



# **Northern Territory National Emergency Response Amendment (Alcohol) Act 2007**

**No. 141, 2007**

***An Act to amend the Northern Territory National  
Emergency Response Act 2007, and for related  
purposes***

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Northern Territory National Emergency Response Amendment (Alcohol) Act 2007

No. 141, 2007

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## **An Act to amend the *Northern Territory National Emergency Response Act 2007*, and for related purposes**

[Assented to 14 September 2007]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Northern Territory National Emergency Response Amendment (Alcohol) Act 2007*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	14 September 2007
2. Schedule 1	The day after this Act receives the Royal Assent.	15 September 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Alcohol

### *Northern Territory National Emergency Response Act 2007*

#### 1 Paragraph 12(1)(a)

Repeal the paragraph, substitute:

- (a) each prescribed area were a general restricted area under that Act; and

#### 2 After subsection 12(3)

Insert:

- (3A) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that, at the time the conduct referred to in paragraph (2)(a) was engaged in:
  - (a) the defendant was engaged in recreational activities in a national park, a Northern Territory park or an area covered by a declaration made by the Commonwealth Minister under subsection (8A); and
  - (b) the activities were organised by a person whose business consists of or includes operating tours for tourists; and
  - (c) if the area is a park—the activities are consistent with the management plan or similar document (if any) for the park; and
  - (d) if the conduct is conduct referred to in subparagraph (2)(a)(iii)—the defendant was behaving in a responsible manner.
- (3B) In subsection (3A), *recreational activities* does not include an activity the sole or primary purpose of which is the consumption of liquor.
- (3C) It is a defence to a prosecution for an offence against subparagraph (2)(a)(i) or (ii) if the defendant proves that, at the time the conduct referred to in that subparagraph was engaged in, the defendant was engaging in the conduct for the purpose of engaging in recreational activities covered by subsection (3A).

#### 3 After subsection 12(5)

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Insert:

- (5A) It is a defence to a prosecution for an offence against subsection (4) if the defendant proves that, at the time the conduct referred to in paragraph (4)(a) was engaged in:
- (a) the defendant and the third person were engaged in recreational activities in a national park, a Northern Territory park or an area covered by a declaration made by the Commonwealth Minister under subsection (8A); and
  - (b) the activities were organised by a person whose business consists of or includes operating tours for tourists; and
  - (c) if the area is a park—the activities are consistent with the management plan or similar document (if any) for the park.
- (5B) In subsection (5A), *recreational activities* does not include an activity the sole or primary purpose of which is the consumption of liquor.
- (5C) It is a defence to a prosecution for an offence against subparagraph (4)(a)(ii) or (iii) if the defendant proves that, at the time the conduct referred to in that subparagraph was engaged in, the defendant was engaging in the conduct for the purpose of engaging in recreational activities covered by subsection (5A).

#### **4 After subsection 12(8)**

Insert:

- (8A) The Commonwealth Minister may declare that a specified area of land or waters in a prescribed area is an area in relation to which a defence under subsection (3A), (3C), (5A) or (5C) is available.

#### **5 Subsection 12(9)**

After “subsection (8)”, insert “or (8A)”.

#### **6 Subsection 19(1)**

Repeal the subsection, substitute:

- (1) The Commonwealth Minister may declare that this Division, or specified provisions of this Division:
- (a) cease to have effect; or
  - (b) cease to have effect in relation to a specified prescribed area or a specified part of a prescribed area.
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**7 Division 3 of Part 2**

Repeal the Division.

**8 Before Division 4 of Part 2**

Insert:

**Division 3A—Sales of liquor for consumption away from licensed premises****20 Sales of liquor for consumption away from licensed premises**

- (1) The Liquor Act has effect as if it included the following provisions of this section.
- (2) A licensee of licensed premises commits an offence if:
  - (a) the licensee sells to a person (the *purchaser*) in a single transaction:
    - (i) a quantity of liquor that has a purchase price of \$100 or more (including GST); or
    - (ii) a quantity of wine that exceeds 5 litres and is in a single container, or is in 2 or more containers of at least 2 litres each; and
  - (b) the licensee knows that the liquor is for consumption away from the licensed premises or is reckless as to whether it is for consumption away from the licensed premises; and
  - (c) the licensee has not complied with subsection (5) in relation to the sale.

Maximum penalty: 340 penalty units.

- (3) An employee of a licensee of licensed premises commits an offence if:
  - (a) the employee sells to a person (the *purchaser*) in a single transaction:
    - (i) a quantity of liquor that has a purchase price of \$100 or more (including GST); or
    - (ii) a quantity of wine that exceeds 5 litres and is in a single container, or is in 2 or more containers of at least 2 litres each; and

- (b) the employee knows that the liquor is for consumption away from the licensed premises or is reckless as to whether it is for consumption away from the licensed premises; and
- (c) the employee has not complied with subsection (5) in relation to the sale.

Maximum penalty: 60 penalty units.

- (4) A licensee of licensed premises commits an offence if:
  - (a) an employee of the licensee sells to a person (the *purchaser*) in a single transaction:
    - (i) a quantity of liquor that has a purchase price of \$100 or more (including GST); or
    - (ii) a quantity of wine that exceeds 5 litres and is in a single container, or is in 2 or more containers of at least 2 litres each; and
  - (b) the employee knows that the liquor is for consumption away from the licensed premises or is reckless as to whether it is for consumption away from the licensed premises; and
  - (c) the employee has not complied with subsection (5) in relation to the sale.

Maximum penalty: 170 penalty units.

- (5) The licensee or employee complies with this subsection if, before making the sale, the licensee or employee:
  - (a) requires the purchaser to produce evidence of the purchaser's identity that is of a kind listed in subsection (6); and
  - (b) records the purchaser's name and address as specified in that identity document; and
  - (c) asks the purchaser where it is proposed that the alcohol will be consumed, and records the name or address of that place.
- (6) The kinds of identification are:
  - (a) a passport; or
  - (b) a driver's licence issued in Australia; or
  - (c) a proof of age card issued by the Motor Vehicle Registry Office of the Northern Territory or a Motor Vehicle Registry Authority in that Territory; or
  - (d) some other form of identification determined by the Commission.

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- (7) It is a defence to a prosecution for an offence under subsection (4) if the licensee proves that the licensee took all reasonable steps to ensure that the employee was aware of obligations of employees under this section.

## **21 Keeping and producing records**

- (1) The Liquor Act has effect as if it included the following provisions of this section.
- (2) A licensee commits an offence if the licensee fails to keep, for at least 3 years after the records are made, records made as mentioned in subsection 20(5) of the *Northern Territory National Emergency Response Act 2007* of the Commonwealth.

Maximum penalty: 50 penalty units.

- (3) The records must be kept:
- (a) on or at the premises to which the licence relates; or
  - (b) as directed in writing by the Commission.
- (4) A licensee must produce the records kept under subsection (2) to an inspector upon demand being made by the inspector on or at the premises to which the licence relates.

Maximum penalty: 50 penalty units.

- (5) It is a defence to a prosecution for an offence under subsection (4) if the licensee proves that the records:
- (a) are not on or at the premises to which the licence relates; and
  - (b) are kept as directed in writing by the Commission.

## **22 Declarations by Commonwealth Minister**

- (1) The Commonwealth Minister may declare that this Division, or specified provisions of this Division, cease to have effect.
- (2) A declaration is a legislative instrument, but neither section 42 (disallowance) nor Part 6 (sunsetting) of the *Legislative Instruments Act 2003* applies to the declaration.

Note: This Act (other than Parts 4, 6 and 8 and Schedule 1) ceases to have effect at the end of the period of 5 years beginning on the day after the day on which this Act receives the Royal Assent: see section 6.

## 9 At the end of Part 2

Add:

## Division 6—Certain things not valid

### 25A Certain things not valid

Any amendment of an Act or other law of the Northern Territory, or any action taken under an Act or other law of the Northern Territory, whether the amendment commences or the action is taken before or after the commencement of this section, has no force or effect, and is taken never to have had any force or effect, to the extent that it would otherwise have the effect of preventing the Liquor Act operating as if each prescribed area were a general restricted area.

### 25B Declarations by Commonwealth Minister

- (1) The Commonwealth Minister may declare that this Division ceases to have effect.
- (2) A declaration is a legislative instrument, but neither section 42 (disallowance) nor Part 6 (sunsetting) of the *Legislative Instruments Act 2003* applies to the declaration.

Note: This Act (other than Parts 4, 6 and 8 and Schedule 1) ceases to have effect at the end of the period of 5 years beginning on the day after the day on which this Act receives the Royal Assent: see section 6.

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*[Minister's second reading speech made in—  
Senate on 11 September 2007  
House of Representatives on 13 September 2007]*

(171/07)

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