

Serial 129
Police Administration Legislation Amendment Bill 2024
Mr Potter

A Bill for an Act to amend the *Police Administration Act 1978* and the *Police Administration Regulations 1994*

NORTHERN TERRITORY OF AUSTRALIA

POLICE ADMINISTRATION LEGISLATION AMENDMENT ACT 2024

Act No. [] of 2024

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NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2024

An Act to amend the *Police Administration Act 1978* and the *Police Administration Regulations 1994*

[Assented to [] 2024]
[Introduced [] 2024]

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 Legislation Amendment Act 2024*.

2 Commencement

This Act commences on the day after the day on which the Administrator's assent to this Act is declared.

Part 2 Amendment of Police Administration Act 1978

3 Act amended

This Part amends the *Police Administration Act 1978*.

4 Section 4 amended (Interpretation)

- (1) Section 4(1), definition *public place*
omit

(2) Section 4(1)

*insert***declared area**, for Part VII, Division 5A, see section 135A.**Ombudsman**, see section 4 of the *Ombudsman Act 2009*.**public disorder**, for Part VII, Division 5A, see section 135A.**public disorder declaration**, for Part VII, Division 5A, see section 135B(1).**public place**:

(a) for Part VII, Division 1C – see section 116K; or

(b) for Part VII, Division 5A – see section 135A.

5 Section 14 amended (Control and management of Police Force)

Section 14(3)

omit

section 116KB(4)

insert

sections 116KB(4) and 135B(7)

6 Part VII, Division 5A inserted

After section 135

*insert***Division 5A Special powers to prevent, stop or reduce public disorder****135A Definitions**

In this Division:

declared area, for a public disorder declaration, means the area in relation to which the declaration applies, as specified in the declaration.

public disorder means:

- (a) a riot or other civil disturbance that gives rise to a serious risk to public safety; or
- (b) a series of riots or civil disturbances, whether at a single location or at different locations, that gives rise to a serious risk to public safety.

public disorder declaration, see section 135B(1).

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.

135B Power to make public disorder declaration

- (1) The Commissioner may make a declaration under this section (a **public disorder declaration**) if the Commissioner believes on reasonable grounds that:
 - (a) public disorder is occurring at a public place or there is an imminent risk of public disorder occurring at a public place; and
 - (b) the use of the powers set out in this Division is required to prevent, stop or reduce the public disorder at the public place.
- (2) A public disorder declaration:
 - (a) must be made in writing or, if it is not reasonably practicable in the circumstances for it to be made in writing, may be made orally; and
 - (b) must specify the matters mentioned in section 135C(1); and
 - (c) takes effect immediately on being made; and
 - (d) subject to sections 135F and 135G, is in force for the period of time, not exceeding 72 hours, specified in the declaration.
- (3) A written public disorder declaration must be published in the *Gazette* as soon as reasonably practicable after it is made.
- (4) If a public disorder declaration is made orally, as soon as reasonably practicable after it is made, it must be confirmed in writing and the written confirmation must be published in the *Gazette*.

- (5) A public disorder declaration cannot apply in relation to Aboriginal land as defined in section 3(1) of the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).
- (6) Subsection (5) limits the application of section 59A of the *Interpretation Act 1978* to this Division.
- (7) The Commissioner cannot delegate the Commissioner's power under this section.
- (8) If the Commissioner makes a public disorder declaration (the **first declaration**), the Commissioner cannot make another declaration (the **second declaration**) that applies in relation to the same, or substantially the same, area as the first declaration unless:
 - (a) the first declaration has ceased to be in force for at least 7 days; or
 - (b) the second declaration is made in relation to public disorder of a different nature, or arising from different circumstances, than the public disorder specified in the first declaration.

135C Public disorder declaration

- (1) A public disorder declaration must specify the following:
 - (a) that it is made under this Division;
 - (b) the nature and circumstances of the public disorder in relation to which it is made;
 - (c) the area in relation to which it applies, which must be no larger than the Commissioner considers is reasonably necessary to prevent, stop or reduce the public disorder in relation to which it is made;
 - (d) whether it applies to all persons or a particular class of persons, including by reference to a particular attribute of the persons who are members of the class;
 - (e) the period of time (not exceeding 72 hours) that it will be in force;
 - (f) that the powers under section 135D may be used while it is in force;
 - (g) if the powers under section 135D are to be exercised only at particular times of the day – those times;

- (h) the permissible reasons for a person to whom the declaration applies to remain in or enter the declared area despite the declaration being in force.

Note for subsection (1)(c)

Section 135B(5) provides that a public disorder declaration cannot apply in relation to certain land.

- (2) The reasons specified under subsection (1)(h) must include the following:
 - (a) for employment purposes;
 - (b) to access the person's place of residence or that of a family member;
 - (c) to access a health care facility or receive medical treatment;
 - (d) to provide care or support to a family member or another person who is unable to care for themselves due to health, age or disability.
- (3) The *Anti-Discrimination Act 1992* does not apply to a public disorder declaration or any actions taken by the Commissioner or a member under a declaration in accordance with this Division.

135D Powers during public disorder declaration

- (1) While a public disorder declaration is in force, a member may exercise the powers set out in this section.
- (2) A member may direct a person to whom the public disorder declaration applies:
 - (a) to leave the declared area; or
 - (b) not to enter the declared area.
- (3) If a group of persons, made up wholly or in part of persons to whom a public disorder declaration applies, is assembled within a declared area, a member may direct all persons in the group, or any specified person, to disperse immediately.
- (4) A member may direct any person in the declared area to remain in the place where the person is for a period not exceeding 2 hours if the member believes it is reasonably necessary to prevent a risk to the safety of the person or any other person.

- (5) A member giving a direction under this section must orally inform the person or persons to whom the direction is given that the direction:
 - (a) if given under subsection (2) or (3) – is given for the purpose of preventing, stopping or reducing public disorder; or
 - (b) if given under subsection (4) – is given to prevent a risk to the safety of the person or any other person.
- (6) If a direction and information mentioned in subsection (5) is given to a group of persons, it must be given in a manner that is likely to be audible to all persons in the group, or to as many of them as practicable.
- (7) If a person fails to comply with a direction given under this section, a member may use reasonable force to do the following:
 - (a) if the direction was given under subsection (2) – prevent the person from remaining in or entering, or from attempting to remain in or enter, the declared area;
 - (b) if the direction was given under subsection (3) – move the person away from others;
 - (c) if the direction was given under subsection (4) – prevent the person from leaving the place where the person is.

135E Offence of failure to comply with direction

- (1) A person commits an offence if:
 - (a) a public disorder declaration is in force; and
 - (b) under section 135D, a member directs the person to do or not to do something; and
 - (c) the person fails to comply with the direction.

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.

135F Extension of duration of public disorder declaration

- (1) Before a public disorder declaration expires, the Commissioner may make a written recommendation to the Minister that the duration of the declaration be extended.

- (2) If the Minister receives a recommendation from the Commissioner under subsection (1), the Minister may, before the public disorder declaration expires, extend the duration of the declaration if the Minister believes on reasonable grounds that:
- (a) public disorder is still occurring, or there is an imminent risk of public disorder occurring or recurring, in the declared area; and
 - (b) the use of the powers set out in this Division is required to prevent, stop or reduce the public disorder.
- (3) An extension under subsection (2):
- (a) must be in writing; and
 - (b) subject to subsection (4), must state the duration of the extension.
- (4) The duration of the extension:
- (a) cannot be for any longer than the period that the Minister believes on reasonable grounds is necessary to prevent, stop or reduce the public disorder; and
 - (b) in any event, must not exceed a period of 7 days from the day and time at which the public disorder declaration would otherwise expire.

Example for subsection (4)(b)

A public disorder declaration that is due to expire at 9.00 am on a Tuesday may be extended until no later than 9.00 am on the following Tuesday.

- (5) An extension of the duration of a public disorder declaration must be published in the *Gazette* as soon as reasonably practicable after it is made.
- (6) The duration of a public disorder declaration cannot be extended more than once.

135G Revocation of public disorder declaration

- (1) The Commissioner may revoke a public disorder declaration at any time, whether or not the duration of the declaration has been extended under section 135F.
- (2) A revocation must be made in writing or, if it is not reasonably practicable in the circumstances for it to be made in writing, may be made orally.

- (3) A revocation takes effect immediately on being made.
- (4) A written revocation must be published in the *Gazette* as soon as reasonably practicable after it is made.
- (5) If a revocation is made orally, as soon as reasonably practicable after it is made, it must be confirmed in writing and the written confirmation must be published in the *Gazette*.

135H Report to Ombudsman

- (1) The Commissioner must give the Ombudsman a report in relation to each public disorder declaration.
- (2) The report must include:
 - (a) a copy of the public disorder declaration; and
 - (b) if the duration of the declaration was extended – a copy of the extension; and
 - (c) the following information:
 - (i) the number of persons taken into custody for an offence against section 135E;
 - (ii) the number of infringement notices issued in relation to an offence against section 135E;
 - (iii) the number of charges laid in relation to an offence against section 135E.
- (3) The report must be given to the Ombudsman within 3 months after the expiry or revocation of the public disorder declaration.

135J Review of operation of Division

- (1) The Ombudsman must, as soon as practicable 12 months after the commencement of this Division:
 - (a) conduct a review of the operation of this Division; 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 the following:
 - (a) the grounds for making any public disorder declarations;

- (b) the exercise by members of the powers conferred by section 135D;
 - (c) whether those powers have been exercised appropriately;
 - (d) whether any amendments should be made to this Division;
 - (e) any other matters that the Ombudsman considers relevant.
- (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 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.

135K Tabling of review report

The Minister must table a copy of a report received under section 135J in the Legislative Assembly within 6 sitting days after the Minister receives the report.

135L Interaction with other Acts

While a public disorder declaration is in force, this Division prevails to the extent of any inconsistency with another Act.

135M Implied freedom of political communication

- (1) This Division does not apply to the extent (if any) that it would infringe any constitutional doctrine of implied freedom of political communication.
- (2) Subsection (1) does not limit the application of section 59 of the *Interpretation Act 1978* to this Division.

Part 3 Amendment of Police Administration Regulations 1994

7 Regulations amended

This Part amends the *Police Administration Regulations 1994*.

8 Regulation 22A amended (Infringement offence and prescribed amount payable)

Regulation 22A(1)

omit

or 134A

insert

, 134A or 135E

Part 4 Repeal

9 Repeal of Act

This Act is repealed on the day after it commences.