6 months:
    - (i) an offence was committed by a person armed with a firearm, controlled weapon or prohibited weapon;
    - (ii) a violent offence was committed;
    - (iii) more than one weapon possession offence was committed; and
  - (b) the Commissioner or approved member considers that the use of hand held scanners is likely to be effective to detect or deter the commission of an offence involving the possession or use of a firearm, controlled weapon or prohibited weapon; and
  - (c) the Commissioner or approved member has considered:
    - (i) the effect that the use of hand held scanners may have on lawful activity in the affected place; and
    - (ii) if the use of hand held scanners has previously been authorised for the affected place – whether the use of the scanners under the authority identified persons carrying restricted weapons.
- (4) The Commissioner cannot delegate the Commissioner's powers and functions under this section.
- (5) An authority issued under this section is a **hand held scanner authority**.
- (6) In this section:

**affected place**, in relation to a hand held scanner authority, means the suspected offence area, high risk area or public transport facility and public transport vehicles travelling to and from the facility, for which the authority is proposed to be issued.

**controlled weapon**, see section 3 of the *Weapons Control Act 2001*.

**prohibited weapon**, see section 3 of the *Weapons Control Act 2001*.

**violent offence** means an offence against the Criminal Code involving the use, or threatened use, of violence against a person, the maximum penalty for which is imprisonment for 7 years or more.

**weapon possession offence** means an offence against section 6(e), 7(1) or 7A of the *Weapons Control Act 2001*.

**116KC Form and effect of hand held scanner authority**

- (1) A hand held scanner authority must specify:
  - (a) the day and time the authority starts; and
  - (b) the place for which the authority is issued, as follows:
    - (i) for a hand held scanner authority issued for a suspected offence area – a description of the area;
    - (ii) for a hand held scanner authority issued for a high risk area – the name of the high risk area;
    - (iii) for a hand held scanner authority issued for a public transport facility – the name of the facility or a description of the facility and its location.
- (2) The hand held scanner authority has effect for 12 hours after the authority starts.

**116KD Authorised use of hand held scanner without warrant in suspected offence area or high risk area**

- (1) This section applies in relation to a member if a hand held scanner authority is in effect for:
  - (a) a suspected offence area; or
  - (b) a high risk area.
- (2) Subject to subsection (4), the member may, without a warrant, require a person to stop and submit to the use of a hand held scanner in a public place in the suspected offence area or high risk area, including:
  - (a) in a public place at a public transport facility in the area; and
  - (b) on board a public transport vehicle that is in the area.
- (3) If the member starts to exercise a power in relation to a person under this section while on board a public transport vehicle travelling in a suspected offence area or high risk area, the member

may continue to exercise the power in relation to the person if the vehicle travels out of the area.

- (4) The member may not require a person who is in a private vehicle to stop and submit to the use of a hand held scanner.

**116KE Authorised use of hand held scanner without warrant at public transport facility and on board public transport vehicles**

- (1) This section applies in relation to a member if a hand held scanner authority is in effect for a public transport facility.
- (2) Subject to subsection (4), the member may, without a warrant, require a person to stop and submit to the use of a hand held scanner:
- (a) in a public place at the public transport facility; or
  - (b) on board a public transport vehicle while the vehicle is travelling within one scheduled stop in any direction of the public transport facility; or
  - (c) if the person leaves the public transport vehicle within one scheduled stop of the public transport facility – in a public place at the public transport facility that is at that scheduled stop.
- (3) If the member starts to exercise a power in relation to a person under this section while on board a public transport vehicle travelling in the area mentioned in subsection (2)(b), the member may continue to exercise the power in relation to the person if the vehicle travels out of the area.
- (4) The member may not require a person who is in a private vehicle to stop and submit to the use of a hand held scanner.

**116KF Requirements if hand held scanner indicates metal**

- (1) If a member uses a hand held scanner in relation to a person under a hand held scanner authority and the scanner indicates that metal is, or is likely to be, present, the member may require the person:
- (a) to produce the thing that may be causing the hand held scanner to indicate the presence, or likely presence, of metal; and
  - (b) to resubmit to the use of a hand held scanner.

- (2) To avoid doubt, a member may exercise a power under subsection (1) even if the member is on board a public transport vehicle that travels out of an area mentioned in section 116KD(2)(b) or 116KE(2)(b).

*Note for subsection (1)*

*See section 119AA, and section 19 of the Weapons Control Act 2001, for the power of a member, without warrant, to search a person.*

### **116KG Seizing restricted weapons**

- (1) Subsection (2) applies in relation to a restricted weapon that is produced by a person in compliance or purported compliance with a requirement under section 116KF.
- (2) If a member suspects on reasonable grounds that possession of the restricted weapon is unlawful, the member may seize the weapon and remove it from the place where it is seized.

*Note for subsection (2)*

*See section 116KM for the powers of members in relation to seized restricted weapons.*

### **116KH Safeguards for exercise of powers**

- (1) This section applies to a member who exercises a power under a hand held scanner authority to require a person to stop and submit, or resubmit, to the use of a hand held scanner.
- (2) The member must exercise the power in the least invasive way that is practicable in the circumstances.
- (3) If reasonably practicable, the member must be of the same sex as the person.
- (4) The member may detain the person for so long as is reasonably necessary to exercise the power.
- (5) The member must:
- (a) if requested by the person before or at any time during the exercise of the power – inform the person of the member's name, rank and place of duty; and
  - (b) if requested by the person – give the information mentioned in paragraph (a) in writing; and
  - (c) produce the member's identification for inspection by the person unless the member is in uniform; and

- (d) inform the person that the person is required to allow the member to use a hand held scanner to determine whether the person is carrying a restricted weapon.

### **116KI Offence of failure to comply with requirement**

- (1) A person commits an offence if the person:
  - (a) is required by a member under section 116KD, 116KE or 116KF:
    - (i) to stop and submit to the use of a hand held scanner; or
    - (ii) to produce a thing and resubmit to the use of a hand held scanner; and
  - (b) fails to comply with the requirement.

Maximum penalty: 8 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 has a reasonable excuse.
- (4) A prosecution for an offence against subsection (1) must not be commenced unless the member who gave the requirement:
  - (a) complied with section 116KH(5); and
  - (b) warned the person that failure to comply with the requirement is an offence; and
  - (c) gave the person at least 2 opportunities to comply with the requirement, at least one of which was given after the warning mentioned in paragraph (b).

### **116KJ Member taken to have reasonable grounds to suspect unlawful possession of weapon**

If a person fails to comply with a requirement of a member under section 116KD, 116KE or 116KF without a reasonable excuse, the member is taken to have reasonable grounds to suspect that a restricted weapon, the possession of which is unlawful, is in the possession of the person.

*Note for section 116KJ*

*See section 119AA, and section 19 of the Weapons Control Act 2001, for the power of a member, without warrant, to search a person on the basis of a suspicion mentioned in this section.*



**116KK Notice of hand held scanner authority to be published**

- (1) The Commissioner must publish notice of a hand held scanner authority on the Agency's website within 2 months after the authority is issued.
- (2) The notice must include the following information:
  - (a) a description of the suspected offence area, or the name of the high risk area or public transport facility, for which the hand held scanner authority was issued;
  - (b) the day and time the authority started and ended;
  - (c) information about:
    - (i) the offence or offences mentioned in section 116KB(3)(a) that were known to the Commissioner or approved member who issued the authority; and
    - (ii) the consideration by the Commissioner or approved member of the matters mentioned in section 116KB(3)(b) and (c) in relation to issuing the authority;
  - (d) for an authority issued for a suspected offence area – the grounds for the Commissioner's suspicion mentioned in section 116KB(1).

**116KL Effect of Division on power to search person without warrant**

- (1) The power conferred by this Division for a member to use a hand held scanner in relation to a person without a warrant does not confer power on a member to search a person without a warrant.
- (2) This Division does not affect the power of a member to search a person without a warrant under another Division of this Part or under any other Act.

**116KM Destruction of restricted weapons**

- (1) This section applies in relation to a restricted weapon that is seized from a person:
  - (a) under section 116KG; or

- (b) under section 119AA, or section 19 of the *Weapons Control Act 2001*, during a search that occurs as a result of the person's failure to comply with a requirement of a member under section 116KD, 116KE or 116KF.
- (2) A member may destroy the restricted weapon if the member:
    - (a) has reasonable grounds to suspect that possession of the weapon by the person was unlawful; and
    - (b) considers that destruction of the weapon is necessary for public safety.
  - (3) The destruction may occur at a police station or at any other place.

*Notes for section 116KM*

- 1 *Section 21 of the Weapons Control Act 2001 applies in relation to seized restricted weapons (other than firearms) that are not destroyed under subsection (2).*
- 2 *Section 99A(2) and (3) of the Firearms Act 1997 apply in relation to seized firearms that are not destroyed under subsection (2).*

#### **116KN Approval of certain members**

The Commissioner may approve, in writing, a member of the rank of Senior Sergeant or Superintendent to be a member who may issue a hand held scanner authority.

#### **116KO Annual report on use of hand held scanners**

- (1) The Commissioner must give an annual report to the Minister on the operation of this Division within 3 months after the end of each financial year.
- (2) The report must include the following information:
  - (a) the number of hand held scanner authorities issued during the financial year to which the annual report relates;
  - (b) a description of the suspected offence areas, and the names of the high risk areas and public transport facilities, for which the authorities were issued;
  - (c) information about:
    - (i) the number of restricted weapons that were detected using hand held scanners under the authorities; and
    - (ii) the number and type of offences detected as a result of the use of hand held scanners under the authorities.

- (3) The annual report must not include any information that identifies, or is likely to lead to the identification of, an individual.
- (4) If the annual report is not included in the annual report of the Agency, the Minister must table a copy of the report in the Legislative Assembly within 6 sitting days after the Minister receives the report.

#### **116KP Review of operation of Division**

- (1) The Ombudsman must, as soon as practicable after the second anniversary of the commencement of this Division:
  - (a) conduct a review of the operation of this Division since the commencement; and
  - (b) prepare a report of the Ombudsman's findings; and
  - (c) give the report to the Minister.
- (2) In conducting the review, the Ombudsman must consider:
  - (a) the exercise by members of the powers conferred by this Division; and
  - (b) whether those powers have been exercised appropriately.
- (3) The Ombudsman may request from the Commissioner any information that the Ombudsman reasonably requires to conduct the review.
- (4) Subject to subsection (5), the Commissioner must give the Ombudsman any information that the Ombudsman requests as soon as reasonably practicable after the request is made.
- (5) The Commissioner may refuse to give certain information to the Ombudsman if the Commissioner believes on reasonable grounds that giving the information could:
  - (a) prejudice the investigation of a contravention (or possible contravention) of a law in force in the Territory; or
  - (b) prejudice any proceedings in a court or tribunal; or
  - (c) enable the existence or identity of a confidential source of information in relation to the enforcement or administration of a law to be ascertained; or
  - (d) endanger a person's life or physical safety; or

- (e) prejudice the effectiveness of a lawful method or procedure for preventing, detecting, investigating or dealing with a contravention or possible contravention of a law in force in the Territory.
- (6) The Commissioner must give the Ombudsman written reasons for refusing to give any or all of the requested information.
- (7) This section has effect despite the operation of any other law of the Territory that prohibits or restricts the disclosure of information.

#### **116KQ Tabling of review report**

The Minister must table a copy of a report received under section 116KP in the Legislative Assembly within 6 sitting days after the Minister receives it.

### **8 Section 119 amended (Urgent searches without warrant)**

- (1) Section 119(1)  
*omit*  
of the Police Force
- (2) Section 119(1)(a)  
*omit*  
reasonably suspected by him  
*insert*  
suspected on reasonable grounds by the member
- (3) Section 119(1)(b)  
*omit*  
he  
*insert*  
the member

(4) Section 119(2) and (3)

*omit, insert*

- (2) A member who believes on reasonable grounds that a person is carrying a restricted weapon may, without warrant, search the person for the weapon and seize any restricted weapon found on the person.
- (3) A member who believes on reasonable grounds that a restricted weapon is being carried in an aircraft, ship, train or vehicle may, without warrant, enter the aircraft, ship, train or vehicle and seize any restricted weapon found in it.

(5) Section 119(4)

*omit*

all words after "and"

*insert*

do not derogate from any other powers of a member.

**9 Part X, Division 6 inserted**

After section 172

*insert*

**Division 6 Police Legislation Further Amendment Act 2023**

**173 Offences committed before commencement of section 116KB**

A reference in section 116KB to an offence includes a reference to an offence that was committed before the commencement of Part 2 of the *Police Legislation Further Amendment Act 2023*.

**10 Act further amended**

The Schedule has effect.

**Part 3 Amendment of Police Administration Regulations 1994**

**11 Regulations amended**

This Part amends the *Police Administration Regulations 1994*.

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**12 Regulation 2 amended (Definitions)**

(1) Regulation 2

*omit*

Regulations, unless the contrary intention appears:

*insert*

Regulations:

(2) Regulation 2

*insert*

***infringement notice***, for Part 5A, see regulation 22B.

***infringement offence***, for Part 5A, see regulation 22A(1).

***prescribed amount***, for Part 5A, see regulation 22A(2).

**13 Part 5A inserted**

After regulation 22

*insert*

**Part 5A Infringement offence****22A Infringement offence and prescribed amount payable**

- (1) An ***infringement offence*** is an offence against section 116KI of the Act.
- (2) The ***prescribed amount*** for an infringement offence is the amount equal to the monetary value of 2 penalty units.

**22B When infringement notice may be given**

If a member believes on reasonable grounds that a person has committed an infringement offence, the member may give an ***infringement notice*** to the person.

**22C Contents of infringement notice**

- (1) The infringement notice must specify the following:
  - (a) the name and address of the person to whom it is issued, if known;

- (b) the date the infringement notice is given to the person;
  - (c) the date and time of the infringement offence and the place at which the infringement offence occurred;
  - (d) a description of the offence;
  - (e) the prescribed amount payable for the offence;
  - (f) the enforcement agency to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is given;
  - (b) the person may elect to have the offence dealt with by a court by:
    - (i) completing a statement of election and giving it to the specified enforcement agency; and
    - (ii) not paying the prescribed amount;
  - (c) enforcement action may be taken under the *Fines and Penalties (Recovery) Act 2001* if the person does nothing in response to the notice.
- (3) The infringement notice must include an appropriate form for making the statement of election mentioned in subregulation (2)(b)(i).

## **22D Electronic payment and payment by cheque**

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the payee's bank account.
- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

**22E Expiation of offence**

If the prescribed amount for the infringement offence is paid in accordance with the infringement notice, the alleged offence is expiated and no further proceedings can be taken in relation to the offence.

**22F Withdrawal of infringement notice**

- (1) The Commissioner may withdraw the infringement notice by written notice given to the person.
- (2) The notice must be given:
  - (a) within 28 days after the infringement notice is given to the person; and
  - (b) before payment of the prescribed amount.

**22G Application of Part**

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement offence for which an infringement notice has been given unless the offence is expiated.
- (2) This Part does not:
  - (a) require an infringement notice to be given; or
  - (b) affect the liability of a person to be prosecuted in a court for an offence for which an infringement notice has not been given; or
  - (c) prevent more than one infringement notice for the same offence being given to a person.
- (3) If more than one infringement notice for the same offence has been given to a person, the person may expiate the offence by paying the prescribed amount in accordance with any of the notices.

**Part 4 Amendment of Weapons Control Act 2001****14 Act amended**

This Part amends the *Weapons Control Act 2001*.



**15 Section 3 amended (Definitions)**

(1) Section 3

*insert*

**knife** includes machete.

(2) Section 3, definition **controlled weapon**, paragraph (a)

*omit, insert*

(a) a knife or axe, other than a knife or axe that is a prohibited weapon; or

(3) Section 3, at the end

*insert*

*Note for section 3*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

**16 Section 21 amended (Return of goods if prosecution does not occur)**

Section 21(1)

*omit*

Act.

*insert*

Act, if it has not been destroyed under section 116KM of the *Police Administration Act 1978*.

**Part 5 Consequential amendments**

**Division 1 Fines and Penalties (Recovery) Regulations 2001**

**17 Regulations amended**

This Division amends the *Fines and Penalties (Recovery) Regulations 2001*.

**18 Schedule 1 amended**

Schedule 1

*insert (in alphabetical order)*

*Police Administration Act 1978*

**Division 2 Firearms Act 1997**

**19 Act amended**

This Division amends the *Firearms Act 1997*.

**20 Section 99A amended (Storage of certain firearms)**

Section 99A(2)(a)

*omit*

officer;

*insert*

officer and has not been destroyed under section 116KM of the *Police Administration Act 1978*;

**Division 3 Surveillance Devices Regulations 2008**

**21 Regulations amended**

This Division amends the *Surveillance Devices Regulations 2008*.

**22 Regulation 4 amended (Use, communication or publication of police body-worn video)**

After regulation 4(g)

*insert*

(ga) a review of the operation of Part VII, Division 1C of the *Police Administration Act 1978* conducted by the Ombudsman under section 116KP of that Act;

## **Part 6 Repeal**

### **23 Act repealed**

The *Police Legislation Amendment Act 2023* (Act No. 2 of 2023) is repealed.

## **Part 7 Repeal of Act**

### **24 Repeal of Act**

This Act is repealed on the day after it commences.

---

**Schedule Police Administration Act 1978 further amended**

section 10

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
section 14(3)	The	Subject to section 116KB(4), the
section 119AA, heading	<b>offensive weapon etc.</b>	<b>restricted weapon or ammunition</b>
section 119AA(1)	of the Police Force offensive	a restricted
section 119AA(3)	offensive	a restricted
section 119AA(5)	of the Police Force	
section 126C, heading	<b>firearms or offensive</b>	<b>restricted</b>
section 126C(1)	all words from "of the" to "offensive"	who enters a place under section 126B may search the place for restricted
section 126C(1)(a) and (b)	firearm or offensive	restricted
section 126C(2) and (5)	firearm, offensive	restricted
section 144(2), before "weapon"		restricted

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