

2010-2011

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Stronger Futures in the Northern  
Territory (Consequential and  
Transitional Provisions) Bill 2011**

**No.     , 2011**

*(Families, Housing, Community Services and Indigenous Affairs)*

**A Bill for an Act to amend laws, and deal with  
transitional matters, in connection with the  
*Stronger Futures in the Northern Territory Act 2011*,  
and for related purposes**



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1     **A Bill for an Act to amend laws, and deal with**  
2     **transitional matters, in connection with the**  
3     ***Stronger Futures in the Northern Territory Act 2011,***  
4     **and for related purposes**

5     The Parliament of Australia enacts:

6     **1 Short title**

7                     This Act may be cited as the *Stronger Futures in the Northern*  
8                     *Territory (Consequential and Transitional Provisions) Act 2011.*

9     **2 Commencement**

10                    (1) Each provision of this Act specified in column 1 of the table  
11                    commences, or is taken to have commenced, in accordance with

1 column 2 of the table. Any other statement in column 2 has effect  
2 according to its terms.

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**Commencement information**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 4 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	
2. Schedules 1 to 5	At the same time as section 3 of the <i>Stronger Futures in the Northern Territory Act 2011</i> commences.	

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

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

### 10 **3 Schedule(s)**

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12 repealed as set out in the applicable items in the Schedule  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

### 15 **4 Definitions**

16 (1) In this Act:

17 **commencement** means the day Schedules 1 to 5 of this Act  
18 commence.

19 **new Act** means the *Stronger Futures in the Northern Territory Act*  
20 *2011*.

21 **old Act** means the *Northern Territory National Emergency*  
22 *Response Act 2007* as in force immediately before commencement.

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***relevant time*** means:

- (a) if, under subsection (3), the Minister determines a day that is on or after commencement but before 17 August 2012—the beginning of that day; or
  - (b) otherwise—the end of 17 August 2012.
- (2) In this Act, expressions that are defined in the new Act have the same meanings as they have in that Act.
- (3) The Minister may, by legislative instrument, determine a day for the purposes of the definition of ***relevant time*** in subsection (1).

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**Schedule 1—Repeal of the Northern Territory  
National Emergency Response Act  
2007**

**Part 1—Northern Territory National Emergency  
Response Act 2007**

**1 The whole of the Act**

Repeal the Act.



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## **Part 2—Saving provisions relating to land**

3

### **2 Saving—if the old Act is repealed before 17 August 2012**

4

(1) This item applies if this Act commences before 17 August 2012.

5

(2) Despite the repeal of section 3, Part 4, Part 8 and Schedule 1 to the old Act made by item 1 of this Schedule, those provisions (other than Division 2 of Part 4) continue in force, in relation to leases granted under section 31 of the old Act before the repeal, until the relevant time.

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### **3 Saving—Divisions 2 and 3 of Part 4 of the old Act and related provisions**

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13

Despite the repeal of sections 3, 48, 49, 50, 51, 53, 54, 55, 56, 58, 59 and Part 8 (acquisition of rights etc. in land) of the old Act made by item 1 of this Schedule:

14

(a) those provisions continue in force; and

15

(b) any instruments made under those provisions continue in force and may be dealt with under those provisions;

16

17

in relation to rights, titles and interests in land that:

18

(c) were vested in the Commonwealth under section 47 of the old Act before commencement; or

19

20

(d) were or are preserved under section 48 of the old Act before, on or after commencement.

21

22

### **4 Saving—sections 60, 61, 62 and 63 of the old Act**

23

*Sections 60 and 61 (compensation for acquisition of property)*

24

(1) Despite the repeal of sections 60 and 61 (compensation for acquisition of property) of the old Act made by item 1 of this Schedule, those sections continue in force in relation to acquisitions of property that occurred before the relevant time.

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*Section 62 (payment of agreed amounts or rent)*

29

(2) Despite the repeal of section 62 of the old Act made by item 1 of this Schedule, that section continues in force in relation to:

30

**Schedule 1** Repeal of the Northern Territory National Emergency Response Act 2007  
**Part 2** Saving provisions relating to land

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- 1 (a) agreements made under that section before the relevant time;  
2 and  
3 (b) rent payable after the relevant time in relation to leases  
4 granted under section 31 of the old Act before the relevant  
5 time.

6 *Section 63 (appropriation)*

- 7 (3) Despite the repeal of section 63 of the old Act made by item 1 of this  
8 Schedule, that section continues in force in relation to amounts payable  
9 before, on or after the relevant time.  
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## **Part 3—Transitional provisions relating to alcohol**

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### **5 Transitioning prescribed areas to alcohol protected areas**

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(1) If, immediately before commencement:

5

(a) an area in the Northern Territory was a prescribed area under section 4 of the old Act; and

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7

(b) there was not a determination in force in relation to the area under paragraph 19(1)(b) of the old Act;

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then a rule prescribing the area as an alcohol protected area is taken to have been made, on commencement, for the purposes of subsection 27(1) of the new Act.

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(2) The rule referred to in subitem (1) may be revoked or varied, after commencement, by a rule made for the purposes of subsection 27(2) of the new Act.

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### **6 Transitioning areas declared under section 12 of the old Act**

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(1) If a declaration under subsection 12(8) of the old Act (about when certain defences against alcohol offences are not available) was in force immediately before commencement, then that declaration continues in force (and may be dealt with), on and after commencement, as if the instrument had been made under subsection 75D(1) of the NT Liquor Act.

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Note: Section 8 of the new Act includes subsection 75D(1) into the NT Liquor Act.

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(2) If a declaration under subsection 12(8A) of the old Act (about when certain defences against alcohol offences are available) was in force immediately before commencement, then that declaration continues in force (and may be dealt with), on and after commencement, as if the instrument had been made under subsection 75D(2) of the NT Liquor Act.

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31

### **7 Transitioning conditions etc. on NT liquor licences**

32

(1) If a determination under subsection 13(4) of the old Act (about what is not authorised by a NT liquor licence) was in force immediately before

33

1 commencement, then that determination continues in force (and may be  
2 dealt with), on and after commencement, as if the determination had  
3 been made under subsection 12(4) of the new Act.

4 (2) If a determination under subsection 13(5) of the old Act (about the  
5 conditions on a NT liquor licence) was in force immediately before  
6 commencement, then that determination continues in force (and may be  
7 dealt with), on and after commencement, as if the determination had  
8 been made under subsection 12(5) of the new Act.

9 **8 Transitioning conditions etc. on NT liquor permits**

10 (1) If a determination under subsection 14(2) of the old Act (about what is  
11 not authorised by a NT liquor permit) was in force immediately before  
12 commencement, then that determination continues in force (and may be  
13 dealt with), on and after commencement, as if the determination had  
14 been made under subsection 13(2) of the new Act.

15 (2) If a determination under subsection 14(3) of the old Act (about the  
16 conditions on a NT liquor permit) was in force immediately before  
17 commencement, then that determination continues in force (and may be  
18 dealt with), on and after commencement, as if the determination had  
19 been made under subsection 13(3) of the new Act.  
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## **Part 4—Transitional provisions relating to community store licences**

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4

### **9 Transitioning community store licences**

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(1) This item applies to a community store licence (the *transitioned licence*) that:

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(a) was in force under Part 7 of the old Act immediately before commencement; and

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9

(b) was held in relation to a community store whose premises are located in an area that, on commencement, is in the food security area.

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(2) The transitioned licence continues in force (and may be dealt with), on and after commencement, as if:

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14

(a) the licence had been granted under subsection 45(1) of the new Act; and

15

16

(b) any conditions that were imposed on the licence under section 103 of the old Act had been imposed under subsection 52(1) of the new Act.

17

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(3) For the purposes of subsection 59(1) of the new Act (about revoking community store licences):

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21

(a) a breach of a condition of the transitioned licence that occurred before commencement is to be treated as if it were a breach of a condition of the licence after commencement; and

22

23

24

(b) an offence against the old Act that was committed by the owner, manager or person involved in the store before commencement is to be treated as if the offence had been committed against the new Act by that person after commencement; and

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(c) if the transitioned licence was obtained improperly under the old Act, it is to be treated as if it had been obtained improperly under the new Act.

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(4) If a notice under subsection 108(2) of the old Act:

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(a) related to a proposed decision to:

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(i) revoke the transitioned licence; or

(ii) refuse to vary the transitioned licence; and

1 (b) was in force immediately before commencement;  
2 then the notice continues in force (and may be dealt with), on and after  
3 commencement, as if the notice had been given under subsection 60(1)  
4 of the new Act.

5 **10 Transitioning appointments of authorised officers**

6 If an appointment under subsection 116(1) of the old Act was in force  
7 immediately before commencement in relation to an officer, the  
8 appointment continues in force (and may be dealt with), on and after  
9 commencement, as if it had been made under section 69 of the new Act  
10 in relation to the officer.

11 **11 Transitioning identity cards**

12 If an identity card issued to an authorised officer under section 117 of  
13 the old Act was in force immediately before commencement, then the  
14 card continues in force (and may be dealt with) as if it had been issued  
15 to the officer under section 70 of the new Act.  
16

1  
2 **Schedule 2—Amendment of the Aboriginal**  
3 **Land Rights (Northern Territory) Act**  
4 **1976**  
5

6 *Aboriginal Land Rights (Northern Territory) Act 1976*

7 **1 Subsection 3(1)**

8 Insert:

9 *community living area* has the same meaning as in the *Stronger*  
10 *Futures in the Northern Territory Act 2011*.

11 **2 Subsection 20CA(5) (definition of *community living area*)**

12 Repeal the definition (including the note).

13 **3 Part IIB**

14 Repeal the Part.

15 **4 After paragraph 23(1)(ea)**

16 Insert:

17 (eb) for land that is a community living area and in the area of the  
18 Land Council—to assist the owner of the land, if requested to  
19 do so and at the Land Council’s expense, in relation to any  
20 dealings in the land (including assistance in negotiating  
21 leases of, or other grants of interests in, the land); and

22 **5 Paragraphs 23(1)(fb), (fc) and (fd)**

23 Repeal the paragraphs.

24 **6 Subsection 33B(1)**

25 Repeal the subsection.

26 **7 Subsection 33B(3)**

27 Omit “subsection (1) or (2)”, substitute “subsection (2)”.

28 **8 Subsection 35(4)**

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1 Omit “, including a payment under section 15 or 16, under a lease or  
2 licence under section 19 or 20 or in accordance with section 60 or 62 of  
3 the *Northern Territory National Emergency Response Act 2007* but not  
4 including a payment under section 33A, 33B or 64 of this Act”,  
5 substitute “(including a payment under section 15 or 16 or a payment  
6 under a lease or licence under section 19 or 20, but not including a  
7 payment under section 33A, 33B or 64 of this Act)”.

## 8 **9 Paragraph 70(2C)(a)**

9 Repeal the paragraph, substitute:

- 10 (a) the land (the *relevant land*) the person entered or remained  
11 on is part of land (the *leased land*) that is leased under  
12 section 19A; and

## 13 **10 Application of items 5, 8 and 9 of this Schedule**

14 (1) This item applies if this Act commences before 17 August 2012.

15 (2) Despite the repeal of paragraphs 23(1)(fb), (fc) and (fd) of the  
16 *Aboriginal Land Rights (Northern Territory) Act 1976* made by item 5  
17 of this Schedule, those paragraphs continue in force in relation to:

- 18 (a) agreements made under section 62 of the old Act before the  
19 relevant time; and  
20 (b) rent payable after the relevant time in relation to leases  
21 granted under section 31 of the old Act before the relevant  
22 time.

23 (3) Despite the amendment of subsection 35(4) of the *Aboriginal Land*  
24 *Rights (Northern Territory) Act 1976* made by item 8 of this Schedule,  
25 that subsection, as in force immediately before commencement,  
26 continues in force in relation to payments made in accordance with  
27 section 60 or 62 of the old Act.

28 (4) Despite the amendment of paragraph 70(2C)(a) of the *Aboriginal Land*  
29 *Rights (Northern Territory) Act 1976* made by item 9 of this Schedule,  
30 that amendment does not take effect until the relevant time.

## 31 **11 Paragraph 70(8)(d)**

32 Omit “paragraph; and”, substitute “paragraph.”.

## 33 **12 Paragraph 70(8)(e)**



1 Repeal the paragraph.

2 **13 Subsection 70E(17)**

3 Repeal the subsection.

4 **14 Subsection 70E(18)**

5 Omit “(14), (15), and (17)”, substitute “(14) and (15)”.

6 **15 Subsections 70E(19), (20) and (21)**

7 Omit “(14), (15), or (17)”, substitute “(14) or (15)”.

8 **16 Subsection 70F(14)**

9 Repeal the subsection.

10 **17 Subsection 70F(15)**

11 Omit “(11), (12) and (14)”, substitute “(11) and (12)”.

12 **18 Subsections 70F(16), (17) and (18)**

13 Omit “(11), (12) or (14)”, substitute “(11) or (12)”.

14 **19 Paragraph 71(3)(d)**

15 Omit “paragraph; and”, substitute “paragraph.”.

16 **20 Paragraph 71(3)(e)**

17 Repeal the paragraph.

18 **21 Subsection 76(1A)**

19 Repeal the subsection.  
20

1  
2 **Schedule 3—Amendment of the Classification**  
3 **(Publications, Films and Computer**  
4 **Games) Act 1995**  
5

6 **1 Part 10 (heading)**

7 Repeal the heading, substitute:

8 **Part 10—Material prohibited in certain areas in the**  
9 **Northern Territory**

10 **2 Section 99 (definition of *prescribed area*)**

11 Repeal the definition.

12 **3 Section 99**

13 Insert:

14 *prohibited material area* means an area in the Northern Territory  
15 in relation to which a determination under subsection 100A(1) is in  
16 force.

17 **4 Sections 100A and 100B**

18 Repeal the sections, substitute:

19 **100A Prohibited material areas**

- 20 (1) The Indigenous Affairs Minister may, by legislative instrument,  
21 determine that an area in the Northern Territory is a prohibited  
22 material area.
- 23 (2) The Indigenous Affairs Minister may, by legislative instrument,  
24 revoke or vary a determination under subsection (1).
- 25 (3) The Indigenous Affairs Minister may make a determination under  
26 subsection (1) or (2):  
27 (a) on the Indigenous Affairs Minister's own initiative; or

- 1 (b) following a request made to the Indigenous Affairs Minister  
2 by, or on behalf of, a person who is ordinarily resident in the  
3 area to which the determination relates.

4 *Community consultation*

- 5 (4) Before making a determination under subsection (1) or (2) in  
6 relation to an area, the Indigenous Affairs Minister must ensure  
7 that:  
8 (a) information setting out:  
9 (i) the proposal to make the determination; and  
10 (ii) an explanation, in summary form, of the consequences  
11 of the making of the determination;  
12 has been made available in the area; and  
13 (b) people living in the area have been given a reasonable  
14 opportunity to make submissions to the Indigenous Affairs  
15 Minister about:  
16 (i) the proposal to make the determination; and  
17 (ii) the consequences of the making of the determination;  
18 and  
19 (iii) their circumstances, concerns and views, so far as they  
20 relate to the proposal.
- 21 (5) A failure to comply with subsection (4) does not affect the validity  
22 of a determination under subsection (1) or (2).

23 *Criteria for making a determination*

- 24 (6) In making a determination under subsection (1) or (2) in relation to  
25 an area, the Indigenous Affairs Minister must have regard to the  
26 following matters:  
27 (a) the object of this Part (see section 98A);  
28 (b) the wellbeing of people living in the area;  
29 (c) whether there is reason to believe that people living in the  
30 area have been the victims of violence or sexual abuse;  
31 (d) the extent to which people living in the area have expressed  
32 their concerns about being at risk of violence or sexual abuse;  
33 (e) whether there is reason to believe that children living in the  
34 area have been exposed to prohibited material;

- 1 (f) the extent to which people living in the area have expressed  
2 the view that their wellbeing will be improved if this Part  
3 continues to apply in relation to the area;  
4 (g) any submissions of the kind referred to in paragraph (4)(b);  
5 (h) the views of relevant law enforcement authorities;  
6 (i) any other matter that the Indigenous Affairs Minister  
7 considers relevant.

- 8 (7) If:  
9 (a) the Indigenous Affairs Minister makes a determination under  
10 subsection (1) in relation to an area; and  
11 (b) under subsection (2), the Indigenous Affairs Minister:  
12 (i) revokes the determination; or  
13 (ii) varies the determination so that the area is no longer a  
14 prohibited material area;  
15 then this Part continues to apply in relation to that area, after the  
16 revocation or variation takes effect, in relation to things done, or  
17 omitted to be done, before the revocation or variation takes effect.

18 **5 Section 100C**

19 Omit “sections 100A and 100B”, substitute “section 100A”.

20 **6 Section 101 (heading)**

21 Repeal the heading, substitute:

22 **101 Possession or control of level 1 prohibited material in prohibited**  
23 **material areas**

24 **7 Paragraph 101(c)**

25 Omit “prescribed area”, substitute “prohibited material area”.

26 **8 Section 102 (heading)**

27 Repeal the heading, substitute:

28 **102 Possession or control of level 2 prohibited material in prohibited**  
29 **material areas**

30 **9 Paragraph 102(c)**

31 Omit “prescribed area”, substitute “prohibited material area”.

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1 **10 Section 103 (heading)**

2 Repeal the heading, substitute:

3 **103 Supplying prohibited material in and to prohibited material**  
4 **areas**

5 **11 Paragraphs 103(1)(b) and (2)(b)**

6 Omit “prescribed area”, substitute “prohibited material area”.

7 **12 Subsection 103(3)**

8 Omit “prescribed area” (wherever occurring), substitute “prohibited  
9 material area”.

10 **13 Paragraph 106(a)**

11 Omit “prescribed area”, substitute “prohibited material area”.

12 **14 Sections 114 and 115**

13 Repeal the sections, substitute:

14 **114 Review of operation of this Part**

- 15 (1) The Indigenous Affairs Minister must cause an independent review  
16 to be undertaken of the first 7 years of the operation of this Part.
- 17 (2) The review must:
- 18 (a) assess the effectiveness of the special measures provided for  
19 by this Part; and
- 20 (b) consider any other matter specified by the Indigenous Affairs  
21 Minister.
- 22 (3) The review must be completed, and a report must be prepared,  
23 before the end of 8 years after this Part commences.
- 24 (4) The person undertaking the review must give the report of the  
25 review to the Indigenous Affairs Minister.
- 26 (5) The Indigenous Affairs Minister must cause a copy of the report to  
27 be tabled in each House of the Parliament within 15 sitting days of  
28 receiving it.

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1 **115 Indigenous Affairs Minister may determine that provisions of**  
2 **this Part cease to have effect**

- 3 (1) The Indigenous Affairs Minister may, by legislative instrument,  
4 determine that some or all of the provisions of this Part cease to  
5 have effect.

6 Note: Under section 116, all of the provisions of this Part cease to have  
7 effect 10 years after the day section 3 of the *Stronger Futures in the*  
8 *Northern Territory Act 2011* commences. This section allows the  
9 Indigenous Affairs Minister to determine that some or all of the  
10 provisions of this Part cease to have effect before then.

- 11 (2) The Indigenous Affairs Minister may, by legislative instrument,  
12 revoke a determination under subsection (1).

13 *Community consultation*

- 14 (3) Before making a determination under subsection (1) or (2), the  
15 Indigenous Affairs Minister must ensure that:

16 (a) information setting out:

- 17 (i) the proposal to make the determination; and  
18 (ii) an explanation, in summary form, of the consequences  
19 of the making of the determination;

20 has been made available to people living in prohibited  
21 material areas; and

22 (b) people living in prohibited material areas have been given a  
23 reasonable opportunity to make submissions to the  
24 Indigenous Affairs Minister about:

- 25 (i) the proposal to make the determination; and  
26 (ii) the consequences of making the determination; and  
27 (iii) their circumstances, concerns and views, so far as they  
28 relate to the proposal.

- 29 (4) A failure to comply with subsection (3) does not affect the validity  
30 of a determination under subsection (1) or (2).

31 *Criteria for making a determination*

- 32 (5) In making a determination under subsection (1) or (2) in relation to  
33 an area, the Indigenous Affairs Minister must have regard to the  
34 following matters:

35 (a) the object of this Part (see section 98A);

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- 
- 1 (b) the wellbeing of people living in prohibited material areas;  
2 (c) whether there is reason to believe that people living in  
3 prohibited material areas have been the victims of violence or  
4 sexual abuse;  
5 (d) the extent to which people living in prohibited material areas  
6 have expressed their concerns about being at risk of violence  
7 or sexual abuse;  
8 (e) whether there is reason to believe that children living in  
9 prohibited material areas have been exposed to prohibited  
10 material;  
11 (f) the extent to which people living in prohibited material areas  
12 have expressed the view that their wellbeing will be  
13 improved if this Part applies;  
14 (g) any submissions of the kind referred to in paragraph (3)(b);  
15 (h) the views of relevant law enforcement authorities;  
16 (i) any other matter that the Indigenous Affairs Minister  
17 considers relevant.
- 18 (6) If the Indigenous Affairs Minister makes a determination under  
19 subsection (1), then this Part continues to apply after the  
20 determination takes effect in relation to things done, or omitted to  
21 be done, before the determination takes effect.
- 22 (7) If, under subsection (2), the Indigenous Affairs Minister revokes a  
23 determination under subsection (1), then the provisions of this Part  
24 that were specified in the determination under subsection (1) apply  
25 again after the revocation takes effect.

## 26 **116 Sunset provision**

27 This Part ceases to have effect 10 years after the day section 3 of  
28 the *Stronger Futures in the Northern Territory Act 2011*  
29 commences.

## 30 **15 Transitioning prescribed areas to prohibited material** 31 **areas**

- 32 (1) If, immediately before commencement:  
33 (a) an area in the Northern Territory was a prescribed area under  
34 section 4 of the old Act; and

- 1 (b) there was not a determination in force in relation to the area  
2 under subsection 100A(1) of the *Classification (Publications,*  
3 *Films and Computer Games) Act 1995*;  
4 then, on commencement, the Indigenous Affairs Minister is taken to  
5 have made a determination under subsection 100A(1) of the  
6 *Classification (Publications, Films and Computer Games) Act 1995* that  
7 the area is a prohibited material area.
- 8 (2) The determination referred to in subitem (1) may be revoked or varied,  
9 after commencement, under subsection 100A(2) of the *Classification*  
10 *(Publications, Films and Computer Games) Act 1995*.

## 11 **16 Application of amendments**

12 The amendments made by this Schedule apply in relation to acts or  
13 omissions occurring on or after commencement in relation to material  
14 that was classified before, on or after commencement.  
15



1  
2 **Schedule 4—Amendment of the Crimes Act**  
3 **1914**  
4

5 **1 Subsection 3(1)**

6 Insert:

7 *cultural heritage* has the same meaning as in the *Environment*  
8 *Protection and Biodiversity Conservation Act 1999*, and includes  
9 sacred sites.

10 **2 Subsection 3(1)**

11 Insert:

12 *cultural heritage object* means an object that is important for  
13 cultural, religious, ethnological, archaeological, historical, literary,  
14 artistic, scientific or technological reasons.

15 **3 Subsection 15AB(1)**

16 After “Commonwealth”, insert “or the Northern Territory”.

17 **4 After subsection 15AB(3)**

18 Insert:

19 (3A) Paragraph (1)(b) does not apply in relation to an offence against  
20 the following:

- 21 (a) section 22 of the *Aboriginal and Torres Strait Islander*  
22 *Heritage Protection Act 1984*;
- 23 (b) sections 15A, 15C, 17B, 22A, 27A, 74AA, 142A, 142B,  
24 207B, 354A, 355A and 470 of the *Environment Protection*  
25 *and Biodiversity Conservation Act 1999*;
- 26 (c) section 48 of the *Aboriginal Land Grant (Jervis Bay*  
27 *Territory) Act 1986*;
- 28 (d) sections 69 and 70 of the *Aboriginal Land Rights (Northern*  
29 *Territory) Act 1976*;
- 30 (e) section 30 of the *Aboriginal Land (Lake Condah and*  
31 *Framlingham Forest) Act 1987*;
- 32 (f) sections 33, 34 and 35 of the *Northern Territory Aboriginal*  
33 *Sacred Sites Act* of the Northern Territory;

- 1 (g) paragraph 33(a) of the *Heritage Conservation Act* of the  
2 Northern Territory;
- 3 (h) section 4 of the *Aboriginal Land Act* of the Northern  
4 Territory;
- 5 (i) sections 111, 112 and 113 of the *Heritage Act* of the  
6 Northern Territory;
- 7 (j) any other law prescribed by the regulations that relates to:  
8 (i) entering, remaining on or damaging cultural heritage; or  
9 (ii) damaging or removing a cultural heritage object.

#### 10 **5 Subsection 15AB(4)**

11 Omit “subsections (1) and (2)”, substitute “subsections (1), (2) and  
12 (3A)”.

#### 13 **6 Section 16A (heading)**

14 Repeal the heading, substitute:

#### 15 **16A Matters to which court to have regard when passing sentence** 16 **etc.—federal offences**

#### 17 **7 After subsection 16A(2A)**

18 Insert:

- 19 (2AA) Subsection (2A) does not apply in relation to an offence against the  
20 following:
- 21 (a) section 22 of the *Aboriginal and Torres Strait Islander*  
22 *Heritage Protection Act 1984*;
- 23 (b) sections 15A, 15C, 17B, 22A, 27A, 74AA, 142A, 142B,  
24 207B, 354A, 355A and 470 of the *Environment Protection*  
25 *and Biodiversity Conservation Act 1999*;
- 26 (c) section 48 of the *Aboriginal Land Grant (Jervis Bay*  
27 *Territory) Act 1986*;
- 28 (d) sections 69 and 70 of the *Aboriginal Land Rights (Northern*  
29 *Territory) Act 1976*;
- 30 (e) section 30 of the *Aboriginal Land (Lake Condah and*  
31 *Framlingham Forest) Act 1987*;
- 32 (f) any other law prescribed by the regulations that relates to:  
33 (i) entering, remaining on or damaging cultural heritage; or  
34 (ii) damaging or removing a cultural heritage object.

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**8 After section 16A**

Insert:

**16AA Matters to which court to have regard when passing sentence etc.—Northern Territory offences**

- (1) In determining the sentence to be passed, or the order to be made, in relation to any person for an offence against a law of the Northern Territory, a court must not take into account any form of customary law or cultural practice as a reason for:
- (a) excusing, justifying, authorising, requiring or lessening the seriousness of the criminal behaviour to which the offence relates; or
  - (b) aggravating the seriousness of the criminal behaviour to which the offence relates.
- (2) Subsection (1) does not apply in relation to an offence against the following:
- (a) sections 33, 34 and 35 of the *Northern Territory Aboriginal Sacred Sites Act* of the Northern Territory;
  - (b) paragraph 33(a) of the *Heritage Conservation Act* of the Northern Territory;
  - (c) section 4 of the *Aboriginal Land Act* of the Northern Territory;
  - (d) sections 111, 112 and 113 of the *Heritage Act* of the Northern Territory;
  - (e) any other law prescribed by the regulations that relates to:
    - (i) entering, remaining on or damaging cultural heritage; or
    - (ii) damaging or removing a cultural heritage object.
- (3) In subsection (1):
- criminal behaviour*** includes:
- (a) any conduct, omission to act, circumstance or result that is, or forms part of, a physical element of the offence in question; and
  - (b) any fault element relating to such a physical element.

**9 Application of amendments**

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- 1 (1) The amendments made by items 1, 2, 3, 4 and 5 of this Schedule apply  
2 to a proceeding relating to bail that:  
3 (a) is initiated on or after commencement; and  
4 (b) is not an appeal against a decision of a bail authority that was  
5 made before commencement.
- 6 (2) The amendments made by items 1, 2, 7 and 8 of this Schedule apply to  
7 a proceeding relating to sentencing that:  
8 (a) is initiated on or after commencement; and  
9 (b) is not an appeal against a sentence that was imposed before  
10 commencement.  
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## **Schedule 5—Amendment of other Acts**

4

### ***Social Security (Administration) Act 1999***

5

#### **1 Subsections 123YE(2), 123YF(2), 123YI(2) and 123YJ(2) (note)**

6

7

Repeal the note.

8

#### **2 Subsection 123ZH(2) (second note)**

9

Repeal the note.