



Stronger Futures in the Northern Territory Act 2012

No. 100, 2012

An Act to build stronger futures for Aboriginal people in the Northern Territory, and for related purposes

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

Contents

Part 1—Preliminary	2
Division 1—Introduction	2
1 Short title.....	2
2 Commencement.....	2
3 Guide to this Act.....	3
4 Object of this Act.....	4
4A The Racial Discrimination Act is not affected.....	5
Division 2—The Dictionary	6
5 The Dictionary.....	6
Part 2—Tackling alcohol abuse	10
Division 1—Introduction	10
6 Guide to this Part.....	10
7 Object of this Part.....	11
Division 2—Modification of the NT Liquor Act and NT Liquor Regulations in alcohol protected areas	12
8 Certain offences to apply in alcohol protected areas	12
9 Alcohol protected areas treated as general restricted areas.....	17
10 Seizing vehicles	18
11 Modification of the NT Liquor Regulations	18
Division 3—Modification of NT liquor licences and NT liquor permits in force in alcohol protected areas	19
12 Modification of NT liquor licences	19
13 Modification of NT liquor permits	20
13A Procedure before making determination modifying NT liquor licence or permit.....	21
Division 4—Notices about alcohol offences in alcohol protected areas	22
14 Notices about alcohol offences in alcohol protected areas	22
Division 5—Assessments of licensed premises	24
15 Assessments of licensed premises in the Northern Territory	24
Division 6—Alcohol management plans	26
Subdivision A—Approving alcohol management plans	26
16 Application for approval of an alcohol management plan	26
17 Determination to approve or refuse plan	26
18 Procedure before refusing approval of plan.....	27

19	Duration of approval of an alcohol management plan	28
20	Notice of determination about whether plan approved	28
Subdivision B—Variation and revocation of alcohol management plans		
		29
21	No variation of alcohol management plan without approval	29
22	Application for approval to vary alcohol management plan	29
23	Approval of variation of alcohol management plan.....	30
24	Revocation of approval of alcohol management plan.....	30
25	Procedure before refusing to approve variation or revoking approval.....	31
Subdivision C—Community managed alcohol areas		
		32
26	Community managed alcohol areas	32
Division 7—Alcohol protected areas		
		33
27	Rules prescribing the areas that are alcohol protected areas	33
Division 8—Independent review of Commonwealth and Northern Territory laws relating to alcohol		
		36
28	Independent review of Commonwealth and Northern Territory laws relating to alcohol.....	36
Division 9—Other matters		
		38
29	NT Licensing Commission etc. to provide information.....	38
30	Modified NT Liquor Act and NT Liquor Regulations.....	38
31	AAT review of determinations under this Part	38
Part 3—Land reform		
		40
Division 1—Introduction		
		40
32	Guide to this Part.....	40
33	Object of this Part.....	40
Division 2—Town camps		
		41
34	Modifying NT laws in relation to town camps	41
Division 3—Community living areas		
		44
35	Modifying NT laws in relation to community living areas	44
Part 4—Food security		
		46
Division 1—Guide to this Part		
		46
36	Guide to this Part.....	46
37	Object of this Part.....	47
Division 2—Certain community stores must be licensed		
		48
38	Prohibition on operating a community store without a licence	48
39	Meaning of <i>community store</i> , <i>owner</i> and <i>manager</i>	49

40	More than one owner or manager of a community store	51
Division 3—Determining whether a community store is required to be licensed		
41	Determining whether a community store licence is required.....	52
42	Procedure before determining that a licence is required	52
43	Notice of determination about whether licence is required.....	53
Division 4—Licensing of community stores		
Subdivision A—Granting and refusing community store licences		
44	Application for a community store licence	55
45	Determination to grant or refuse a community store licence	55
46	Meaning of <i>food security matters</i>	56
47	Procedure before refusing a community store licence	57
48	Community store licence may relate to more than one store	58
49	Duration of community store licence.....	58
50	Notice of determination about whether licence granted.....	58
Subdivision B—Conditions of community store licences		
51	Community store licence is subject to conditions.....	59
52	Conditions that may be imposed at time of grant	59
53	Procedure before imposing a condition	60
54	Condition about monitoring and audits	61
55	Conditions prescribed by the rules.....	61
56	Breach of condition	61
Subdivision C—Variation and revocation of community store licences		
57	Application to vary a community store licence	62
58	Variation of community store licence.....	62
59	Revocation of community store licence.....	64
60	Procedure before varying, refusing to vary or revoking a community store licence.....	64
Division 5—Requirement to register under the Corporations (Aboriginal and Torres Strait Islander) Act 2006		
61	Requirement to register under the CATSI Act.....	66
62	Secretary may require registration.....	66
63	Procedure before determining that registration is required.....	67
64	Notice of determination that registration is required	68
65	Community store licence may be revoked if owner is not registered	68
66	Procedure before revoking licence	69

Division 6—Assessments of community stores in relation to licensing	71
67 Community stores may be assessed	71
68 Notice in relation to assessments	71
69 Appointment of authorised officers	72
70 Identity cards	72
71 Power to enter premises for the purposes of making assessments.....	72
72 Authorised officers may obtain access to records and assistance	73
73 Power to compel information relating to assessments	74
Division 7—Areas that are not in the food security area	76
74 Areas that are not in the food security area.....	76
Division 8—Enforcement relating to food security	77
Subdivision A—Civil penalties	77
75 Civil penalty orders	77
76 Civil enforcement of penalty	78
77 Conduct contravening more than one civil penalty provision.....	78
78 Multiple contraventions	78
79 Proceedings may be heard together	79
80 Civil evidence and procedure rules for civil penalty orders.....	79
81 Contravening a civil penalty provision is not an offence.....	79
82 Civil proceedings after criminal proceedings	79
83 Criminal proceedings during civil proceedings	79
84 Criminal proceedings after civil proceedings	80
85 Evidence given in civil proceedings not admissible in criminal proceedings	80
86 Ancillary contravention of civil penalty provisions.....	80
87 Continuing contraventions of civil penalty provisions	81
88 Mistake of fact.....	81
89 State of mind	82
Subdivision B—Infringement notices	82
90 When an infringement notice may be given	82
91 Matters to be included in an infringement notice.....	83
92 Extension of time to pay amount	85
93 Withdrawal of an infringement notice	86
94 Effect of payment of amount	87
95 Effect of this Division	88
Subdivision C—Enforceable undertakings	88
96 Acceptance of undertakings.....	88

97	Enforcement of undertakings.....	89
Subdivision D—Injunctions		90
98	Grant of injunctions.....	90
99	Interim injunctions.....	90
100	Discharging or varying injunctions.....	91
101	Certain limits on granting injunctions not to apply.....	91
102	Other powers of a relevant court unaffected.....	91
Subdivision E—Civil jurisdiction of courts		92
103	Civil jurisdiction of courts.....	92
Division 9—Other matters		93
104	Information about criminal history.....	93
105	Power to request information from public officials etc.....	93
106	Disclosure of information to public officials etc.	93
107	This Part does not affect legal professional privilege	94
108	Application of Northern Territory laws to community stores	94
109	Interaction with the <i>Competition and Consumer Act 2010</i>	94
110	AAT review of the Secretary’s determinations under this Part	95
Part 5—Other matters		97
Division 1—Introduction		97
111	Guide to this Part.....	97
Division 2—Miscellaneous		98
112	Delegation	98
113	References in Commonwealth or Northern Territory laws	98
114	Modification of Northern Territory laws	98
115	Northern Territory (Self-Government) Act	99
116	Compensation for acquisition of property	99
117	Review of the operation of this Act	99
118	Sunset provision	100
119	Rules.....	100
120	Regulations.....	100



Stronger Futures in the Northern Territory Act 2012

No. 100, 2012

An Act to build stronger futures for Aboriginal people in the Northern Territory, and for related purposes

[Assented to 29 June 2012]

The Parliament of Australia enacts:

Stronger Futures in the Northern Territory Act 2012 No. 100, 2012 1

Section 1

Part 1—Preliminary

Division 1—Introduction

1 Short title

This Act may be cited as the *Stronger Futures in the Northern Territory Act 2012*.

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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	29 June 2012
2. Sections 3 to 120	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	16 July 2012 (see F2012L01543)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Guide to this Act

This Act contains a number of measures aimed at building stronger futures for Aboriginal people in the Northern Territory.

Part 2—Tackling alcohol abuse

The measures in Part 2 are aimed at reducing alcohol-related harm to those Aboriginal people. Many of the measures apply in alcohol protected areas (which are particular areas of the Northern Territory that are prescribed by the rules (see section 27)).

Some of the measures in Part 2 modify the NT Liquor Act, and licences and permits issued under that Act, so that they apply in alcohol protected areas in a particular way. For example, section 8 inserts a number of offences (such as the offence for consuming liquor in an alcohol protected area) into the NT Liquor Act.

Part 2 allows the Minister to request the NT Minister to appoint an assessor to conduct an assessment of particular licensed premises in the Northern Territory if the Minister reasonably believes that the sale or consumption of liquor at or from those premises is causing substantial alcohol-related harm to the community (see section 15).

Part 2 also deals with alcohol management plans and provides a process for the approval of those plans by the Minister (see Division 6 of that Part).

Part 3—Land reform

Part 3 contains measures relating to town camps and community living areas. Those measures are aimed at facilitating the granting of rights and interests, and promoting economic development, in those camps and areas. Those measures allow regulations to be made to modify particular laws of the Northern Territory to the extent that those laws apply to town camps or community living areas.

Part 4—Food security

Section 4

Part 4 provides for a licensing regime for certain community stores operating in the food security area (which is the whole of the Northern Territory other than an area that is prescribed by the rules (see section 74)). That regime is aimed at promoting food security for Aboriginal communities.

The Secretary may determine, at any time, whether the owner of a community store is required to hold a community store licence. If the Secretary determines that the owner is required to hold a licence, then the store will be prohibited from operating in the food security area unless the owner obtains the licence. The Secretary cannot determine that the owner is required to hold a licence unless the Secretary is satisfied that the store is an important source of food, drink or grocery items for an Aboriginal community.

If the Secretary grants a licence, the Secretary may impose conditions on the licence. The owner will be required to comply with those conditions, plus the conditions that are imposed by Part 4 and the rules.

Part 5—Other matters

Part 5 has a number of miscellaneous provisions. It requires the Minister to cause an independent review to be conducted of the first 3 years of the operation of this Act (see section 117). It provides that this Act sunsets 10 years after commencement (see section 118). It also has other miscellaneous provisions (such as the power to delegate, the power to make rules and the power to make regulations).

4 Object of this Act

The object of this Act is to support Aboriginal people in the Northern Territory to live strong, independent lives, where communities, families and children are safe and healthy.

4A The Racial Discrimination Act is not affected

This Act does not affect the operation of the *Racial Discrimination Act 1975*.

Division 2—The Dictionary

5 The Dictionary

In this Act:

alcohol protected area means an area in the Northern Territory that is prescribed by rules made for the purposes of subsection 27(1).

business includes a business not carried on for profit.

business day means a day that is not a Saturday, a Sunday or a public holiday in the Northern Territory.

CATSI Act means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006*.

circumstances of a community store include the store's size and location.

civil penalty order: see subsection 75(5).

civil penalty provision: see subsection 75(2).

commencement means the day section 3 commences.

committee of management of an unincorporated association: see subsection 39(8).

community living area: see subsection 35(2).

community store: see subsection 39(1).

dealings in land includes:

- (a) selling, exchanging, leasing, mortgaging, disposing of, or otherwise creating or passing a legal or equitable interest in, land; or
- (b) granting an easement or covenant over land or releasing an easement or covenant benefiting land; or

- (c) subdividing or consolidating land so as to affect, or consenting to a plan of subdivision or consolidation of land that affects, interests in land; or
- (d) making a development application in relation to land; or
- (e) any other action (including executing an instrument) relating to land.

Note: In this Act, a reference to land includes any estate or interest in land, whether legal or equitable.

enforceable provision means:

- (a) a civil penalty provision; or
- (b) a provision of Part 4 (about food security) that creates an offence.

food security: see subsection 37(3).

food security area: see subsection 38(2).

food security matters: see section 46.

grocery items include items for basic household needs, such as personal care and hygiene products, cleaning products and cooking utensils.

land includes any estate or interest in land, whether legal or equitable.

licensed premises has the same meaning as in the NT Liquor Act.

liquor has the same meaning as in the NT Liquor Act.

manager of a community store: see subsection 39(3).

modify includes add, omit and substitute.

nominated person: see subsection 24(2).

NT Licensing Commission means the Commission (within the meaning of the NT Liquor Act).

NT Liquor Act means the *Liquor Act* of the Northern Territory.

Note: The reference to the *Liquor Act* of the Northern Territory is to be construed as a reference to that Act as originally enacted and as

Section 5

amended from time to time: see section 10A of the *Acts Interpretation Act 1901* of the Commonwealth.

NT liquor licence means a licence issued under Part III of the NT Liquor Act.

NT liquor permit means a permit issued under section 87 of the NT Liquor Act.

NT Liquor Regulations means the *Liquor Regulations* of the Northern Territory.

Note: The reference to the *Liquor Regulations* of the Northern Territory is to be construed as a reference to those Regulations as originally enacted and as amended from time to time: see section 10A of the *Acts Interpretation Act 1901* of the Commonwealth.

NT Minister means the Minister of the Northern Territory who is responsible for the administration of the NT Liquor Act.

owner of a community store: see subsections 39(2) and (5).

penalty unit has the same meaning as in section 4AA of the *Crimes Act 1914*.

premises includes any place (whether enclosed or built on or not) and, in particular, includes:

- (a) a building, aircraft, vehicle or vessel; and
- (b) any structure, whether a fixed structure or a moveable structure such as a tent, and whether on land or floating on any waters; and
- (c) a part of premises (including premises of a kind referred to in paragraph (a) or (b)).

relevant court, in relation to a matter, means any of the following courts:

- (a) the Federal Court of Australia;
- (b) the Federal Magistrates Court;
- (c) a superior court, or lower court, of the Northern Territory; that has jurisdiction in relation to the matter (see section 103).

rules means the rules made by the Minister under section 119.

Secretary means the Secretary of the Department.

town camp: see subsection 34(2).

Part 2—Tackling alcohol abuse

Division 1—Introduction

6 Guide to this Part

This Part contains measures aimed at reducing alcohol-related harm to Aboriginal people in the Northern Territory. Many of those measures apply in alcohol protected areas (which are particular areas of the Northern Territory that are prescribed by the rules (see section 27)).

Division 2 modifies the NT Liquor Act so that it applies in alcohol protected areas in a particular way. For example, section 8 inserts a number of offences into that Act, such as the offence for consuming liquor in an alcohol protected area.

Division 3 modifies NT liquor licences and NT liquor permits that are in force in alcohol protected areas. Those modifications affect what the licence or permit authorises. The Division also allows the Minister to vary the conditions of the licence or permit.

Division 4 allows the NT Licensing Commission to post a notice, at an access point to an alcohol protected area, notifying people about the alcohol offences that apply in that area.

Division 5 provides a mechanism under which the Minister may request the NT Minister to appoint an assessor to conduct an assessment of particular licensed premises in the Northern Territory. The Minister may only make the request if the Minister reasonably believes that the sale or consumption of liquor at or from the premises is causing substantial alcohol-related harm to the community.

Division 6 deals with alcohol management plans. In particular, it provides a process for the approval of alcohol management plans by the Minister.

Division 7 deals with the process for making rules prescribing that an area is an alcohol protected area.

Division 8 requires the Minister and the NT Minister to cause an independent review to be undertaken of the operation of specified laws of the Commonwealth and the Northern Territory that relate to alcohol. In particular, the review must assess the effectiveness of those laws in reducing alcohol-related harm to Aboriginal people.

Division 9 deals with miscellaneous matters relating to this Part (such as the NT Licensing Commission providing information requested by the Minister and administrative review of certain determinations made under this Part).

7 Object of this Part

The object of this Part is to enable special measures to be taken to reduce alcohol-related harm to Aboriginal people in the Northern Territory.

Part 2 Tackling alcohol abuse

Division 2 Modification of the NT Liquor Act and NT Liquor Regulations in alcohol protected areas

Section 8

Division 2—Modification of the NT Liquor Act and NT Liquor Regulations in alcohol protected areas

8 Certain offences to apply in alcohol protected areas

The NT Liquor Act applies, while this Act is in effect, as if the following Division were included as Division 1AA of Part VIII of that Act (after Division 1 of that Part).

Note: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

“Division 1AA—Prohibitions in alcohol protected areas

“75A Preliminary

“(1) In this Division:

alcohol protected area has the same meaning as in the *Stronger Futures in the Northern Territory Act 2012* of the Commonwealth.

boat means any kind of vessel used in navigation by water.

Commonwealth Minister means the Commonwealth Minister responsible for the administration of the *Stronger Futures in the Northern Territory Act 2012* of the Commonwealth.

recreational activities does not include an activity the sole or primary purpose of which is the consumption of liquor.

supply includes supply by way of sale, exchange or gift.

“(2) Part IIAA of the Criminal Code applies to an offence against this Division.

“(3) This Division does not apply in relation to anything done in the normal course of the provision of a postal service (within the meaning of paragraph 51(v) of the *Constitution* of the Commonwealth).

“75B Possessing etc. liquor in alcohol protected areas

- “(1) A person commits an offence if:
- (a) the person:
 - (i) brings liquor into an area; or
 - (ii) has liquor in his or her possession, or under his or her control, in an area; or
 - (iii) consumes liquor in an area; and
 - (b) the area is an alcohol protected area.
- Maximum penalty: 100 penalty units or imprisonment for 6 months.
- “(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that, when the conduct referred to in subsection (1)(a) was engaged in:
- (a) the defendant was in a boat that was on waters; and
 - (b) the defendant was engaged in recreational boating activities or commercial fishing activities.
- “(3) The defence in subsection (2) is not available to the defendant if the prosecution proves, beyond reasonable doubt, that, when the conduct referred to in subsection (1)(a) was engaged in, the boat was on waters in an area that was covered by a declaration made by the Commonwealth Minister under section 75D(1).
- “(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that, when the conduct referred to in subsection (1)(a) was engaged in:
- (a) the defendant was engaged in recreational activities; and
 - (b) the activities were organised by a person whose business consisted of or included operating tours for tourists; and
 - (c) if the alcohol protected area in which the conduct was engaged in is in a national park or a Northern Territory park—the activities were consistent with the management plan or similar document (if any) for the park; and
 - (d) if the conduct is conduct referred to in subsection (1)(a)(iii)—the defendant was behaving in a responsible manner.

Part 2 Tackling alcohol abuse

Division 2 Modification of the NT Liquor Act and NT Liquor Regulations in alcohol protected areas

Section 8

- “(5) It is a defence to a prosecution for an offence against subsection (1)(a)(i) or (ii) if the defendant proves, on the balance of probabilities, that, when the defendant engaged in the conduct referred to in that subparagraph, the defendant did so for the purposes of other people engaging in recreational activities covered by subsection (4).
- “(6) The defence in subsection (4) or (5) is not available to the defendant if the prosecution proves, beyond reasonable doubt, that, when the conduct referred to in subsection (1)(a) was engaged in in the area, the area was not covered by a declaration made by the Commonwealth Minister under section 75D(2).
- “(7) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that the conduct referred to in subsection (1)(a):
- (a) occurred in an emergency; and
 - (b) was necessary to preserve life, prevent injury or to protect property.

“75C Supplying etc. liquor in alcohol protected areas

- “(1) A person commits an offence if:
- (a) the person:
 - (i) supplies liquor to a third person; or
 - (ii) transports liquor intending to supply any of it, or believing that another person intends to supply any of it, to a third person; or
 - (iii) possesses liquor intending to supply any of it to a third person; and
 - (b) the third person is in an alcohol protected area.

Maximum penalty: 100 penalty units or imprisonment for 6 months.

- “(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that, when the conduct referred to in subsection (1)(a) was engaged in:
- (a) the defendant was in a boat that was on waters; and

Section 8

- (b) the defendant was engaged in recreational boating activities or commercial fishing activities; and
 - (c) the third person was in the same boat.
- “(3) The defence in subsection (2) is not available to the defendant if the prosecution proves, beyond reasonable doubt, that, when the conduct referred to in subsection (1)(a) was engaged in, the boat was on waters in an area that was covered by a declaration made by the Commonwealth Minister under section 75D(1).
- “(4) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that, when the conduct referred to in subsection (1)(a) was engaged in:
- (a) the defendant and the third person were engaged in recreational activities; and
 - (b) the activities were organised by a person whose business consisted of or included operating tours for tourists; and
 - (c) if the alcohol protected area in which the conduct was engaged in is in a national park or a Northern Territory park—the activities were consistent with the management plan or similar document (if any) for the park.
- “(5) It is a defence to a prosecution for an offence against subsection (1)(a)(ii) or (iii) if the defendant proves, on the balance of probabilities, that, when the defendant engaged in the conduct referred to in that subparagraph, the defendant did so for the purposes of other people engaging in recreational activities covered by subsection (4).
- “(6) The defence in subsection (4) or (5) is not available to the defendant if the prosecution proves, beyond reasonable doubt, that, when the conduct referred to in subsection (1)(a) was engaged in in the area, the area was not covered by a declaration made by the Commonwealth Minister under section 75D(2).
- “(7) If the quantity of ethyl alcohol involved in the commission of an offence against subsection (1) is greater than 1,350 ml:
- (a) the maximum penalty for the offence is 680 penalty units or imprisonment for 18 months; and

Part 2 Tackling alcohol abuse

Division 2 Modification of the NT Liquor Act and NT Liquor Regulations in alcohol protected areas

Section 8

- (b) a person who engages in conduct specified in subsection (1)(a)(ii) or (iii) is taken to have done so:
- (i) intending to supply the liquor; or
 - (ii) believing that another person intends to supply the liquor;
- as the subparagraph requires, to a person in an alcohol protected area.

“(8) Paragraph (b) of subsection (7) does not apply in relation to a subparagraph mentioned in that paragraph if the person proves, on the balance of probabilities, that he or she did not have the intention or belief required by that subparagraph.

“(9) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that the conduct referred to in subsection (1)(a):

- (a) occurred in an emergency; and
- (b) was necessary to preserve life, prevent injury or to protect property.

“75D Areas in which defences are, or are not, available

“(1) The Commonwealth Minister may declare that a specified area of waters in an alcohol protected area is an area in relation to which a defence under section 75B(2) or 75C(2) is not available.

“(2) The Commonwealth Minister may declare that a specified area of land or waters in an alcohol protected area is an area in relation to which a defence under section 75B(4), 75B(5), 75C(4) or 75C(5) is available.

“(3) A declaration under subsection (1) or (2) is a legislative instrument under the *Legislative Instruments Act 2003* of the Commonwealth.

“75E Notices about defences

“While an area is declared under section 75D(1), the Commission may cause a notice stating that a defence under section 75B(2) or 75C(2) is not available in relation to the area:

- (a) to be posted and to be kept posted at a place where a customary access route enters the area; and
- (b) to be published in a newspaper circulating in the district in which the relevant area is situated.

“75F Offence relating to Commonwealth notices

- “(1) A person commits an offence if the person:
- (a) removes a notice posted under section 14(3) of the *Stronger Futures in the Northern Territory Act 2012* of the Commonwealth; or
 - (b) damages such a notice.

Maximum penalty: 5 penalty units.

- “(2) It is a defence to a prosecution for an offence against subsection (1) if the defendant proves, on the balance of probabilities, that the conduct was engaged in in the course of the person’s duties.”.

9 Alcohol protected areas treated as general restricted areas

- (1) The NT Liquor Act (other than section 75 of that Act) applies, while this Act is in effect, as if each alcohol protected area were a general restricted area under that Act.

Note: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

- (2) Any amendment of a law of the Northern Territory, or any action taken under a law of the Northern Territory (whether the amendment commences, or the action is taken, before, on or after commencement):
- (a) has no force or effect; and
 - (b) is taken never to have had any force or effect;
- to the extent that it would otherwise have the effect of preventing the NT Liquor Act operating as if each alcohol protected area were a general restricted area under that Act.

Part 2 Tackling alcohol abuse

Division 2 Modification of the NT Liquor Act and NT Liquor Regulations in alcohol protected areas

Section 10

10 Seizing vehicles

The NT Liquor Act applies, while this Act is in effect, as if the following section were included as section 95A of that Act (after section 95 of that Act).

Note: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

“95A Seizing vehicles

“In deciding whether to seize a vehicle under section 95, an inspector must have regard to:

- (a) whether the main use of the vehicle is for the benefit of a community as a whole; and
- (b) the hardship that might be caused to the community if the vehicle were seized.”.

11 Modification of the NT Liquor Regulations

The NT Liquor Regulations apply, while this Act is in effect, as if:

- (a) the following offences against the NT Liquor Act were police infringement offences for the purposes of those Regulations:
 - (i) an offence against subsection 75B(1);
 - (ii) an offence against subsection 75C(1) if the quantity of the ethyl alcohol involved in the commission of the offence is 1,350 ml or less;
 - (iii) an offence against subsection 75F(1); and
- (b) the reference to section 75(1) of the NT Liquor Act in Part 1 of Schedule 2 to those Regulations included a reference to subsections 75B(1), 75C(1) and 75F(1) of that Act.

Note 1: Section 8 of this Act includes sections 75B, 75C and 75F into the NT Liquor Act.

Note 2: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

Division 3—Modification of NT liquor licences and NT liquor permits in force in alcohol protected areas

12 Modification of NT liquor licences

- (1) This section applies to a NT liquor licence that is in force in relation to premises in a particular alcohol protected area (whenever the licence was issued).
- (2) The licence continues in force according to its terms, subject to the NT Liquor Act and this section.
- (3) While this Act is in effect, the licence is subject to a condition that the licensee must not sell liquor for consumption away from the licensed premises unless the purchaser holds a NT liquor permit that is in force in the particular alcohol protected area.

Note: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

- (4) The Minister may, by written notice given to the licensee and the NT Licensing Commission, determine that the licence does not, from the day specified in the notice and for a period (if any) specified in the notice, authorise the sale of liquor, or the sale and consumption of liquor on, at, or away from, those premises.

Note: If the Minister proposes to make a determination under subsection (4), the procedure in section 13A must be followed first.

- (5) The Minister may, by written notice given to the licensee and the NT Licensing Commission, determine that the conditions of the licence are varied in a way specified in the notice, from the day specified in the notice and for a period (if any) specified in the notice.

Note: If the Minister proposes to make a determination under subsection (5), the procedure in section 13A must be followed first.

- (6) For the purposes of subsections (4) and (5), the day specified in the notice must be at least 14 days after the day the notice is given to the licensee.

Part 2 Tackling alcohol abuse

Division 3 Modification of NT liquor licences and NT liquor permits in force in alcohol protected areas

Section 13

- (7) If a determination is made under subsection (4) or (5), then, while this Act is in effect, the NT Liquor Act and the licence apply accordingly.

Note: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

13 Modification of NT liquor permits

- (1) This section applies to a NT liquor permit that is in force in an alcohol protected area (whenever the permit was issued).
- (2) The permit continues in force according to its terms, subject to the NT Liquor Act and this section.
- (3) The Minister may, by written notice given to the permit holder and the NT Licensing Commission, determine that the permit does not authorise the permit holder to:
- (a) bring liquor into; or
 - (b) have liquor in his or her possession or under his or her control within; or
 - (c) consume liquor within;
- an alcohol protected area, from the day specified in the notice and for a period (if any) specified in the notice.

Note: If the Minister proposes to make a determination under subsection (3), the procedure in section 13A must be followed first.

- (4) The Minister may, by written notice given to the permit holder and the NT Licensing Commission, determine that the conditions of the permit are varied in a way specified in the notice, from the day specified in the notice and for a period (if any) specified in the notice.

Note: If the Minister proposes to make a determination under subsection (4), the procedure in section 13A must be followed first.

- (5) For the purposes of subsections (3) and (4), the day specified in the notice must be at least 14 days after the day the notice is given to the permit holder.
- (6) If a determination is made under subsection (3) or (4), then, while this Act is in effect, the NT Liquor Act and the permit apply accordingly.

Note: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

13A Procedure before making determination modifying NT liquor licence or permit

- (1) Before making a determination under subsection 12(4), 12(5), 13(3) or 13(4) that modifies a NT liquor licence or NT liquor permit, the Minister must consult the NT Minister and the NT Licensing Commission about the proposed modification by giving them a written notice.
- (2) The notice must:
 - (a) set out information about the proposed modification; and
 - (b) invite the NT Minister and the NT Licensing Commission to give written comments to the Minister about the proposed modification before the end of the consultation period in subsection (3).
- (3) The consultation period is:
 - (a) the period specified in the notice, which must be at least 14 days after the day the notice is given; or
 - (b) if the Minister agrees in writing to a longer period—that longer period.
- (4) When making a determination under subsection 12(4), 12(5), 13(3) or 13(4), the Minister must have regard to any written comments of the NT Minister and the NT Licensing Commission that are given to the Minister during the consultation period in subsection (3).

Division 4—Notices about alcohol offences in alcohol protected areas

14 Notices about alcohol offences in alcohol protected areas

- (1) The NT Licensing Commission may determine that a notice:
 - (a) stating that it is an offence to bring liquor into, to be in possession or control of liquor, or to consume or sell liquor, within an area that is an alcohol protected area; and
 - (b) setting out any other information that the Commission considers appropriate;should be posted at the following places:
 - (c) the place where a customary access route enters the area;
 - (d) the customary departure locations for aircraft flying into the area.
- (2) The NT Licensing Commission must ensure that the wording of the notice is respectful to Aboriginal people.
- (3) If a determination under subsection (1) is in force, the Commission must cause the notice to be posted and kept posted at those places while the area is an alcohol protected area.
- (4) The NT Licensing Commission may cause to be published in a newspaper circulating in the district in which the area is situated a notice:
 - (a) describing the area; and
 - (b) stating that it is an offence to bring liquor into, to be in possession or control of liquor, or to consume or sell liquor, within the area; and
 - (c) setting out any other information that the Commission considers appropriate.
- (5) Before making a determination under subsection (1), the NT Licensing Commission must consult people living in the area on:
 - (a) the proposal to make the determination; and
 - (b) the content and wording of the notice.

- (6) When making a determination under subsection (1), the NT Licensing Commission must have regard to:
- (a) any information that the Commission has that is relevant to exercising a power under subsection (1) in relation to the area (such as information about a high incidence of alcohol-related crime in that area); and
 - (b) any advice given by the Australian Federal Police or the police force of the Northern Territory relating to the effect on enforcement in the area of the alcohol restrictions provided by this Part if the power under subsection (1) were or were not exercised; and
 - (c) the circumstances and views of people who are living in the area, to the extent that those circumstances and views relate to the determination; and
 - (d) any other matter the Commission considers relevant.
- (7) The NT Licensing Commission may revoke a determination under subsection (1).

Division 5—Assessments of licensed premises

15 Assessments of licensed premises in the Northern Territory

- (1) The Minister may make a request under subsection (2) in relation to particular licensed premises in the Northern Territory if:
 - (a) the Minister reasonably believes that the sale or consumption of liquor at or from the premises is causing substantial alcohol-related harm to the community; and
 - (b) at least 28 days before giving the request, the Minister has notified the NT Minister that the Minister proposes to make the request in relation to the premises.
- (2) The Minister may, by written notice, request the NT Minister to appoint an assessor (within the meaning of the NT Liquor Act) to conduct an assessment in relation to the premises:
 - (a) in accordance with the terms specified in the request; and
 - (b) within the period specified in the request.
- (3) If the NT Minister receives a request under subsection (2), then:
 - (a) the NT Minister must appoint an assessor to conduct an assessment in relation to the premises in accordance with the terms, and within the period, specified in the request; and
 - (b) the assessor must:
 - (i) conduct an assessment in relation to the premises in accordance with the terms, and within the period, specified in the request; and
 - (ii) give the NT Minister a copy of the assessment; and
 - (c) the NT Minister must give the Minister a copy of the assessment as soon as practicable after receiving it from the assessor.
- (4) However, subsection (3) does not apply if the NT Minister:
 - (a) declines the request on the grounds referred to in subsection (5); and
 - (b) complies with the requirements of subsection (6).

- (5) The NT Minister may decline the request if the NT Minister reasonably believes that compliance with the request:
 - (a) would place an undue financial burden on the Northern Territory (including the NT Licensing Commission); or
 - (b) would otherwise be inappropriate.
- (6) If the NT Minister declines the request under subsection (5), the NT Minister must, within 28 days of receiving the request:
 - (a) give the Minister a statement setting out the decision and the reasons for it; and
 - (b) publish the statement on the NT Minister's website.
- (7) If the Minister receives a statement from the NT Minister under subsection (6), the Minister may publish the statement on the Minister's website.

Division 6—Alcohol management plans

Subdivision A—Approving alcohol management plans

16 Application for approval of an alcohol management plan

- (1) A person or entity may apply for approval of an alcohol management plan by lodging a written application in accordance with this section.
- (2) An application under subsection (1) must:
 - (a) be in the form (if any) that is prescribed by the rules; and
 - (b) include the information (if any) that is prescribed by the rules; and
 - (c) be accompanied by the alcohol management plan; and
 - (d) be accompanied by other documents (if any) that are prescribed by the rules.
- (3) The alcohol management plan must:
 - (a) be in the form (if any) that is prescribed by the rules; and
 - (b) include the information (if any) that is prescribed by the rules.
- (4) An application under subsection (1) is lodged by being delivered:
 - (a) to a person apparently performing duties at a place that is prescribed by the rules; or
 - (b) in a manner, and to a place, that is prescribed by the rules; or
 - (c) to a person approved for the purpose by the Secretary.

17 Determination to approve or refuse plan

- (1) If an application for approval of an alcohol management plan has been made under subsection 16(1), the Minister must make a determination whether to approve the plan.

Note: If the Minister proposes to refuse to approve the plan under subsection (1), the procedure in section 18 must be followed first.

- (2) In making a determination under subsection (1), the Minister must have regard to:
 - (a) the object of this Part (see section 7); and
 - (b) any matter that is prescribed by the rules; and
 - (c) any other matter that the Minister considers relevant.
- (3) The Minister must not approve a plan under subsection (1) unless the Minister is satisfied that the plan meets the requirements (if any) applying to alcohol management plans that are prescribed by the rules.
- (4) The Minister may refuse to approve an alcohol management plan under subsection (1) if the applicant does not give the Minister sufficient documents, material or assistance to enable the Minister to make an informed decision.
- (5) Subsection (4) does not limit the grounds on which the Minister may refuse to approve an alcohol management plan.
- (6) The Minister is not required to make a determination under subsection (1) in relation to an application for approval of an alcohol management plan if the Minister is satisfied that:
 - (a) people living in the area covered by the plan have not been sufficiently consulted about the plan; or
 - (b) a majority of people living in the area covered by the plan do not support the plan.
- (7) If the Minister makes a determination under subsection (6), the Minister must give written notice of the determination to the applicant. The notice must specify the reasons for the determination.

18 Procedure before refusing approval of plan

- (1) If the Minister proposes to refuse to approve an alcohol management plan, the Minister must give written notice of the proposed refusal to the applicant.
- (2) The notice must:
 - (a) specify the reasons for the proposed refusal; and

Section 19

- (b) invite written submissions from the applicant in relation to the matters specified in the notice; and
 - (c) specify that written submissions must be lodged during the period (the *submission period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Minister agrees in writing to a longer period—that longer period; and
 - (d) specify the manner in which written submissions are to be lodged.
- (3) For the purposes of subparagraph (2)(c)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.
- (4) The Minister must not refuse to approve an alcohol management plan unless:
- (a) the applicant has been given a notice under subsection (1); and
 - (b) the Minister has considered any submissions received during the submission period.

19 Duration of approval of an alcohol management plan

An approval of an alcohol management plan is in force for the period:

- (a) beginning on the day specified in the approval or, if no day is specified, the day the approval is granted; and
- (b) ending on whichever of the following days occurs first:
 - (i) the day specified in the approval as the day the approval ceases to be in force;
 - (ii) the day the approval is revoked;
 - (iii) the day this Act ceases to have effect (see section 118).

20 Notice of determination about whether plan approved

- (1) If the Minister makes a determination under subsection 17(1) to approve an alcohol management plan, the Minister must give written notice of the decision to the applicant.

- (2) If the Minister makes a determination under subsection 17(1) to refuse to approve an alcohol management plan, the Minister must give written notice of the decision to the applicant.
- (3) A notice under subsection (2) must specify the reasons for the refusal.

Subdivision B—Variation and revocation of alcohol management plans

21 No variation of alcohol management plan without approval

An alcohol management plan in relation to which an approval is in force under subsection 17(1) must not be varied unless there is an approval for the variation in force under subsection 23(1).

22 Application for approval to vary alcohol management plan

- (1) A person or entity may apply for approval of a variation of an alcohol management plan by lodging a written application in accordance with subsections (2) and (3).
- (2) An application under subsection (1) must:
 - (a) be in the form (if any) that is prescribed by the rules; and
 - (b) include the information (if any) that is prescribed by the rules; and
 - (c) be accompanied by the documents (if any) that are prescribed by the rules.
- (3) An application under subsection (1) is lodged by being delivered:
 - (a) to a person apparently performing duties at a place that is prescribed by the rules; or
 - (b) in a manner, and to a place, that is prescribed by the rules; or
 - (c) to a person approved for the purpose by the Secretary.

Section 23

23 Approval of variation of alcohol management plan

- (1) If an application for approval to vary an approved alcohol management plan has been made under subsection 22(1), the Minister must determine whether to approve the variation.

Note: If the Minister proposes to refuse to approve a variation of an alcohol management plan in accordance with the application, the procedure in section 25 must be followed first.

- (2) When considering whether to approve a variation of an alcohol management plan under subsection (1), the Minister must have regard to:
- (a) the object of this Part (see section 7); and
 - (b) any matter that is prescribed by the rules; and
 - (c) any other matter that the Minister considers relevant.
- (3) The Minister may refuse to approve a variation of an alcohol management plan under subsection (1) if the applicant for the variation does not give the Minister sufficient documents, material or assistance to enable the Minister to make an informed decision.
- (4) Subsection (3) does not limit the grounds on which the Minister may refuse to vary an alcohol management plan.
- (5) If the Minister makes a determination under subsection (1), the Minister must give written notice of the determination to the applicant for the approval of the variation.
- (6) If the Minister refuses to approve the variation, the notice under subsection (5) must specify the reasons for the refusal.
- (7) A determination under subsection (1) takes effect on the day the notice under subsection (5) is given, or on a later day specified in the notice.

24 Revocation of approval of alcohol management plan

- (1) The Minister may revoke an approval of an alcohol management plan if the Minister is satisfied that:
- (a) the plan has not been complied with; or

- (b) the plan is ineffective in achieving the object of this Part (see section 7); or
- (c) the plan was varied without approval under subsection 23(1).

Note: If the Minister proposes to revoke an approval of an alcohol management plan under subsection (1), the procedure in section 25 must be followed first.

- (2) If the Minister revokes an approval of an alcohol management plan under subsection (1), the Minister must give written notice of the revocation to the person or entity the Minister considers is the most appropriate to notify (the *nominated person*).
- (3) A revocation takes effect on the day the notice under subsection (2) is given, or on a later day specified in the notice.

25 Procedure before refusing to approve variation or revoking approval

- (1) If an application under subsection 22(1) has been made for approval to vary an alcohol management plan, and the Minister proposes to refuse to approve the variation, the Minister must give written notice of the proposed refusal to the applicant.
- (2) If the Minister proposes to revoke an approval of an alcohol management plan under subsection 24(1), the Minister must give written notice of the proposed revocation to the nominated person.
- (3) A notice under subsection (1) or (2) must:
 - (a) specify the reasons for the proposed refusal or revocation; and
 - (b) invite written submissions in relation to the matters specified in the notice; and
 - (c) specify that written submissions must be lodged during the period (the *submission period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Minister agrees in writing to a longer period—that longer period; and
 - (d) specify the manner in which written submissions are to be lodged.

Part 2 Tackling alcohol abuse

Division 6 Alcohol management plans

Section 26

- (4) For the purposes of subparagraph (3)(c)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.
- (5) The Minister must not refuse to approve a variation of an alcohol management plan under subsection 23(1), or revoke an approval of an alcohol management plan under subsection 24(1), unless:
 - (a) the applicant has been given a notice under subsection (1) or the nominated person has been given a notice under subsection (2); and
 - (b) the Minister has considered all written submissions received during the submission period.

Subdivision C—Community managed alcohol areas

26 Community managed alcohol areas

If the Minister approves an alcohol management plan under subsection 17(1), then the area covered by the plan is a community managed alcohol area.

Division 7—Alcohol protected areas

27 Rules prescribing the areas that are alcohol protected areas

Rules may prescribe alcohol protected area

- (1) The rules may prescribe that an area in the Northern Territory is an alcohol protected area.

Rules may be revoked or varied

- (2) The rules may revoke or vary a rule made for the purposes of subsection (1).
- (3) If:
- (a) the Minister approves an alcohol management plan under subsection 17(1); and
 - (b) a rule (the *relevant rule*) made for the purposes of subsection (1) prescribes that the whole or part of the area covered by the plan is an alcohol protected area;
- then the Minister must consider making a rule for the purposes of subsection (2) that revokes or varies the relevant rule so that the area covered by the plan is no longer an alcohol protected area.

When rules may be made

- (4) A rule may be made for the purposes of subsection (1):
- (a) on the Minister's own initiative; or
 - (b) following a request made to the Minister by, or on behalf of, a person who is ordinarily resident in the area to which the rules relate; or
 - (c) following a revocation of an approval of an alcohol management plan relating to the area under subsection 24(1); or
 - (d) following the cessation of an approval of an alcohol management plan in relation to the area (see section 19).
- (5) A rule may be made for the purposes of subsection (2):
- (a) on the Minister's own initiative; or

Section 27

- (b) following a request made to the Minister by, or on behalf of, a person who is ordinarily resident in the area to which the rules relate; or
- (c) following approval of an alcohol management plan relating to the area under subsection 17(1).

Community consultation

- (6) Before making a rule for the purposes of subsection (1) or (2) in relation to an area, the Minister must ensure that:
 - (a) information setting out:
 - (i) the proposal to make the rule; and
 - (ii) an explanation, in summary form, of the consequences of the making of the rule;has been made available in the area; and
 - (b) people living in the area have been given a reasonable opportunity to make submissions to the Minister about:
 - (i) the proposal to make the rule; and
 - (ii) the consequences of the making of the rule; and
 - (iii) their circumstances, concerns and views, so far as they relate to the proposal.
- (7) Subsection (6) does not apply if the rule is proposed to be made in relation to the approval of an alcohol management plan.
- (8) A failure to comply with subsection (6) does not affect the validity of a rule made for the purposes of subsection (1) or (2).

Criteria for making rules

- (9) In making a rule for the purposes of subsection (1) or (2) in relation to an area, the Minister must have regard to the following matters:
 - (a) the object of this Part (see section 7);
 - (b) the wellbeing of people living in the area;
 - (c) whether there is reason to believe that people living in the area have been the victims of alcohol-related harm;
 - (d) the extent to which people living in the area have expressed their concerns about being at risk of alcohol-related harm;

- (e) the extent to which people living in the area have expressed the view that their wellbeing will be improved if this Part applies in relation to the area;
- (f) whether there is an alcohol management plan that covers the area or part of the area (whether or not the plan is approved under Division 6);
- (g) any submissions of the kind referred to in paragraph (6)(b);
- (h) any other matter that the Minister considers relevant.

Effect of revocation or variation on things done etc. before

- (10) If:
- (a) a rule is made for the purposes of subsection (1) in relation to an area; and
 - (b) under subsection (2):
 - (i) the rule is revoked; or
 - (ii) the rule is varied so that the area is no longer an alcohol protected area;

then this Part continues to apply in relation to that area, after the revocation or variation takes effect, in relation to things done, or omitted to be done, before the revocation or variation takes effect.

Division 8—Independent review of Commonwealth and Northern Territory laws relating to alcohol

28 Independent review of Commonwealth and Northern Territory laws relating to alcohol

- (1) No later than 2 years after commencement, the Minister and the NT Minister must cause an independent review to be undertaken of the operation of the following laws:
 - (a) this Part and instruments made for the purposes of this Part;
 - (b) the following laws of the Northern Territory:
 - (i) the NT Liquor Act and the NT Liquor Regulations;
 - (ii) the *Alcohol Reform (Substance Misuse Assessment and Referral for Treatment Court) Act 2011* and instruments made under that Act;
 - (iii) the *Alcohol Reform (Prevention of Alcohol-related Crime and Substance Misuse) Act* and instruments made under that Act;
 - (c) any other law of the Commonwealth or the Northern Territory that is specified by the Minister and the NT Minister.
 - (2) The review must:
 - (a) assess the effectiveness of those laws in reducing alcohol-related harm to Aboriginal people living in the Northern Territory; and
 - (b) assess whether any provisions of those laws should be amended or repealed to increase the effectiveness of those laws in reducing alcohol-related harm to Aboriginal people living in the Northern Territory; and
 - (c) consider any other matter specified by the Minister and the NT Minister.
 - (3) The review must be completed, and a report of the review must be prepared, before the end of 3 years after commencement.
 - (4) The person undertaking the review must give the report of the review to the Minister and the NT Minister.
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Section 28

- (5) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of receiving it.
- (6) The NT Minister must cause a copy of the report to be tabled in the Northern Territory Legislative Assembly within 15 sitting days of receiving it.

Division 9—Other matters

29 NT Licensing Commission etc. to provide information

The NT Licensing Commission or the Director (within the meaning of the NT Liquor Act) must, if requested by the Minister to provide information relevant to the operation of this Part, take all reasonable steps to provide the information.

30 Modified NT Liquor Act and NT Liquor Regulations

- (1) The NT Liquor Act and the NT Liquor Regulations apply, while this Act is in effect, subject to the modifications in this Part.

Note: This Act ceases to have effect at the end of 10 years after commencement: see section 118.

- (2) The NT Liquor Act and the NT Liquor Regulations, as modified by this Part, apply as laws of the Northern Territory.

31 AAT review of determinations under this Part

An application may be made to the Administrative Appeals Tribunal for review of the following determinations:

- (a) a determination under subsection 12(4) about what is not authorised by a NT licence;
- (b) a determination under subsection 12(5) about the conditions of a NT licence;
- (c) a determination under subsection 13(3) about what is not authorised by a NT permit;
- (d) a determination under subsection 13(4) about the conditions of a NT permit;
- (e) a determination under subsection 14(1) about posting a notice about alcohol offences in an alcohol protected area;
- (f) a determination under subsection 17(1) to refuse to approve an alcohol management plan;
- (g) a determination under subsection 17(6) to refuse to make a determination under subsection 17(1) in relation to an application for approval of an alcohol management plan;

Section 31

- (h) a determination under subsection 23(1) to refuse to approve a variation of an alcohol management plan;
- (i) a determination under subsection 24(1) to revoke an approval of an alcohol management plan.

Part 3—Land reform

Division 1—Introduction

32 Guide to this Part

This Part contains measures relating to town camps and community living areas in the Northern Territory. Those measures are aimed at facilitating the granting of rights and interests, and promoting economic development, in those camps and areas.

Division 2 deals with town camps. It allows regulations to be made to modify particular laws of the Northern Territory to the extent that those laws apply to a town camp. It also allows regulations to be made to modify the NT Crown Lands Act and the NT Special Purposes Leases Act, and leases granted under that Act, in particular ways.

Division 3 deals with community living areas. It allows regulations to be made to modify particular laws of the Northern Territory to the extent that those laws apply to a community living area.

33 Object of this Part

The object of this Part is to enable special measures to be taken:

- (a) to facilitate the granting of individual rights or interests in relation to land in town camps and community living areas; and
- (b) to promote economic development in town camps and community living areas.

Division 2—Town camps

34 Modifying NT laws in relation to town camps

- (1) The regulations may modify any law of the Northern Territory relating to:
 - (a) the use of land; or
 - (b) dealings in land; or
 - (c) planning; or
 - (d) infrastructure; or
 - (e) any matter prescribed by the regulations;to the extent that the law applies to a town camp.
- (2) A ***town camp*** is land that, at commencement, is leased primarily for residential, community or cultural purposes for Aboriginal people under:
 - (a) the *Crown Lands Act* of the Northern Territory (the ***NT Crown Lands Act***); or
 - (b) the *Special Purposes Leases Act* of the Northern Territory (the ***NT Special Purposes Leases Act***).

Note: The references to the *Crown Lands Act* and the *Special Purposes Leases Act* of the Northern Territory are to be construed as references to those Acts as originally enacted and as amended from time to time: see section 10A of the *Acts Interpretation Act 1901* of the Commonwealth.
- (3) If regulations made for the purposes of subsection (1) modify a law of the Northern Territory (the ***relevant law***), then:
 - (a) immediately on the commencement of those regulations, the relevant law is taken to be modified accordingly; and
 - (b) after the commencement of those regulations, the relevant law, as modified, applies in the same way as it would apply if, instead of those regulations, a law of the Northern Territory had made those modifications; and
 - (c) after the commencement of those regulations, the relevant law may be further modified by a law of the Northern Territory or by regulations under subsection (1), in the same way as it could be further modified if, instead of those

Section 34

regulations, a law of the Northern Territory had made those modifications.

- (4) The regulations may modify the NT Crown Lands Act or the NT Special Purposes Leases Act, or both Acts, to provide that a lease granted under the NT Special Purposes Leases Act is taken to have been granted under the NT Crown Lands Act.
 - (5) If regulations made for the purposes of subsection (4) modify the NT Crown Lands Act or the NT Special Purposes Leases Act (the *relevant law*), then:
 - (a) immediately on the commencement of those regulations, the relevant law is taken to be modified accordingly; and
 - (b) after the commencement of those regulations, the relevant law, as modified, applies in the same way as it would apply if, instead of those regulations, a law of the Northern Territory had made those modifications; and
 - (c) after the commencement of those regulations, the relevant law may be further modified by a law of the Northern Territory or by regulations under subsection (4), in the same way as it could be further modified if, instead of those regulations, a law of the Northern Territory had made those modifications.
 - (6) The regulations may modify a lease granted under the NT Crown Lands Act or NT Special Purposes Leases Act by modifying the purposes for which the land that is the subject of the lease may be used.
 - (7) If regulations made for the purposes of subsection (6) modify a lease, then:
 - (a) immediately on the commencement of those regulations, the lease is taken to be modified accordingly; and
 - (b) after the commencement of those regulations, the lease, as modified, applies in the same way it would apply if, instead of those regulations, a law of the Northern Territory had made those modifications; and
 - (c) after the commencement of those regulations, the lease may be further modified by a law of the Northern Territory or by regulations under subsection (6), in the same way as it could
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be further modified if, instead of those regulations, a law of the Northern Territory had made those modifications.

- (8) Before making regulations for the purposes of this section in relation to a town camp, the Minister must consult with:
- (a) the Government of the Northern Territory; and
 - (b) the lessee of the land that is the town camp; and
 - (c) any other person the Minister considers appropriate to consult.
- (9) A failure to comply with subsection (8) does not affect the validity of the regulations.

Division 3—Community living areas

35 Modifying NT laws in relation to community living areas

- (1) The regulations may modify any law of the Northern Territory relating to:
 - (a) the use of land; or
 - (b) dealings in land; or
 - (c) planning; or
 - (d) infrastructure; or
 - (e) any matter prescribed by the regulations;to the extent that the law applies to a community living area.
- (2) A **community living area** is an area granted or created as an Aboriginal community living area by or under a law of the Northern Territory.

Example: Land granted under subsection 46(1A) of the *Lands Acquisition Act* of the Northern Territory is a community living area.
- (3) If regulations made for the purposes of subsection (1) modify a law of the Northern Territory (the **relevant law**), then:
 - (a) immediately on the commencement of those regulations, the relevant law is taken to be modified accordingly; and
 - (b) after the commencement of those regulations, the relevant law, as modified, applies in the same way as it would apply if, instead of those regulations, a law of the Northern Territory had made those modifications; and
 - (c) after the commencement of those regulations, the relevant law may be further modified by a law of the Northern Territory or by regulations under subsection (1), in the same way as it could be further modified if, instead of those regulations, a law of the Northern Territory had made those modifications.
- (4) Before making regulations for the purposes of subsection (1) in relation to a community living area, the Minister must consult with:
 - (a) the Government of the Northern Territory; and

Section 35

- (b) if the owner of the land that is the community living area requests to be consulted about the making of regulations for the purposes of subsection (1)—the owner; and
 - (c) the Land Council (within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976*) in whose area the community living area is located; and
 - (d) any other person the Minister considers appropriate to consult.
- (5) A failure to comply with subsection (4) does not affect the validity of the regulations.

Part 4—Food security

Division 1—Guide to this Part

36 Guide to this Part

This Part provides for a licensing regime for certain community stores operating in the food security area (which is the whole of the Northern Territory other than an area that is prescribed by the rules (see section 74)). That regime is aimed at promoting food security for Aboriginal communities.

The Secretary may determine, at any time, whether the owner of a community store is required to hold a community store licence (see section 41). If the Secretary determines that the owner is required to hold a licence, then the store will be prohibited from operating in the food security area unless the owner obtains the licence.

The Secretary cannot determine that the owner is required to hold a licence unless the Secretary is satisfied that the store is an important source of food, drink or grocery items for an Aboriginal community.

If the Secretary grants a licence, the Secretary may impose conditions on the licence. The owner will be required to comply with those conditions, plus the conditions that are imposed by this Part and any other conditions imposed by the rules.

Division 2 deals with the situations when a community store will be prohibited from operating in the food security area.

Division 3 deals with the determination of the Secretary about whether the owner of a community store is required to hold a community store licence.

Division 4 deals with applications for licences, determinations about whether to grant licences, conditions on licences, variations of licences and revocations of licences.

Division 5 allows the Secretary to make a determination requiring the owner of a community store to become registered under the CATSI Act. If the Secretary makes such a determination, then the owner of the store will be liable to a civil penalty unless the owner becomes registered under that Act. The community store licence may also be revoked.

Division 6 is about assessments of community stores. It allows the Secretary to appoint authorised officers to assess community stores for the purposes of making particular determinations under this Part.

Division 7 deals with the rules that prescribe areas in the Northern Territory as not being in the food security area.

Division 8 deals with enforcement. It has provisions dealing with the enforcement of the civil penalty provisions in this Part. It also provides for the giving of infringement notices, enforceable undertakings and injunctions.

Division 9 has miscellaneous provisions (such as the power of the Secretary to request information from, or disclose information to, public officials in particular circumstances, and administrative review of certain determinations made under this Part).

37 Object of this Part

- (1) The object of this Part is to enable special measures to be taken for the purpose of promoting food security for Aboriginal communities in the Northern Territory.
- (2) In particular, this Part is intended to enhance the contribution made by community stores in the Northern Territory to achieving food security for Aboriginal communities.
- (3) **Food security** means a reasonable ongoing level of access to a range of food, drink and grocery items that is reasonably priced, safe and of sufficient quantity and quality to meet nutritional and related household needs.

Division 2—Certain community stores must be licensed

38 Prohibition on operating a community store without a licence

Prohibition

- (1) A person who is the owner or manager of a community store must not operate the store, or allow the store to be operated, in the food security area if:
 - (a) a determination that the owner is required to hold a community store licence is in force under subsection 41(1); and
 - (b) under subsection 43(1), the person has been notified of the determination; and
 - (c) the owner does not hold a community store licence for the store.

Civil penalty: 50 penalty units.

- (2) The *food security area* is the whole area of the Northern Territory other than an area that is prescribed by the rules made for the purposes of subsection 74(1).

Exceptions

- (3) Subsection (1) does not apply if:
 - (a) the owner makes an application for a community store licence during the application period referred to in paragraph 43(2)(b); and
 - (b) the Secretary has not made a determination under subsection 45(1) about whether to grant the licence.
- (4) Subsection (1) does not apply on a day in the application period referred to in paragraph 43(2)(b) unless the owner has been notified under subsection 50(2), before or on that day, that the Secretary has refused to grant the licence.
- (5) If:

- (a) the business of the community store consists partly of selling goods or services (other than food, drink or grocery items); and
 - (b) the Secretary has given the owner and manager of the store a written notice authorising that part of the business to be operated;
- then subsection (1) does not apply to the extent that that part of the business is operated.

39 Meaning of *community store*, *owner* and *manager*

Meaning of community store

- (1) A ***community store*** is a business that consists wholly or partly of selling food, drink or grocery items at premises that are located in the food security area, whether or not:
 - (a) the premises are permanently located in the food security area; or
 - (b) the selling of food, drink or grocery items also occurs from the premises when they are located outside the food security area.

Meanings of owner and manager

- (2) The ***owner*** of a community store is the person who has overall ownership of the community store and is entitled to the profits (if any), and liable for the debts (if any), of the community store. It does not matter whether the person also owns the community store premises.
- (3) The ***manager*** of a community store is the person who is responsible for the day to day management of the community store.
- (4) To avoid doubt:
 - (a) the same person can be both the owner and manager of a community store; and
 - (b) more than one person can be:
 - (i) the owner of a community store; or
 - (ii) the manager of a community store.

Part 4 Food security

Division 2 Certain community stores must be licensed

Section 39

Unincorporated associations and partnerships as owners

- (5) For the purposes of the definition of **owner** of a community store in subsection (2), an unincorporated association or a partnership:
- (a) is taken to be a person; and
 - (b) is taken to have overall ownership of the community store and to be entitled to the profits (if any), and liable for the debts (if any), of the community store, if:
 - (i) in the case of an unincorporated association—one or more members of the unincorporated association have overall ownership of the community store and are entitled to those profits and liable for those debts (whether or not they also own the community store premises); or
 - (ii) in the case of a partnership—one or more partners in the partnership have overall ownership of the community store and are entitled to those profits and liable for those debts (whether or not they also own the community store premises).
- (6) If, because of subsection (5), an unincorporated association or a partnership is the owner of a community store, this Part applies as follows in relation to the unincorporated association or partnership:
- (a) if a provision of this Part requires or permits a notice to be given to the owner of the community store, the notice may be given to the following:
 - (i) in the case of an unincorporated association—any of the members of the committee of management from time to time;
 - (ii) in the case of a partnership—any of the partners from time to time;
 - (b) anything done, or not done, by a member of the committee of management or a partner, in relation to the community store, is taken to have been done, or not done, by the unincorporated association or the partnership;
 - (c) the obligations, requirements and restrictions imposed, and the rights conferred, under this Part upon the owner of the community store are taken to be imposed or conferred upon

the members of the committee of management, or the partners, from time to time.

- (7) A change in the composition of an unincorporated association or a partnership does not affect the continuity of the unincorporated association or partnership.
- (8) The *committee of management* of an unincorporated association means the body (however described) that governs, manages or conducts the affairs of the association.

40 More than one owner or manager of a community store

If more than one person is the owner or manager of a community store, this Part applies as follows:

- (a) if a provision of this Part requires or permits a notice to be given to the owner of the community store, the notice may be given to any of the owners;
- (b) if a provision of this Part requires or permits a notice to be given to the manager of the community store, the notice may be given to any of the managers;
- (c) the obligations, requirements and restrictions imposed, and rights conferred, under this Part upon the owner of the community store are taken to be imposed or conferred upon each owner;
- (d) the obligations, requirements and restrictions imposed, and rights conferred, under this Part upon the manager of the community store are taken to be imposed or conferred upon each manager.

Division 3—Determining whether a community store is required to be licensed

41 Determining whether a community store licence is required

- (1) The Secretary may, at any time, determine whether the owner of a community store is required to hold a community store licence.

Note: If the Secretary proposes to make a determination under subsection (1) that a community store licence is required to be held by the owner, the procedure in section 42 must be followed first.

- (2) Before making a determination under subsection (1), the Secretary must consult people being serviced by the community store about the proposal to make a determination under that subsection.
- (3) A failure to comply with subsection (2) does not affect the validity of a determination under subsection (1).
- (4) In making a determination under subsection (1), the Secretary must have regard to:
- (a) the object of this Part (see section 37); and
 - (b) any assessment of the store under section 67; and
 - (c) the circumstances and views of people who are being serviced by the store, to the extent that those circumstances and views relate to the determination; and
 - (d) any other matter the Secretary considers relevant.
- (5) The Secretary must not determine under subsection (1) that the owner is required to hold a community store licence unless the Secretary is satisfied that the store is an important source of food, drink or grocery items for an Aboriginal community.
- (6) The Secretary may revoke a determination under subsection (1).

42 Procedure before determining that a licence is required

- (1) If the Secretary proposes to make a determination under subsection 41(1) that the owner of a community store is required to hold a community store licence, the Secretary must give written notice of

the proposed determination to the owner and the manager of the store.

- (2) The notice must:
 - (a) specify the reasons for the proposed determination; and
 - (b) invite written submissions, from the owner and manager of the store, about the matters specified in the notice; and
 - (c) specify that written submissions must be lodged during the period (the *submission period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—that longer period; and
 - (d) specify the manner in which written submissions are to be lodged.
- (3) For the purposes of subparagraph (2)(c)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.
- (4) The Secretary must not make a determination under subsection 41(1) that the owner of a community store is required to hold a community store licence unless:
 - (a) each person required to be given a notice under subsection (1) has been given such a notice; and
 - (b) the Secretary has considered all written submissions received during the submission period.

43 Notice of determination about whether licence is required

- (1) If the Secretary makes any of the following determinations in relation to a community store, the Secretary must give written notice of the determination to the owner and the manager of a store:
 - (a) a determination under subsection 41(1) that the owner is or is not required to hold a community store licence;
 - (b) a determination under subsection 41(6) revoking a determination made under subsection 41(1).

Part 4 Food security

Division 3 Determining whether a community store is required to be licensed

Section 43

- (2) If the Secretary determines under subsection 41(1) that the owner is required to hold a community store licence, the notice under subsection (1) must:
- (a) specify the reasons for the determination; and
 - (b) specify that the owner must apply for a community store licence during the period (the *application period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—that longer period; and
 - (c) provide information about how an application may be made; and
 - (d) advise that subsection 38(1) may prohibit the store from being operated if:
 - (i) an application for a community store licence is not made by the owner of the store; or
 - (ii) an application is made but the Secretary refuses to grant the licence.
- (3) For the purposes of subparagraph (2)(b)(i), the period specified in the notice must be at least 20 business days after the day the notice is given.

Division 4—Licensing of community stores

Subdivision A—Granting and refusing community store licences

44 Application for a community store licence

- (1) The owner of a community store, or a person acting on the owner's behalf, may apply for a community store licence in relation to the community store by:
 - (a) lodging a written application in accordance with subsections (2) and (3); or
 - (b) making an application in the manner approved by the Secretary.
- (2) An application under paragraph (1)(a) must:
 - (a) be in the form (if any) that is prescribed by the rules; and
 - (b) include the information (if any) that is prescribed by the rules; and
 - (c) be accompanied by the documents (if any) that are prescribed by the rules.
- (3) An application under paragraph (1)(a) is lodged by being delivered:
 - (a) to a person apparently performing duties at a place that is prescribed by the rules; or
 - (b) in a manner, and to a place, that is prescribed by the rules; or
 - (c) to a person approved for the purpose by the Secretary.

45 Determination to grant or refuse a community store licence

- (1) If an application for a community store licence has been made under subsection 44(1), the Secretary must determine whether to grant the licence to the owner of the community store.

Note: If the Secretary proposes to refuse to grant a community store licence under subsection (1), the procedure in section 47 must be followed first.

Part 4 Food security

Division 4 Licensing of community stores

Section 46

- (2) In making a determination under subsection (1), the Secretary must have regard to:
- (a) the object of this Part (see section 37); and
 - (b) the food security matters (see section 46); and
 - (c) any assessment of the store under section 67; and
 - (d) the nature and circumstances of the store; and
 - (e) any other matter the Secretary considers relevant.
- (3) The Secretary may refuse to grant a community store licence under subsection (1) if:
- (a) the owner or another person:
 - (i) unreasonably withholds consent for an authorised officer to enter the premises of the community store under section 71; or
 - (ii) unreasonably refuses to provide documents, material or assistance as required by section 72; or
 - (b) the owner does not give the Secretary sufficient documents, material or assistance to enable the Secretary to make an informed decision.
- (4) Subsection (3) does not limit the grounds on which the Secretary may refuse to grant a community store licence.

46 Meaning of *food security matters*

The *food security matters* relating to a community store are the following matters, having regard to the nature and circumstances of the store:

- (a) whether the store will provide a satisfactory range of healthy and good quality food, drink or grocery items;
- (b) whether the store will take reasonable steps to promote good nutrition and healthy products;
- (c) whether the store will satisfactorily address other aspects of the store's operations which may impact on food security, including:
 - (i) the quality of the retail management practices of the manager of the store; and

- (ii) whether the financial practices of the owner and manager of the store support the sustainable operation of the store; and
- (iii) the character of the owner, manager, employees and other persons involved in the store, including whether any of those persons have a criminal history; and
- (iv) the store's business structure, governance practices and employment practices; and
- (v) the environment of the store's premises, the infrastructure of the store's premises and the equipment available at the store's premises.

47 Procedure before refusing a community store licence

- (1) If the Secretary proposes to refuse to grant a community store licence under subsection 45(1), the Secretary must give written notice of the proposed refusal to the owner and the manager of the community store.
- (2) The notice must:
 - (a) specify the reasons for the proposed refusal; and
 - (b) invite written submissions, from the owner and manager of the community store, in relation to the matters specified in the notice; and
 - (c) specify that written submissions must be lodged during the period (the *submission period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—that longer period; and
 - (d) specify the manner in which written submissions are to be lodged; and
 - (e) advise that, if the community store licence is refused, section 38 may prohibit the store from being operated.
- (3) For the purposes of subparagraph (2)(c)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.

Section 48

- (4) The Secretary must not refuse to grant a community store licence unless:
- (a) each person required to be given a notice under subsection (1) has been given such a notice; and
 - (b) the Secretary has considered all written submissions received during the submission period.

48 Community store licence may relate to more than one store

A community store licence may be expressed to relate to a specified community store or specified community stores.

49 Duration of community store licence

A community store licence is in force for the period:

- (a) beginning on the day specified in the licence or, if no day is specified, the day the licence is granted; and
- (b) ending on whichever of the following days occurs first:
 - (i) the day the licence is revoked;
 - (ii) the day this Act ceases to have effect (see section 118).

50 Notice of determination about whether licence granted

- (1) If the Secretary makes a determination under subsection 45(1) to grant a community store licence, the Secretary:
 - (a) must give written notice of the decision to the owner and the manager of the store; and
 - (b) must attach a copy of the licence (including any conditions to which it is subject).
- (2) If the Secretary makes a determination under subsection 45(1) to refuse to grant a community store licence, the Secretary must give written notice of the decision to the owner and the manager of the store.
- (3) A notice under subsection (2) must specify the reasons for the refusal.

Subdivision B—Conditions of community store licences

51 Community store licence is subject to conditions

A community store licence is subject to the following conditions:

- (a) any conditions imposed by the Secretary under subsection 52(1) at the time of granting the licence;
- (b) the condition set out in subsection 54(1) (monitoring and audits);
- (c) any conditions prescribed by the rules under subsection 55(1);
- (d) any conditions imposed by the Secretary under subsection 58(1) (variation of licence).

52 Conditions that may be imposed at time of grant

- (1) When granting a community store licence, the Secretary may impose conditions on a community store licence that may relate to, but are not limited to, the following:
 - (a) the food security matters (see section 46);
 - (b) auditing and reporting;
 - (c) documentation and record-keeping requirements;
 - (d) the income management regime under Part 3B of the *Social Security (Administration) Act 1999* (including requirements relating to funds received under that regime);
 - (e) the provision of goods or services to customers on credit or at a discounted rate;
 - (f) notifying a change of owner or manager (whether or not the change is permanent or temporary);
 - (g) notifying a change in the composition or structure of the owner;
 - (h) assistance and facilities to be provided for the purposes of making assessments under section 67 or monitoring compliance with the conditions of the licence.

Note: If the Secretary proposes to impose a condition on a community store licence under subsection (1), the procedure in section 53 must be followed first.

Section 53

- (2) When considering imposing a condition under subsection (1), the Secretary must have regard to:
 - (a) the object of this Part (see section 37); and
 - (b) the food security matters (see section 46); and
 - (c) any assessment of the store under section 67; and
 - (d) the nature and circumstances of the store; and
 - (e) any other matter the Secretary considers relevant.
- (3) The conditions that may be imposed under this section are not limited by the matters set out in subsection (1), the rules or other sections in this Subdivision.

53 Procedure before imposing a condition

- (1) If the Secretary proposes to impose a condition on a community store licence under subsection 52(1), the Secretary must give written notice of the proposed condition to the owner and the manager of the community store.
- (2) The notice must:
 - (a) specify the proposed condition and the reasons for the proposed condition; and
 - (b) invite written submissions, from the owner and manager of the community store, about the proposed condition; and
 - (c) specify that written submissions must be lodged during the period (the *submission period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—that longer period; and
 - (d) specify the manner in which written submissions are to be lodged.
- (3) For the purposes of subparagraph (2)(c)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.
- (4) The Secretary must not impose a condition on a community store licence unless:

- (a) each person required to be given a notice under subsection (1) has been given such a notice; and
- (b) the Secretary has considered all written submissions received during the submission period.

54 Condition about monitoring and audits

- (1) It is a condition of a community store licence that the owner and the manager of the community store must:
 - (a) allow an authorised officer to enter the premises of the store for the purposes of auditing or monitoring compliance with the conditions of the licence; and
 - (b) allow an authorised officer to inspect things at the premises; and
 - (c) if requested to do so—give an authorised officer documents relevant to auditing and monitoring compliance.
- (2) Paragraph (1)(c) does not apply if giving the documents might tend to incriminate the person or expose the person to a penalty.

55 Conditions prescribed by the rules

- (1) The rules may prescribe conditions to which all community store licences are subject.
- (2) In determining whether to make a rule for the purposes of subsection (1), the Minister must have regard to:
 - (a) the object of this Part (see section 37); and
 - (b) any other matter the Minister considers relevant.

56 Breach of condition

The owner or the manager of a community store must not breach a condition of a community store licence that is in force in relation to the store.

Civil penalty: 20 penalty units.

Subdivision C—Variation and revocation of community store licences

57 Application to vary a community store licence

- (1) The owner of a community store, or a person acting on the owner's behalf, may apply for a variation of a community store licence by:
 - (a) lodging a written application in accordance with subsections (2) and (3); or
 - (b) making an application in the manner approved by the Secretary.
- (2) An application under paragraph (1)(a) must:
 - (a) be in the form (if any) that is prescribed by the rules; and
 - (b) include the information (if any) that is prescribed by the rules; and
 - (c) be accompanied by the documents (if any) that are prescribed by the rules.
- (3) An application under paragraph (1)(a) is lodged by being delivered:
 - (a) to a person apparently performing duties at a place that is prescribed by the rules; or
 - (b) in a manner, and to a place, that is prescribed by the rules; or
 - (c) to a person approved for the purpose by the Secretary.

58 Variation of community store licence

- (1) The Secretary may vary a community store licence:
 - (a) at any time, on the Secretary's own initiative; or
 - (b) if an application for a variation of the licence has been made under subsection 57(1).

Note: If the Secretary proposes to vary a community store licence under paragraph (1)(a) or proposes to refuse to vary a community store licence in accordance with an application under paragraph (1)(b), the procedure in section 60 must be followed first.

- (2) Without limiting subsection (1), the Secretary may:
 - (a) impose licence conditions; or

- (b) revoke or vary licence conditions that were imposed by the Secretary under subsection 52(1).
- (3) When considering varying a community store licence under subsection (1), the Secretary must have regard to:
 - (a) the object of this Part (see section 37); and
 - (b) the food security matters (see section 46); and
 - (c) any assessment of the store under section 67; and
 - (d) the nature and circumstances of the store; and
 - (e) any other matter the Secretary considers relevant.
- (4) If the Secretary varies a community store licence under subsection (1), the Secretary must give written notice of the variation to the owner and manager of the store.
- (5) A variation takes effect on the day the notice is given or on a later day specified in the notice.
- (6) The Secretary may refuse to vary a community store licence under subsection (1) if:
 - (a) a person:
 - (i) unreasonably withholds consent for an authorised officer to enter the premises of the community store under section 71; or
 - (ii) unreasonably refuses to provide documents, material or assistance as required by section 72; or
 - (b) the owner or manager of the community store does not give the Secretary sufficient documents, material or assistance to enable the Secretary to make an informed decision.
- (7) Subsection (6) does not limit the grounds on which the Secretary may refuse to vary a community store licence.
- (8) If the Secretary refuses to vary a community store licence in accordance with an application made under subsection 57(1), the Secretary must give written notice of the refusal to the owner and manager of the store.

Section 59

59 Revocation of community store licence

- (1) The Secretary may revoke a community store licence if the Secretary is satisfied that:
- (a) a condition of the licence has been breached; or
 - (b) the owner, the manager or a person involved in the store has committed an offence against this Act or has contravened a civil penalty provision; or
 - (c) the licence was obtained improperly.

Note 1: If the Secretary proposes to revoke a community store licence under subsection (1), the procedure in section 60 must be followed first.

Note 2: A community store licence can also be revoked under subsection 65(1) (which relates to registration under the CATSI Act).

- (2) If the Secretary revokes a community store licence under subsection (1), the Secretary must give written notice of the revocation to the owner and manager of the store.
- (3) A revocation takes effect on the day the notice is given, or on a later day specified in the notice.

60 Procedure before varying, refusing to vary or revoking a community store licence

- (1) If:
- (a) the Secretary proposes to vary a community store licence under paragraph 58(1)(a); or
 - (b) an application under subsection 57(1) has been made for a community store licence to be varied, and the Secretary proposes to refuse to vary the licence in accordance with the application; or
 - (c) the Secretary proposes to revoke a community store licence under subsection 59(1);

the Secretary must give written notice of the proposed variation, refusal or revocation to the owner and the manager of the community store.

- (2) A notice under subsection (1) must:
- (a) specify the reasons for the proposed variation, refusal or revocation; and

- (b) invite written submissions in relation to the matters specified in the notice; and
 - (c) specify that written submissions must be lodged during the period (the *submission period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—that longer period; and
 - (d) specify the manner in which written submissions are to be lodged; and
 - (e) in the case of a proposed revocation—advise that, if a community store licence is revoked, section 38 will prohibit the store from being operated after the revocation takes effect.
- (3) For the purposes of subparagraph (2)(c)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.
- (4) The Secretary must not vary or refuse to vary a community store licence under subsection 58(1), or revoke a community store licence under subsection 59(1), unless:
- (a) the persons required to be given a notice under subsection (1) have been given such a notice; and
 - (b) the Secretary has considered all written submissions received during the submission period.

Part 4 Food security

Division 5 Requirement to register under the Corporations (Aboriginal and Torres Strait Islander) Act 2006

Section 61

Division 5—Requirement to register under the Corporations (Aboriginal and Torres Strait Islander) Act 2006

61 Requirement to register under the CATSI Act

- (1) The owner of a community store is liable to a civil penalty if:
 - (a) a determination that the owner is required to become registered under the CATSI Act is in force under subsection 62(1); and
 - (b) under subsection 64(1) the person has been notified of the determination; and
 - (c) the owner is not registered under that Act.

Civil penalty: 20 penalty units.

- (2) Subsection (1) does not apply if:
 - (a) the owner makes an application for registration under the CATSI Act during the registration period referred to in paragraph 64(2)(b); and
 - (b) a determination under that Act has not been made about whether to register the owner.
- (3) Subsection (1) does not apply on a day in the registration period referred to in paragraph 64(2)(b) unless the owner has been notified under the CATSI Act, before or on that day, that registration under that Act has been refused.

62 Secretary may require registration

- (1) The Secretary may determine, in writing, that the owner of a community store is required to become registered under the CATSI Act.

Note: If the Secretary proposes to make a determination under subsection (1) that the owner is required to become registered under the CATSI Act, the procedure in section 63 must be followed first.

- (2) In making a determination under subsection (1), the Secretary must have regard to:

Section 63

- (a) the object of this Part (see section 37); and
 - (b) any other matter the Secretary considers relevant.
- (3) The Secretary must not make a determination under subsection (1) unless the owner holds a community store licence for the store.
- (4) The Secretary may revoke a determination made under subsection (1).

63 Procedure before determining that registration is required

- (1) If the Secretary proposes to make a determination under subsection 62(1) that the owner of a community store is required to become registered under the CATSI Act, the Secretary must give written notice of the proposed determination to the owner of the store.
- (2) The notice must:
- (a) invite written submissions from the owner of the store in relation to the requirement to become registered; and
 - (b) specify that written submissions must be lodged during the period (the *submission period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—that longer period; and
 - (c) specify the manner in which written submissions are to be lodged.
- (3) For the purposes of subparagraph (2)(b)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.
- (4) The Secretary must not make a determination under subsection 62(1) that the owner of a community store is required to become registered under the CATSI Act unless:
- (a) the owner has been given a notice under subsection (1); and
 - (b) the Secretary has considered all written submissions received during the submission period.

Part 4 Food security

Division 5 Requirement to register under the Corporations (Aboriginal and Torres Strait Islander) Act 2006

Section 64

64 Notice of determination that registration is required

- (1) If the Secretary makes any of the following determinations in relation to a community store, the Secretary must give written notice of the determination to the owner of the store:
 - (a) a determination under subsection 62(1) that the owner is or is not required to be registered under the CATSI Act;
 - (b) a determination under subsection 62(4) revoking a determination made under subsection 62(1).
- (2) If the Secretary determines under subsection 62(1) that the owner is required to be registered under the CATSI Act, the notice must:
 - (a) specify the reasons for the determination; and
 - (b) specify that the owner must apply for registration under that Act during the period (the *registration period*) that is:
 - (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—that longer period; and
 - (c) advise that the owner may be subject to a civil penalty under section 61 if:
 - (i) an application for registration is not made by the owner; or
 - (ii) an application is made but registration under that Act is refused; and
 - (d) advise that, if the owner does not become registered:
 - (i) the Secretary may revoke the community store licence under subsection 65(1); and
 - (ii) if the community store licence is revoked, subsection 38(1) may prohibit the store from being operated after the revocation takes effect.
- (3) For the purposes of subparagraph (2)(b)(i), the period specified in the notice must be at least 20 business days after the last day of the submission period referred to in paragraph 63(2)(b).

65 Community store licence may be revoked if owner is not registered

- (1) The Secretary may revoke a community store licence if:
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Section 66

- (a) the Secretary has given the owner of the community store a notice under subsection 64(1) requiring the owner to become registered under the CATSI Act during the registration period referred to in paragraph 64(2)(b); and
- (b) the owner has not become registered under that Act by the end of that period.

Note: If the Secretary proposes to revoke a community store licence under subsection (1), the procedure in section 66 must be followed first.

- (2) The Secretary must not revoke a licence under subsection (1) if the Secretary is satisfied that it was not reasonably practicable in the circumstances for the owner to become registered during the registration period referred to in paragraph 64(2)(b), having regard to the following:
 - (a) any submissions received from the owner in the submission period referred to in paragraph 66(2)(c);
 - (b) any views expressed by the Registrar (within the meaning of the CATSI Act);
 - (c) any other matter the Secretary considers relevant.
- (3) If the Secretary revokes a community store licence under subsection (1), the Secretary must give written notice of the revocation to the owner and manager of the store.
- (4) A revocation takes effect on the day the notice is given, or on a later day specified in the notice.

66 Procedure before revoking licence

- (1) If the Secretary proposes to make a determination under subsection 65(1) to revoke a community store licence, the Secretary must give written notice of the proposed determination to the owner and manager of the store.
- (2) A notice under subsection (1) must:
 - (a) specify the reasons for the proposed revocation; and
 - (b) invite written submissions in relation to the matters specified in the notice; and
 - (c) specify that written submissions must be lodged during the period (the *submission period*) that is:

Part 4 Food security

Division 5 Requirement to register under the Corporations (Aboriginal and Torres Strait Islander) Act 2006

Section 66

- (i) the period specified in the notice; or
 - (ii) if the Secretary agrees in writing to a longer period—
that longer period; and
 - (d) specify the manner in which written submissions are to be lodged; and
 - (e) advise that, if the licence is revoked, subsection 38(1) may prohibit the store from being operated after the revocation takes effect.
- (3) For the purposes of subparagraph (2)(c)(i), the period specified in the notice must be at least 10 business days after the day the notice is given.
- (4) The Secretary must not make a determination under subsection 65(1) revoking a community store licence unless:
- (a) the persons required to be given a notice under subsection (1) have been given such a notice; and
 - (b) the Secretary has considered all written submissions received during the submission period.

Division 6—Assessments of community stores in relation to licensing

67 Community stores may be assessed

- (1) The Secretary may, on the Secretary's own initiative, require an authorised officer to assess a community store for one or more of the following purposes:
 - (a) determining whether a community store licence is required to be held in relation to a community store;
 - (b) determining whether to grant a community store licence in relation to a community store;
 - (c) determining whether to impose, vary or revoke conditions on a community store licence;
 - (d) determining whether to revoke a community store licence in relation to a community store;
 - (e) monitoring compliance with this Part.
- (2) Before requiring an authorised officer to make an assessment under subsection (1), the Secretary must have regard to:
 - (a) the object of this Part (see section 37); and
 - (b) any other matter the Secretary considers relevant.
- (3) In assessing a community store, an authorised officer may consult with such persons as the authorised officer considers appropriate.
- (4) The Secretary may require an authorised officer to assess a community store whether or not an application under subsection 44(1) has been made in relation to the community store.

68 Notice in relation to assessments

- (1) This section applies if an assessment of a community store is to be, or is being, conducted.
- (2) The Secretary, or the authorised officer responsible for conducting the assessment, must give a written notice to the owner and the manager of the community store that specifies the following:

Part 4 Food security

Division 6 Assessments of community stores in relation to licensing

Section 69

- (a) that the assessment is to be, or is being, conducted;
 - (b) the name of the authorised officer or officers who are conducting, or will conduct, the assessment;
 - (c) the purposes of the assessment.
- (3) If entry to the community store, or access to material or documents, is required for the purposes of the assessment, written notice of the requirement must be given (whether in the notice under subsection (2) or in another notice) at least 10 business days before the day the entry or access is required, unless a shorter period is agreed with the owner or manager.
- (4) To avoid doubt, this section does not require a store to be visited or entered for the purposes of conducting an assessment.

69 Appointment of authorised officers

The Secretary may, in writing, appoint an appropriately qualified person who is:

- (a) an APS employee in the Department; or
- (b) any other person engaged by the Department, under contract or otherwise, to exercise powers, or perform duties or functions, under this Part;

to be an authorised officer for the purposes of the exercise of the powers conferred on authorised officers by this Part.

70 Identity cards

The Secretary may issue an identity card to an authorised officer in the form approved by the Secretary. The identity card must contain a recent photograph of the authorised officer.

71 Power to enter premises for the purposes of making assessments

- (1) For the purposes of assessing a community store under section 67, an authorised officer may enter the premises of the community store.
- (2) An authorised officer is not authorised to enter premises under subsection (1) unless the occupier of the premises, or another

person who apparently represents the occupier, has consented to the entry and the officer has shown his or her identity card if required by the occupier.

Note: If consent is unreasonably withheld, the Secretary may refuse to grant a community store licence (see subsection 45(3)).

- (3) The authorised officer must leave premises entered under this section if the occupier, or another person who apparently represents the occupier, asks the authorised officer to do so.

72 Authorised officers may obtain access to records and assistance

- (1) This section applies if an authorised officer is assessing a community store under section 67.
- (2) The owner of the community store, the manager of the store, the occupier of premises of the store or another person who apparently represents the occupier, must, if requested, give an authorised officer, or any other person assisting the authorised officer, such documents as are reasonably necessary for the authorised officer to make the assessment.

Criminal penalty: 60 penalty units.

Note: If the person unreasonably refuses to provide documents under subsection (2), the Secretary may refuse to grant a community store licence (see subsection 45(3)).

- (3) Subsection (2) does not apply if giving the documents might tend to incriminate the person or expose the person to a penalty.

Note: A defendant bears an evidential burden in relation to the matters in subsection (3) (see subsection 13.3(3) of the *Criminal Code*).

- (4) The occupier of premises of the community store, or another person who apparently represents the occupier, must provide the authorised officer, or any other person assisting the authorised officer, with such assistance and facilities as are necessary and reasonable for making the assessment.

Criminal penalty: 10 penalty units.

Note: If the person unreasonably refuses to provide assistance or facilities under subsection (4), the Secretary may refuse to grant a community store licence (see subsection 45(3)).

Section 73

- (5) Subsections (2) and (4) are offences of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

73 Power to compel information relating to assessments

- (1) This section applies to a person if the Secretary considers that:
- (a) information (the *compellable information*) relating to an assessment of a community store under section 67 is in the person's possession, custody or control (whether held electronically or in any other form); and
 - (b) the information is reasonably necessary for the purposes of the assessment.
- (2) The Secretary may, in writing, require the person to give compellable information to the Secretary:
- (a) within a specified period of time; and
 - (b) in a specified form or manner.
- (3) The person must not fail to comply with a requirement under this section.

Criminal penalty: 10 penalty units.

- (4) Subsection (3) does not apply to the extent that the person has a reasonable excuse. However, a person does not have a reasonable excuse merely because the information in question is:
- (a) of a commercial nature; or
 - (b) subject to an obligation of confidentiality arising from a commercial relationship; or
 - (c) commercially sensitive.

Note: A defendant bears an evidential burden in relation to the matters in subsection (4) (see subsection 13.3(3) of the *Criminal Code*).

- (5) Subsection (3) does not apply in relation to compellable information if giving the information might tend to incriminate the person or expose the person to a penalty.

Note: A defendant bears an evidential burden in relation to the matters in subsection (5) (see subsection 13.3(3) of the *Criminal Code*).

- (6) This section has effect despite any law of the Commonwealth, a State or a Territory prohibiting disclosure of the information.

Division 7—Areas that are not in the food security area

74 Areas that are not in the food security area

- (1) The rules may prescribe that an area in the Northern Territory is not in the food security area.
- (2) The rules may revoke or vary a rule made for the purposes of subsection (1).
- (3) The Minister may make a rule for the purposes of subsection (1) or (2):
 - (a) on the Minister's own initiative; or
 - (b) following a request made to the Minister by, or on behalf of, a person who is ordinarily resident in the area to which the rule relates.
- (4) In making a rule for the purposes of subsection (1) or (2), the Minister must have regard to the following matters:
 - (a) the object of this Part (see section 37);
 - (b) the wellbeing of people living in the area;
 - (c) any other matter that the Minister considers relevant.
- (5) If a rule is made for the purposes of subsection (1) in relation to an area, then this Part continues to apply in relation to that area, after the rule takes effect, in relation to things done, or omitted to be done, before the rule takes effect.

Division 8—Enforcement relating to food security

Subdivision A—Civil penalties

75 Civil penalty orders

Application for order

- (1) The Secretary may apply to a relevant court for an order that a person, who is alleged to have contravened a civil penalty provision, pay the Commonwealth a pecuniary penalty.
- (2) A subsection of this Part (or a section of this Part that is not divided into subsections) is a ***civil penalty provision*** if the words “civil penalty” and one or more amounts in penalty units are set out at the foot of the subsection (or section).
- (3) The Secretary must make an application under subsection (1) within 6 years of the alleged contravention.

Court may order person to pay pecuniary penalty

- (4) If the relevant court is satisfied that the person has contravened the civil penalty provision, the court may order the person to pay to the Commonwealth such pecuniary penalty for the contravention as the court determines to be appropriate.

Note: Subsection (6) sets out the maximum penalty that the court may order the person to pay.

- (5) An order under subsection (4) is a ***civil penalty order***.

Determining the amount of a pecuniary penalty

- (6) The pecuniary penalty must not be more than the pecuniary penalty specified for the civil penalty provision.
- (7) In determining the amount of a pecuniary penalty, the court must take into account all relevant matters, including:
 - (a) the nature and extent of the contravention; and

Section 76

- (b) the nature and extent of any loss or damage suffered because of the contravention; and
- (c) the circumstances in which the contravention took place; and
- (d) whether the person has previously been found by a court to have engaged in any similar conduct.

76 Civil enforcement of penalty

- (1) A pecuniary penalty is a debt payable to the Commonwealth.
- (2) The Commonwealth may enforce a civil penalty order as if it were an order made in civil proceedings against the person to recover a debt due by the person. The debt arising from the order is taken to be a judgement debt.

77 Conduct contravening more than one civil penalty provision

- (1) If conduct constitutes a contravention of 2 or more civil penalty provisions, proceedings may be instituted under this Part against a person in relation to the contravention of any one or more of those provisions.
- (2) However, the person is not liable to more than one pecuniary penalty under this Part in relation to the same conduct.

78 Multiple contraventions

- (1) A relevant court may make a single civil penalty order against a person for multiple contraventions of a civil penalty provision if proceedings for the contraventions are founded on the same facts, or if the contraventions form, or are part of, a series of contraventions of the same or a similar character.

Note: For continuing contraventions of civil penalty provisions, see section 87.

- (2) However, the penalty must not exceed the sum of the maximum penalties that could be ordered if a separate penalty were ordered for each of the contraventions.

79 Proceedings may be heard together

A relevant court may direct that 2 or more proceedings for civil penalty orders are to be heard together.

80 Civil evidence and procedure rules for civil penalty orders

A relevant court must apply the rules of evidence and procedure for civil matters when hearing proceedings for a civil penalty order.

81 Contravening a civil penalty provision is not an offence

A contravention of a civil penalty provision is not an offence.

82 Civil proceedings after criminal proceedings

A relevant court may not make a civil penalty order against a person for a contravention of a civil penalty provision if the person has been convicted of an offence constituted by conduct that is the same, or substantially the same, as the conduct constituting the contravention.

83 Criminal proceedings during civil proceedings

- (1) Proceedings for a civil penalty order against a person for a contravention of a civil penalty provision are stayed if:
 - (a) criminal proceedings are commenced or have already been commenced against the person for an offence; and
 - (b) the offence is constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the contravention.
- (2) The proceedings for the order (the *civil proceedings*) may be resumed if the person is not convicted of the offence. Otherwise:
 - (a) the civil proceedings are dismissed; and
 - (b) costs must not be awarded in relation to the civil proceedings.

84 Criminal proceedings after civil proceedings

Criminal proceedings may be commenced against a person for conduct that is the same, or substantially the same, as conduct that would constitute a contravention of a civil penalty provision regardless of whether a civil penalty order has been made against the person in relation to the contravention.

85 Evidence given in civil proceedings not admissible in criminal proceedings

- (1) Evidence of information given, or evidence of production of documents by an individual, is not admissible in criminal proceedings against the individual if:
 - (a) the individual previously gave the evidence or produced the documents in proceedings for a civil penalty order against the individual for an alleged contravention of a civil penalty provision (whether or not the order was made); and
 - (b) the conduct alleged to constitute the offence is the same, or substantially the same, as the conduct alleged to constitute the contravention.
- (2) However, subsection (1) does not apply to criminal proceedings in relation to the falsity of the evidence given by the individual in the proceedings for the civil penalty order.

86 Ancillary contravention of civil penalty provisions

- (1) A person must not:
 - (a) attempt to contravene a civil penalty provision; or
 - (b) aid, abet, counsel or procure a contravention of a civil penalty provision; or
 - (c) induce (by threats, promises or otherwise) a contravention of a civil penalty provision; or
 - (d) be in any way, directly or indirectly, knowingly concerned in, or party to, a contravention of a civil penalty provision; or
 - (e) conspire with others to effect a contravention of a civil penalty provision.

Note: Section 89 (which provides that a person's state of mind does not need to be proven in relation to a civil penalty provision) does not apply to subsection (1) of this section.

Civil penalty

- (2) A person who contravenes subsection (1) in relation to a civil penalty provision is taken to have contravened the provision.

87 Continuing contraventions of civil penalty provisions

- (1) If an act or thing is required under a civil penalty provision to be done:
- (a) within a particular period; or
 - (b) before a particular time;
- then the obligation to do that act or thing continues until the act or thing is done (even if the period has expired or the time has passed).
- (2) A person who contravenes a civil penalty provision that requires an act or thing to be done:
- (a) within a particular period; or
 - (b) before a particular time;
- commits a separate contravention of that provision in respect of each day during which the contravention occurs (including the day the relevant civil penalty order is made or any later day).

88 Mistake of fact

- (1) A person is not liable to have a civil penalty order made against the person for a contravention of a civil penalty provision if:
- (a) at or before the time of the conduct constituting the contravention, the person:
 - (i) considered whether or not facts existed; and
 - (ii) was under a mistaken but reasonable belief about those facts; and
 - (b) had those facts existed, the conduct would not have constituted a contravention of the civil penalty provision.

Section 89

- (2) For the purposes of subsection (1), a person may be regarded as having considered whether or not facts existed if:
 - (a) the person had considered, on a previous occasion, whether those facts existed in the circumstances surrounding that occasion; and
 - (b) the person honestly and reasonably believed that the circumstances surrounding the present occasion were the same, or substantially the same, as those surrounding the previous occasion.
- (3) A person who wishes to rely on subsection (1) or (2) in proceedings for a civil penalty order bears an evidential burden in relation to that matter.

89 State of mind

- (1) In proceedings for a civil penalty order against a person for a contravention of a civil penalty provision (other than subsection 86(1)), it is not necessary to prove:
 - (a) the person's intention; or
 - (b) the person's knowledge; or
 - (c) the person's recklessness; or
 - (d) the person's negligence; or
 - (e) any other state of mind of the person.
- (2) Subsection (1) does not affect the operation of section 88 (which is about mistake of fact).

Subdivision B—Infringement notices

90 When an infringement notice may be given

- (1) If the Secretary has reasonable grounds to believe that a person has contravened an enforceable provision, the Secretary may give to the person an infringement notice for the alleged contravention.
- (2) The infringement notice must be given within 12 months after the day the contravention is alleged to have taken place.

- (3) A single infringement notice must relate only to a single contravention of a single civil penalty provision unless subsection (4) applies.
- (4) The Secretary may give a person a single infringement notice relating to multiple contraventions of a single provision if:
 - (a) the provision requires the person to do a thing within a particular period or before a particular time; and
 - (b) the person fails or refuses to do that thing within that period or before that time; and
 - (c) the failure or refusal occurs on more than one day; and
 - (d) each contravention is constituted by the failure or refusal on one of those days.

Note: For continuing offences, see subsection 4K(2) of the *Crimes Act 1914*.
For continuing contraventions of civil penalty provisions, see section 87 of this Act.

91 Matters to be included in an infringement notice

- (1) An infringement notice must:
 - (a) be identified by a unique number; and
 - (b) state the day it is given; and
 - (c) state the name of the person to whom the notice is given; and
 - (d) state the name of the person who gave the notice; and
 - (e) give brief details of the alleged contravention, including:
 - (i) the provision that was allegedly contravened; and
 - (ii) the maximum penalty a court could impose for the contravention; and
 - (iii) the time (if known) and day of, and the place of, the alleged contravention; and
 - (f) state the amount that is payable under the notice; and
 - (g) give an explanation of how payment of the amount is to be made; and
 - (h) state that, if the person to whom the notice is given pays the amount within 28 days after the day the notice is given, then (unless the notice is withdrawn):
 - (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person will not

Section 91

- be liable to be prosecuted in a court for the alleged contravention; or
- (ii) if the provision is an offence provision that can also constitute a civil penalty provision—the person is not liable to be prosecuted in a court, and proceedings seeking a civil penalty order will not be brought, in relation to the alleged contravention; or
 - (iii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order will not be brought in relation to the alleged contravention; and
- (i) state that payment of the amount is not an admission of guilt or liability; and
 - (j) state that the person may apply to the Secretary to have the period in which to pay the amount extended; and
 - (k) state that the person may choose not to pay the amount and, if the person does so:
 - (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person may be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is an offence provision and can also constitute a civil penalty provision—the person may be prosecuted in a court, or proceedings seeking a civil penalty order may be brought, in relation to the alleged contravention; or
 - (iii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order may be brought in relation to the alleged contravention; and
 - (l) set out how the notice can be withdrawn; and
 - (m) state that if the notice is withdrawn:
 - (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person may be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is an offence provision and can also constitute a civil penalty provision—the person may be prosecuted in a court, or proceedings seeking a civil penalty order may be brought, in relation to the alleged contravention; or

- (iii) if the provision is a civil penalty provision—
proceedings seeking a civil penalty order may be
brought in relation to the alleged contravention; and
 - (n) state that the person may make written representations to the
Secretary seeking the withdrawal of the notice.
- (2) For the purposes of paragraph (1)(f), the amount to be stated in the
notice for the alleged contravention of the provision must be equal
to one-fifth of the maximum penalty that the court could impose on
the person for that contravention.

92 Extension of time to pay amount

- (1) A person to whom an infringement notice has been given may
apply to the Secretary for an extension of the period referred to in
paragraph 91(1)(h).
- (2) If the application is made before the end of that period, the
Secretary may, in writing, extend that period. The Secretary may
do so before or after the end of that period.
- (3) If the Secretary extends that period, a reference in this Division, or
in a notice or other instrument under this Division, to the period
referred to in paragraph 91(1)(h) is taken to be a reference to that
period so extended.
- (4) If the Secretary does not extend that period, a reference in this
Division, or in a notice or other instrument under this Division, to
the period referred to in paragraph 91(1)(h) is taken to be a
reference to the period that ends on the later of the following days:
 - (a) the day that is the last day of the period referred to in
paragraph 91(1)(h);
 - (b) the day that is 7 days after the day the person was given
notice of the Secretary's decision not to extend.
- (5) The Secretary may extend the period more than once under
subsection (2).

93 Withdrawal of an infringement notice

Representations seeking withdrawal of notice

- (1) A person to whom an infringement notice has been given may make written representations to the Secretary seeking the withdrawal of the notice.

Withdrawal of notice

- (2) The Secretary may withdraw an infringement notice given to a person (whether or not the person has made written representations seeking the withdrawal).
- (3) When deciding whether or not to withdraw an infringement notice (the **relevant infringement notice**), the Secretary:
 - (a) must take into account any written representations seeking the withdrawal that were given by the person to the Secretary; and
 - (b) may take into account the following:
 - (i) whether a court has previously imposed a penalty on the person for a contravention of an enforceable provision;
 - (ii) the circumstances of the alleged contravention;
 - (iii) whether the person has paid an amount, stated in an earlier infringement notice, for a contravention of an enforceable provision if the contravention is constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the contravention in the relevant infringement notice;
 - (iv) any other matter the Secretary considers relevant.

Notice of withdrawal

- (4) Notice of the withdrawal of the infringement notice must be given to the person. The withdrawal notice must state:
 - (a) the person's name and address; and
 - (b) the day the infringement notice was given; and
 - (c) the identifying number of the infringement notice; and
 - (d) that the infringement notice is withdrawn; and

- (e) that:
- (i) if the provision is an offence provision and does not also constitute a civil penalty provision—the person may be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is an offence provision and can also constitute a civil penalty provision—the person may be prosecuted in a court, or proceedings seeking a civil penalty order may be brought, in relation to the alleged contravention; or
 - (iii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order may be brought in relation to the alleged contravention.

Refund of amount if infringement notice withdrawn

- (5) If:
- (a) the Secretary withdraws the infringement notice; and
 - (b) the person has already paid the amount stated in the notice;
- the Commonwealth must refund to the person an amount equal to the amount paid.

94 Effect of payment of amount

- (1) If the person to whom an infringement notice for an alleged contravention of an enforceable provision is given pays the amount stated in the notice before the end of the period referred to in paragraph 91(1)(h):
- (a) any liability of the person for the alleged contravention is discharged; and
 - (b) either:
 - (i) if the provision is an offence provision—the person may not be prosecuted in a court for the alleged contravention; or
 - (ii) if the provision is a civil penalty provision—proceedings seeking a civil penalty order may not be brought against the person in relation to the alleged contravention; and
 - (c) the person is not regarded as having admitted guilt or liability for the alleged contravention; and

Part 4 Food security

Division 8 Enforcement relating to food security

Section 95

- (d) if the provision is an offence provision—the person is not regarded as having been convicted of the alleged offence.
- (2) Subsection (1) does not apply if the notice has been withdrawn.

95 Effect of this Division

This Division does not:

- (a) require an infringement notice to be given to a person for an alleged contravention of an enforceable provision; or
- (b) affect the liability of a person for an alleged contravention of an enforceable provision if:
 - (i) the person does not comply with an infringement notice given to the person for the contravention; or
 - (ii) an infringement notice is not given to the person for the contravention; or
 - (iii) an infringement notice is given to the person for the contravention and is subsequently withdrawn; or
- (c) prevent the giving of 2 or more infringement notices to a person for an alleged contravention of an enforceable provision; or
- (d) limit the court's discretion to determine the amount of a penalty to be imposed on a person who is found to have contravened an enforceable provision.

Subdivision C—Enforceable undertakings

96 Acceptance of undertakings

- (1) The Secretary may accept any of the following undertakings:
 - (a) a written undertaking given by a person that the person will, in order to comply with an enforceable provision, take specified action;
 - (b) a written undertaking given by a person that the person will, in order to comply with an enforceable provision, refrain from taking specified action;
 - (c) a written undertaking given by a person that the person will take specified action directed towards ensuring that the

person does not contravene an enforceable provision, or is unlikely to contravene such a provision, in the future.

- (2) The undertaking must be expressed to be an undertaking under this section.
- (3) The person may withdraw or vary the undertaking at any time, but only with the written consent of the Secretary.
- (4) The consent of the Secretary is not a legislative instrument.
- (5) The Secretary may, by written notice given to the person, cancel the undertaking.

97 Enforcement of undertakings

- (1) If:
 - (a) a person has given an undertaking under section 96; and
 - (b) the undertaking has not been withdrawn or cancelled; and
 - (c) the Secretary considers that the person has breached the undertaking;the Secretary may apply to a relevant court for an order under subsection (2).
- (2) If the relevant court is satisfied that the person has breached the undertaking, the court may make any or all of the following orders:
 - (a) an order directing the person to comply with the undertaking;
 - (b) an order directing the person to pay to the Commonwealth an amount up to the amount of any financial benefit that the person has obtained directly or indirectly and that is reasonably attributable to the breach;
 - (c) any order that the court considers appropriate directing the person to compensate any other person who has suffered loss or damage as a result of the breach;
 - (d) any other order that the court considers appropriate.

Subdivision D—Injunctions

98 Grant of injunctions

Restraining injunctions

- (1) If a person has engaged, is engaging or is proposing to engage, in conduct in contravention of an enforceable provision, a relevant court may, on application by the Secretary, grant an injunction:
 - (a) restraining the person from engaging in the conduct; and
 - (b) if, in the court's opinion, it is desirable to do so—requiring the person to do a thing.

Performance injunctions

- (2) If:
 - (a) a person has refused or failed, or is refusing or failing, or is proposing to refuse or fail, to do a thing; and
 - (b) the refusal or failure was, is or would be a contravention of a provision enforceable under this Part;the court may, on application by the Secretary, grant an injunction requiring the person to do that thing.

99 Interim injunctions

Grant of interim injunctions

- (1) Before deciding an application for an injunction under section 98, a relevant court may grant an interim injunction:
 - (a) restraining a person from engaging in conduct; or
 - (b) requiring a person to do a thing.

No undertakings as to damages

- (2) The court must not require an applicant for an injunction under section 98 to give an undertaking as to damages as a condition of granting an interim injunction.

100 Discharging or varying injunctions

A relevant court may discharge or vary an injunction granted by the court under this Division.

101 Certain limits on granting injunctions not to apply

Restraining injunctions

- (1) The power of a relevant court under this Division to grant an injunction restraining a person from engaging in conduct may be exercised:
 - (a) whether or not it appears to the court that the person intends to engage again, or to continue to engage, in conduct of that kind; and
 - (b) whether or not the person has previously engaged in conduct of that kind; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if the person engages in conduct of that kind.

Performance injunctions

- (2) The power of a relevant court under this Division to grant an injunction requiring a person to do a thing may be exercised:
 - (a) whether or not it appears to the court that the person intends to refuse or fail again, or to continue to refuse or fail, to do that thing; and
 - (b) whether or not the person has previously refused or failed to do that thing; and
 - (c) whether or not there is an imminent danger of substantial damage to any other person if the person refuses or fails to do that thing.

102 Other powers of a relevant court unaffected

The powers conferred on a relevant court under this Division are in addition to, and not instead of, any other powers of the court, whether conferred by this Act or otherwise.

Subdivision E—Civil jurisdiction of courts

103 Civil jurisdiction of courts

- (1) Jurisdiction is conferred on a court referred to in an item in the following table in relation to civil matters arising under this Part, subject to the limits on the court's jurisdiction (if any) specified in the item:

Civil jurisdiction of courts		
Item	Court on which civil jurisdiction is conferred	Limits of jurisdiction
1	The Federal Court of Australia	No specified limits.
2	The Federal Magistrates Court	No specified limits.
3	A superior court, or lower court, of the Northern Territory	The court's general jurisdictional limits, including limits as to locality and subject matter.

- (2) Jurisdiction is conferred on the courts of the Northern Territory only to the extent that the Constitution permits.
- (3) Section 15C of the *Acts Interpretation Act 1901* does not apply to civil proceedings under this Part.

Division 9—Other matters

104 Information about criminal history

- (1) The Secretary may, by written notice given to:
 - (a) an individual who is the owner, manager or an employee of a community store; or
 - (b) another person involved in a community store;request the individual to give to the Secretary any written consent that the Secretary requires to enable criminal records to be checked for the purposes of this Part.
- (2) This Part does not affect the operation of Part VIIC of the *Crimes Act 1914* (which includes provisions that, in certain circumstances, relieve persons from the requirement to disclose spent convictions and require persons aware of such convictions to disregard them).

105 Power to request information from public officials etc.

- (1) The Secretary may, by written notice, request:
 - (a) a Department, agency or authority of the Commonwealth, a State or a Territory; or
 - (b) a person who holds an office or appointment under a law of the Commonwealth, a State or a Territory;to give the Secretary information specified in the request that the Secretary considers is reasonably necessary for the purposes of this Part.
- (2) The disclosure of personal information in response to a request under subsection (1) is taken to be a disclosure that is authorised by law for the purposes of the *Privacy Act 1988*.

106 Disclosure of information to public officials etc.

- (1) This section applies if the Secretary is satisfied that disclosure of information that is obtained by the Secretary as a result of the performance of functions or the exercise of powers under this Part is reasonably necessary for:

Section 107

- (a) the enforcement of a law of the Commonwealth, a State or a Territory that:
 - (i) creates an offence; or
 - (ii) imposes a pecuniary penalty; or
 - (b) the protection of public health or safety.
- (2) The Secretary may disclose, or authorise the disclosure of, the information to:
- (a) a Department, agency or authority of the Commonwealth, a State or a Territory; or
 - (b) a person who holds an office or appointment under a law of the Commonwealth, a State or a Territory; or
 - (c) the Australian Federal Police; or
 - (d) a police force or police service of a State or Territory.

107 This Part does not affect legal professional privilege

This Part does not affect the law relating to legal professional privilege.

108 Application of Northern Territory laws to community stores

To the extent that a law of the Northern Territory is capable of operating concurrently with this Part, this Part does not affect the application of the law to a community store or to the owner or manager of a community store.

109 Interaction with the *Competition and Consumer Act 2010*

- (1) This Part has effect despite the *Competition and Consumer Act 2010*.
- (2) For the purposes of subsection 51(1) of the *Competition and Consumer Act 2010*, the following things are to be regarded as specified in this section and specifically authorised by this section:
 - (a) giving an authorisation under subsection 38(5);
 - (b) determining under subsection 41(1) whether the owner of a community store is required to hold a community store licence;

- (c) making an application for a community store licence under subsection 44(1);
- (d) determining under subsection 45(1) whether to grant a community store licence;
- (e) determining under subsection 52(1) to impose a condition of a community store licence;
- (f) making an application to vary a community store licence under subsection 57(1);
- (g) determining under subsection 58(1) to vary a community store licence (including varying or refusing to vary the conditions of the licence);
- (h) determining under subsection 59(1) to revoke a community store licence;
- (i) determining under subsection 62(1) that the owner of a community store is required to become registered under the CATSI Act;
- (j) determining under subsection 65(1) to revoke a community store licence;
- (k) requiring an authorised officer to assess a community store under section 67;
- (l) determining under subsection 74(1) that an area in the Northern Territory is not in the food security area;
- (m) taking any action in connection with an action referred to in any of the above paragraphs;
- (n) taking any action (including an action taken by the Commonwealth, a Commonwealth authority, the holder of a community store licence or a person acting in accordance with a community store licence), being an action that is:
 - (i) required by a community store licence; or
 - (ii) authorised by a community store licence; or
 - (iii) in connection with an action referred to in subparagraph (i) or (ii).

110 AAT review of the Secretary's determinations under this Part

An application may be made to the Administrative Appeals Tribunal for review of the following determinations of the Secretary:

Section 110

- (a) a determination under subsection 41(1) that a community store licence is required in relation to a community store;
- (b) a determination under subsection 45(1) to refuse to grant a community store licence;
- (c) a determination under subsection 52(1) to impose conditions on a community store licence;
- (d) a determination under subsection 58(1) to refuse to vary a community store licence;
- (e) a determination under subsection 59(1) to revoke a community store licence;
- (f) a determination under subsection 62(1) that an owner of a community store is required to be registered under the CATSI Act;
- (g) a determination under subsection 65(1) to revoke a community store licence.

Part 5—Other matters

Division 1—Introduction

111 Guide to this Part

This Part has a number of miscellaneous provisions.

It requires the Minister to cause an independent review to be conducted of the first 3 years of the operation of this Act (see section 117).

It provides that this Act sunsets after 10 years (see section 118).

It also has other miscellaneous provisions (such as the power to delegate, the power to make rules and the power to make regulations).

Division 2—Miscellaneous

112 Delegation

- (1) The Minister may, in writing, delegate any of the Minister's functions or powers under this Act to:
 - (a) the Secretary of the Department; or
 - (b) an SES employee or acting SES employee in the Department.
- (2) The Secretary may, in writing, delegate any of the Secretary's functions or powers under this Act to an SES employee, or acting SES employee, in the Department.

113 References in Commonwealth or Northern Territory laws

- (1) A reference in a law of the Commonwealth, or a law of the Northern Territory, to a law of the Northern Territory includes a reference to a law of the Northern Territory as modified by this Act or regulations made under this Act.
- (2) A reference in a law of the Commonwealth, or a law of the Northern Territory, to an offence against a law of the Northern Territory includes a reference to an offence against a law of the Northern Territory as modified by this Act or regulations made under this Act.
- (3) A reference in a law of the Commonwealth or a law of the Northern Territory to a law of the Commonwealth does not include a reference to a law of the Northern Territory as modified by this Act or regulations made under this Act.
- (4) A reference in a law of the Northern Territory to a particular law of the Northern Territory includes a reference to that law as modified by this Act or regulations made under this Act.

114 Modification of Northern Territory laws

To the extent that this Act, or regulations made under this Act, modify an Act or regulations of the Northern Territory, the *Interpretation Act* of the Northern Territory, and other Acts of the

Northern Territory of general application, apply in relation to this Act or regulations made under this Act.

115 Northern Territory (Self-Government) Act

Section 49 of the *Northern Territory (Self-Government) Act 1978* does not apply in relation to the operation of this Act.

116 Compensation for acquisition of property

- (1) Subsection 50(2) of the *Northern Territory (Self-Government) Act 1978* and section 128A of the NT Liquor Act do not apply in relation to any acquisition of property referred to in those provisions that occurs as a result of the operation of this Act.
- (2) However, if the operation of this Act would result in an acquisition of property to which paragraph 51(xxxi) of the Constitution applies from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (3) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

- (4) In this Act:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

117 Review of the operation of this Act

- (1) The Minister must cause an independent review to be undertaken of the first 3 years of the operation of this Act.
- (2) The review must:
 - (a) assess the effectiveness of the special measures provided for by this Act; and

Section 118

- (b) consider any other matter specified by the Minister.
- (3) The review must be completed, and a report must be prepared, before the end of 4 years after commencement.
- (4) The person undertaking the review must give the report of the review to the Minister.
- (5) The Minister must cause a copy of the report to be tabled in each House of the Parliament within 15 sitting days of receiving it.

118 Sunset provision

- (1) This Act ceases to have effect at the end of 10 years after commencement.
- (2) The regulations may prescribe matters of a transitional nature (including prescribing any saving or application provisions) arising out of this Act ceasing to have effect in accordance with subsection (1).

119 Rules

The Minister may, by legislative instrument, make rules prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

120 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

*[Minister's second reading speech made in—
House of Representatives on 23 November 2011
Senate on 29 February 2012]*

(268/11)

Stronger Futures in the Northern Territory Act 2012 *No. 100, 2012* *101*