

Serial 111
Alcohol Harm Reduction Amendment Bill 2023
Ms Fyles

A Bill for an Act to amend the *Alcohol Harm Reduction Act 2017*

NORTHERN TERRITORY OF AUSTRALIA

ALCOHOL HARM REDUCTION AMENDMENT ACT 2023

Act No. [] of 2023

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2023

An Act to amend the *Alcohol Harm Reduction Act 2017*

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

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Alcohol Harm Reduction 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 27 November 2025, it commences on that day.

3 Act amended

This Act amends the *Alcohol Harm Reduction Act 2017*.

4 Section 4 amended (Definitions)

- (1) Section 4, definitions ***alcohol-related infringement notice***, ***alcohol-related offence***, ***alcohol-related protective custody***, ***first police BDO***, ***second police BDO*** and ***subsequent police BDO***

omit

(2) Section 4

insert

administrative error includes an error that results in a person being incorrectly identified.

alcohol-related infringement notice means an infringement notice in relation to an offence against any of the following:

- (a) section 143(2), 144(2), 173(1), 183(1), 189(1), 218(1), 224(1) or 228(2) of the *Liquor Act 2019*;
- (b) section 25(3) or 26(1) of the *Traffic Act 1987*;
- (c) section 47 or 53(1)(a) or (7) of the *Summary Offences Act 1923*, if the police officer giving the infringement notice believes on reasonable grounds that the alleged offender is, at that time, affected by alcohol.

alcohol-related offence means any of the following:

- (a) an offence for which the maximum penalty is imprisonment for a term of at least 6 months, if a police officer believes on reasonable grounds that the alleged offender was affected by alcohol during the commission of the offence;
- (b) an immediate suspension offence as defined in section 19(1) of the *Traffic Act 1987* that involves alcohol;
- (c) an offence against section 42(1);
- (d) another offence that involves alcohol (for example, stealing alcohol);
- (e) an offence prescribed by regulation.

alcohol-related protective custody, see section 5A.

charged, in relation to an alcohol-related offence, includes being charged at a police station.

first police BDO means a BDO made under section 10.

second police BDO means a BDO made under section 13(1).

subsequent police BDO means a BDO made under section 13(2) or (3).

7 day police BDO means a BDO made under section 9A or 9B.

(3) Section 4, definition **BDO**

omit

7(1).

insert

7.

5 Section 5A inserted

After section 5

insert

5A Alcohol-related protective custody

An adult is taken into ***alcohol-related protective custody***:

- (a) if the adult is apprehended and taken into custody under section 128 of the *Police Administration Act 1978*; or
- (b) in other circumstances prescribed by regulation.

6 Section 7 amended (What is a BDO)

(1) Section 7(1)

omit

(1)

(2) Section 7(2) to (4)

omit

7 Section 8 replaced

Section 8

repeal, insert

8 Notice of BDO

- (1) A person who makes a BDO must take all reasonable steps to give particulars of the BDO to the adult for whom it is made as soon as practicable after making it.

-
- (2) For subsection (1), particulars of a BDO may be given to the adult for whom it is made by:
- (a) informing the adult, verbally or in writing, of the making and terms of the BDO; or
 - (b) providing the person with a physical or electronic copy of the BDO.

8 Section 10 replaced

Section 10

repeal, insert

9A Making 7 day police BDO

- (1) A police officer must make a BDO for an adult if:
- (a) the adult is taken into alcohol-related protective custody; or
 - (b) the adult is given an alcohol-related infringement notice; or
 - (c) the adult is found to be in contravention of section 171(1) of the *Liquor Act 2019*; or
 - (d) the adult is issued with a banning notice under section 212 of the *Liquor Act 2019*.
- (2) Subsection (1) does not apply in relation to an adult if:
- (a) the adult is already subject to a BDO made under this Division or Division 4; or
 - (b) the occurrence mentioned in subsection (1)(a) to (d) results in the making of a first police BDO.

9B Consequence of contravention of 7 day police BDO

- (1) If a police officer believes on reasonable grounds that a banned adult has contravened a 7 day police BDO:
- (a) the police officer must make another 7 day police BDO for the adult; and
 - (b) the first 7 day police BDO ceases to be in force.
- (2) Subsection (1) does not apply in relation to a banned adult if the contravention results in the making of a first police BDO.

9C 7 day police BDO ceases to be in force

If a first police BDO or a BDO under Division 4 is made for an adult who is subject to a 7 day police BDO, the 7 day police BDO ceases to be in force.

10 Making first police BDO

- (1) A police officer must make a BDO for an adult if:
- (a) the adult is, in relation to an alcohol-related offence:
 - (i) arrested and charged; or
 - (ii) summoned as a defendant; or
 - (iii) served with a notice to appear before a court as a defendant; or
 - (b) the adult is named as the defendant in a police DVO, if the police officer who makes the DVO believes on reasonable grounds that the defendant was affected by alcohol at the time of engaging in the conduct to which the DVO relates; or
 - (c) any of the following events, in any combination, occur in relation to the adult 3 times:
 - (i) the adult is taken into alcohol-related protective custody;
 - (ii) the adult is given an alcohol-related infringement notice;
 - (iii) the adult is found to be in contravention of section 171(1) of the *Liquor Act 2019*;
 - (iv) the adult is issued with a banning notice under section 212 of the *Liquor Act 2019*.

Examples for subsection (1)(c)

- 1 *An adult is taken into alcohol-related protective custody for a third time.*
- 2 *An adult who has previously been issued with 2 alcohol-related infringement notices is taken into alcohol-related protective custody.*
- 3 *An adult who has previously been issued with a banning notice under section 212 of the Liquor Act 2019 and has previously been taken into alcohol-related protective custody is found to be in contravention of section 171(1) of the Liquor Act 2019.*

- (2) Subsection (1) does not apply in relation to an adult who is already subject to a first, second or subsequent police BDO or a BDO made under Division 4.

9 Section 11 amended (Period of BDO)

(1) Before section 11(1)

insert

(1AA) A 7 day police BDO remains in force for a period of 7 days.

(2) Section 11(4)

omit

12, 13 and 25.

insert

9B, 9C, 12, 13, 25 and 25A.

10 Section 12 amended (Court orders relating to BDO)

(1) Section 12(1), after "Division"

insert

or extended under section 24

(2) Section 12(1)

omit

making a

insert

making or extending the

11 Section 13 amended (Consequence of contravention of first or second police BDO)

(1) Section 13(1)(a), (2)(a) and (3)(a)

omit

may

insert

must

(2) Section 13(1)(b), (2)(b) and (3)(b)

omit

if the police officer does so,

12 Section 13A inserted

After section 13, in Part 2, Division 2

insert

13A First police BDO taken to have been made

- (1) Subsection (2) applies in relation to an adult if:
- (a) a BDO was made under Division 4 for the adult; and
 - (b) the BDO was extended by a police officer under section 24; and
 - (c) the BDO is revoked within 3 months of the extension mentioned in paragraph (b) being made; and
 - (d) if the BDO made under Division 4 had not been in force on the day the extension was made, a first police BDO would have been made for the adult instead.
- (2) A first police BDO is taken to have been made for the adult on the day of the extension.

Example for section 13A

If a BDO was made for an adult under Division 4 on 1 January, extended by police under section 24 on 1 February and then revoked on 1 March, the adult is taken to be subject to a first police BDO until 30 April, as if it was made on 1 February.

13 Section 23 amended (Extension of BDO by BDR Registrar)

(1) After section 23(2)

insert

Examples for subsection (2)

- 1 *A BDO that is for a period of 3 months commencing on 1 January and ending on 31 March may be extended to end on 30 June.*
- 2 *A BDO that is for a period of 6 months commencing on 1 January and ending on 30 June may be extended to end on 31 December.*
- 3 *A BDO that is for a period of 12 months commencing on 1 January and ending on 31 December that is contravened on 30 June may be extended to end on 30 June the following year.*

(2) Section 23(3)

omit

written notice

insert

particulars

14 Section 24 amended (Extension of BDO by police)

(1) Section 24(1)

omit

may

insert

must

(2) Section 24(1)(a)(ii) and (iii)

omit, insert

(ii) summoned as a defendant; or

(iii) served with a notice to appear before a court as a defendant;

(3) Section 24(1)(d)

omit

notice.

insert

notice;

(4) After section 24(1)(d)

insert

(e) the adult is found to be in contravention section 171(1) of the *Liquor Act 2019*;

(f) the adult is issued with a banning notice under section 212 of the *Liquor Act 2019*.

(5) Section 24(2)(c)
omit
months.
insert
months from the date of the event mentioned in subsection (1)(a) to (f).

(6) After section 24(2)
insert
Examples for subsection (2)
1 A BDO that is for a period of 3 months commencing on 1 January and ending on 31 March would be extended to end on 30 June.
2 A BDO that is for a period of 6 months commencing on 1 January and ending on 30 June would be extended to end on 31 December.
3 If an adult is subject to a BDO that is for a period of 12 months commencing on 1 January and ending on 31 December, and an event mentioned in subsection (1)(a) to (f) occurs on 30 June, the BDO would be extended to end on 30 June the following year.

(7) Section 24(3)
omit
written notice
insert
particulars

15 Section 25 amended (Variation or revocation of BDO)

(1) Section 25, heading, after "BDO"
insert
by BDR Registrar

(2) Section 25(1)(b) to (d)
omit, insert
(b) for a BDO made under Division 3 or 4 – that the variation or revocation is required because of an administrative error.

-
- (3) Section 25, at the end

insert

Note for section 25

If a BDO made under Division 4 and extended under section 24 is revoked, the extension may be taken to be a first police BDO – see section 13A.

16 Section 25A inserted

After section 25

insert

25A Variation or revocation of BDO by police

- (1) Subject to any order made under section 12, a police officer may vary or revoke a BDO made under Division 2 if satisfied:
- (a) that the variation or revocation is required because of an administrative error; or
 - (b) for a BDO made under section 10(1)(a):
 - (i) that the charge was withdrawn, dismissed or not proceeded with; or
 - (ii) that the banned adult was found not guilty of the offence; or
 - (c) for a BDO made under section 10(1)(b) – that the police DVO was revoked; or
 - (d) that the variation or revocation is otherwise appropriate in the circumstances.
- (2) Subject to any order made under section 12, a police officer may vary or revoke an extension of a BDO made under section 24 if satisfied:
- (a) that the variation or revocation is required because of an administrative error; or
 - (b) for an extension made under section 24(1)(a):
 - (i) that the charge was withdrawn, dismissed or not proceeded with; or
 - (ii) that the banned adult was found not guilty of the offence; or

-
- (c) for an extension made under section 24(1)(b) – that the police DVO was revoked; or
 - (d) that the variation or revocation is otherwise appropriate in the circumstances.
- (3) A variation or revocation may be made on the application of the banned adult or on the police officer's own initiative.

17 Section 42 amended (Offence to supply alcohol to persons subject to prohibition)

Section 42(1), penalty provision

omit

20

insert

100

18 Section 42A inserted

After section 42

insert

42A Identification of person

For the purposes of making or extending a BDO for an adult, a police officer may take reasonable measures to verify the adult's identity.

19 Part 8 inserted

After section 48

insert

Part 8 Transitional matters for Alcohol Harm Reduction Amendment Act 2023

49 Definitions

In this Part:

amending Act means the *Alcohol Harm Reduction Amendment Act 2023*.

commencement means the commencement of the amending Act.

50 BDOs made before commencement

- (1) A BDO that is in force immediately before the commencement continues in force, according to its terms, after the commencement.
- (2) Subject to this Part, this Act as amended by the amending Act applies in relation to a BDO mentioned in subsection (1).

51 Reviews commenced before commencement

- (1) This section applies in relation to a review if, before the commencement:
 - (a) an affected person applied to the Tribunal for review under section 32; and
 - (b) the review had not been finalised.
- (2) The Tribunal must continue to deal with the review as if the amending Act had not commenced.

52 Applications commenced before commencement

- (1) This section applies in relation to an application for variation or revocation if, before the commencement:
 - (a) a banned adult applied to the BDR Registrar for variation or revocation under section 25; and
 - (b) the application had not been finalised.
- (2) The BDR Registrar must continue to deal with the application as if the amending Act had not commenced.

53 Making BDOs – before and after commencement

- (1) Section 9A, as inserted by the amending Act, applies only in relation to events occurring after the commencement.
- (2) Sections 10 and 24, as amended by the amending Act, apply only in relation to events occurring after the commencement.
- (3) Sections 10 and 24, as in force before the commencement, continue to apply in relation to events occurring before the commencement.
- (4) For this section, if any part of an event occurs before the commencement, the event is taken to have occurred before the commencement.

54 Offences – before and after commencement

- (1) Section 42, as amended by the amending Act, applies only in relation to offences committed after the commencement.
- (2) Section 42, as in force before the commencement, continues 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.

20 Schedule 1 replaced

Schedule 1

repeal, insert

Schedule 1 Reviewable decisions

section 32

Item	Reviewable decision	Affected person
1	Making BDO by BDR Registrar under section 21	Adult for whom BDO is made
2	Extension of BDO by BDR Registrar under section 23	Adult subject to BDO
3	Extension of BDO by police under section 24	Adult subject to BDO
4	Refusal by BDR Registrar to vary or revoke BDO on application under section 25(2)	Applicant
5	Refusal by police to vary or revoke BDO or extension to BDO on application under section 25A(3)	Applicant
6	Making income management order by BDR Registrar under section 27	Adult for whom order is made
7	Refusal by BDR Registrar to vary or revoke income management order under section 29(2)(c)	Adult subject to order

21 Repeal of Act

This Act is repealed on the day after it commences.