

2010-2011

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Stronger Futures in the Northern
Territory Bill 2011**

No. , 2011

(Families, Housing, Community Services and Indigenous Affairs)

**A Bill for an Act to build stronger futures for
Aboriginal people in the Northern Territory, and
for related purposes**

Contents

Part 1—Preliminary	1
Division 1—Introduction	1
1 Short title.....	1
2 Commencement.....	2
3 Guide to this Act.....	2
4 Object of this Act.....	4
Division 2—The Dictionary	5
5 The Dictionary.....	5
Part 2—Tackling alcohol abuse	9
Division 1—Introduction	9
6 Guide to this Part.....	9
7 Object of this Part.....	10
Division 2—Modification of the NT Liquor Act and NT Liquor Regulations in alcohol protected areas	11
8 Certain offences to apply in alcohol protected areas	11
9 Alcohol protected areas treated as general restricted areas	16
10 Seizing vehicles	17
11 Modification of the NT Liquor Regulations	17
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
Division 4—Notices about alcohol offences in alcohol protected areas	21
14 Notices about alcohol offences in alcohol protected areas	21
Division 5—Assessments of licensed premises	23
15 Assessments of licensed premises in the Northern Territory	23
Division 6—Alcohol management plans	25
Subdivision A—Approving alcohol management plans	25
16 Application for approval of an alcohol management plan	25
17 Determination to approve or refuse plan	25
18 Procedure before refusing approval of plan.....	26
19 Duration of approval of an alcohol management plan	27
20 Notice of determination about whether plan approved	27

Subdivision B—Variation and revocation of alcohol management plans	28
21 No variation of alcohol management plan without approval	28
22 Application for approval to vary alcohol management plan	28
23 Approval of variation of alcohol management plan.....	29
24 Revocation of approval of alcohol management plan.....	29
25 Procedure before refusing to approve variation or revoking approval.....	30
Subdivision C—Community managed alcohol areas	31
26 Community managed alcohol areas	31
Division 7—Alcohol protected areas	32
27 Rules prescribing the areas that are alcohol protected areas	32
Division 8—Independent review of Commonwealth and Northern Territory laws relating to alcohol	35
28 Independent review of Commonwealth and Northern Territory laws relating to alcohol.....	35
Division 9—Other matters	37
29 NT Licensing Commission etc. to provide information.....	37
30 Modified NT Liquor Act and NT Liquor Regulations.....	37
31 AAT review of determinations under this Part	37
Part 3—Land reform	39
Division 1—Introduction	39
32 Guide to this Part.....	39
33 Object of this Part.....	39
Division 2—Town camps	40
34 Modifying NT laws in relation to town camps	40
Division 3—Community living areas	43
35 Modifying NT laws in relation to community living areas.....	43
Part 4—Food security	45
Division 1—Guide to this Part	45
36 Guide to this Part.....	45
37 Object of this Part.....	46
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	52
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	55
Subdivision A—Granting and refusing community store licences	55
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	59
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	62
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	66
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 other Commonwealth laws	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

1 **A Bill for an Act to build stronger futures for**
2 **Aboriginal people in the Northern Territory, and**
3 **for related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**

6 **Division 1—Introduction**

7 **1 Short title**

8 This Act may be cited as the *Stronger Futures in the Northern*
9 *Territory Act 2011*.

Section 2

1 **2 Commencement**

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

6

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.	
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.	

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

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

13 **3 Guide to this Act**

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

16 *Part 2—Tackling alcohol abuse*

17 The measures in Part 2 are aimed at reducing alcohol-related harm
18 to those Aboriginal people. Many of the measures apply in alcohol

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32

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 Aboriginal people (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

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

Section 4

1 the Secretary determines that the owner is required to hold a
2 licence, then the store will be prohibited from operating in the food
3 security area unless the owner obtains the licence. The Secretary
4 cannot determine that the owner is required to hold a licence unless
5 the Secretary is satisfied that the store is an important source of
6 food, drink or grocery items for an Aboriginal community.

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

11 *Part 5—Other matters*

12 Part 5 has a number of miscellaneous provisions. It requires the
13 Minister to cause an independent review to be conducted of the
14 first 7 years of the operation of this Act (see section 117). It
15 provides that this Act sunsets 10 years after commencement (see
16 section 118). It also has other miscellaneous provisions (such as
17 the power to delegate, the power to make rules and the power to
18 make regulations).

19 **4 Object of this Act**

20 The object of this Act is to support Aboriginal people in the
21 Northern Territory to live strong, independent lives, where
22 communities, families and children are safe and healthy.
23

1

2 **Division 2—The Dictionary**

3 **5 The Dictionary**

4 In this Act:

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

7 *business* includes a business not carried on for profit.

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

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

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

14 *civil penalty order*: see subsection 75(5).

15 *civil penalty provision*: see subsection 75(2).

16 *commencement* means the day section 3 commences.

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

19 *community living area*: see subsection 35(2).

20 *community store*: see subsection 39(1).

21 *dealings* in land includes:

22 (a) selling, exchanging, leasing, mortgaging, disposing of, or
23 otherwise creating or passing a legal or equitable interest in,
24 land; or

25 (b) granting an easement or covenant over land or releasing an
26 easement or covenant benefiting land; or

Section 5

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

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

9 ***enforceable provision*** means:

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

13 ***food security***: see subsection 37(3).

14 ***food security area***: see subsection 38(2).

15 ***food security matters***: see section 46.

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

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

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

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

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

24 ***modify*** includes add, omit and substitute.

25 ***nominated person***: see subsection 24(2).

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

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

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

Section 5

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

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

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

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

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

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

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

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

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

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

26 ***relevant court*** in relation to a matter means any of the following
27 courts:

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

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

Part 1 Preliminary
Division 2 The Dictionary

Section 5

- 1 *Secretary* means the Secretary of the Department.
- 2 *town camp*: see subsection 34(2).

1

2 Part 2—Tackling alcohol abuse**3 Division 1—Introduction****4 6 Guide to this Part**

5

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)).

6

7

8

9

10

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.

11

12

13

14

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.

15

16

17

18

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.

19

20

21

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 Aboriginal people.

22

23

24

25

26

27

28

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

29

30

Part 2 Tackling alcohol abuse

Division 1 Introduction

Section 7

1
2

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

3
4
5
6
7

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.

8
9
10
11

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).

12

7 Object of this Part

13
14
15
16

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.

1

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

4 **8 Certain offences to apply in alcohol protected areas**

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

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

10 **Division 1AA—Prohibitions in alcohol protected areas**

11 **75A Preliminary**

12 “(1) In this Division:

13 *alcohol protected area* has the same meaning as in the *Stronger*
14 *Futures in the Northern Territory Act 2011* of the Commonwealth.

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

16 *Commonwealth Minister* means the Commonwealth Minister
17 responsible for the administration of the *Stronger Futures in the*
18 *Northern Territory Act 2011* of the Commonwealth.

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

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

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

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

Part 2 Tackling alcohol abuse

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

Section 8

75B Possessing etc. liquor in alcohol protected areas

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

- “(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.

Section 8

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

18 **75C Supplying etc. liquor in alcohol protected areas**

- 19 “(1) A person commits an offence if:
20 (a) the person:
21 (i) supplies liquor to a third person; or
22 (ii) transports liquor intending to supply any of it, or
23 believing that another person intends to supply any of it,
24 to a third person; or
25 (iii) possesses liquor intending to supply any of it to a third
26 person; and
27 (b) the third person is in an alcohol protected area.
- 28 Maximum penalty: 100 penalty units or imprisonment for 6
29 months.
- 30 “(2) It is a defence to a prosecution for an offence against subsection (1)
31 if the defendant proves, on the balance of probabilities, that, when
32 the conduct referred to in subsection (1)(a) was engaged in:
33 (a) the defendant was in a boat that was on waters; and

Part 2 Tackling alcohol abuse

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

Section 8

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

Section 8

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

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

12 “(9) It is a defence to a prosecution for an offence against subsection (1)
13 if the defendant proves, on the balance of probabilities, that the
14 conduct referred to in subsection (1)(a):
15 (a) occurred in an emergency; and
16 (b) was necessary to preserve life, prevent injury or to protect
17 property.

18 **75D Areas in which defences are, or are not, available**

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

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

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

28 **75E Notices about defences**

29 “While an area is declared under section 75D(1), the Commission
30 may cause a notice stating that a defence under section 75B(2) or
31 75C(2) is not available in relation to the area:

Part 2 Tackling alcohol abuse

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

Section 9

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

5 **75F Offence relating to Commonwealth notices**

- 6 “(1) A person commits an offence if the person:
7 (a) removes a notice posted under section 14(3) of the *Stronger*
8 *Futures in the Northern Territory Act 2011* of the
9 Commonwealth; or
10 (b) damages such a notice.

11 Maximum penalty: 5 penalty units.

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

15 **9 Alcohol protected areas treated as general restricted areas**

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

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

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

1 **10 Seizing vehicles**

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

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

7 **95A Seizing vehicles**

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

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

14 **11 Modification of the NT Liquor Regulations**

15 The NT Liquor Regulations apply, while this Act is in effect, as if
16 an offence against subsection 75F(1) of the Liquor Act (see
17 section 8) were an infringement offence for the purposes of those
18 Regulations.

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

Part 2 Tackling alcohol abuse

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

Section 11

1

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

3 **12 Modification of NT liquor licences**

- 4 (1) This section applies to a NT liquor licence that is in force in
5 relation to premises in a particular alcohol protected area
6 (whenever the licence was issued).
- 7 (2) The licence continues in force according to its terms, subject to the
8 NT Liquor Act and this section.
- 9 (3) While this Act is in effect, the licence is subject to a condition that
10 the licensee must not sell liquor for consumption away from the
11 licensed premises unless the purchaser holds a NT liquor permit
12 that is in force in the particular alcohol protected area.
- 13 Note: This Act ceases to have effect at the end of 10 years after
14 commencement: see section 118.
- 15 (4) The Minister may, by written notice given to the licensee and the
16 NT Licensing Commission, determine that the licence does not,
17 from the day specified in the notice and for a period (if any)
18 specified in the notice, authorise the sale of liquor, or the sale and
19 consumption of liquor on, at, or away from, those premises.
- 20 (5) The Minister may, by written notice given to the licensee and the
21 NT Licensing Commission, determine that the conditions of the
22 licence are varied in a way specified in the notice, from the day
23 specified in the notice and for a period (if any) specified in the
24 notice.
- 25 (6) For the purposes of subsections (4) and (5), the day specified in the
26 notice must be at least 14 days after the day the notice is given to
27 the licensee.
- 28 (7) If a determination is made under subsection (4) or (5), then, while
29 this Act is in effect, the NT Liquor Act and the licence apply
30 accordingly.

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

Part 2 Tackling alcohol abuse

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

Section 13

13 Modification of NT liquor permits

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

- (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.
- (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.
- (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.

1

2 **Division 4—Notices about alcohol offences in alcohol**
3 **protected areas**

4 **14 Notices about alcohol offences in alcohol protected areas**

5 (1) The NT Licensing Commission may determine that a notice:

6 (a) stating that it is an offence to bring liquor into, to be in
7 possession or control of liquor, or to consume or sell liquor,
8 within an area that is an alcohol protected area; and

9 (b) setting out any other information that the Commission
10 considers appropriate;

11 should be posted at the following places:

12 (c) the place where a customary access route enters the area;

13 (d) the customary departure locations for aircraft flying into the
14 area.

15 (2) The NT Licensing Commission must ensure that the wording of the
16 notice is respectful to Aboriginal people.

17 (3) If a determination under subsection (1) is in force, the Commission
18 must cause the notice to be posted and kept posted at those places
19 while the area is an alcohol protected area.

20 (4) The NT Licensing Commission may cause to be published in a
21 newspaper circulating in the district in which the area is situated a
22 notice:

23 (a) describing the area; and

24 (b) stating that it is an offence to bring liquor into, to be in
25 possession or control of liquor, or to consume or sell liquor,
26 within the area; and

27 (c) setting out any other information that the Commission
28 considers appropriate.

29 (5) Before making a determination under subsection (1), the NT
30 Licensing Commission must consult people living in the area on:

31 (a) the proposal to make the determination; and

32 (b) the content and wording of the notice.

Part 2 Tackling alcohol abuse

Division 4 Notices about alcohol offences in alcohol protected areas

Section 14

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

1

2 **Division 5—Assessments of licensed premises**

3 **15 Assessments of licensed premises in the Northern Territory**

4 (1) The Minister may make a request under subsection (2) in relation
5 to particular licensed premises in the Northern Territory if:

6 (a) the Minister reasonably believes that the sale or consumption
7 of liquor at or from the premises is causing substantial
8 alcohol-related harm to Aboriginal people; and

9 (b) at least 28 days before giving the request, the Minister has
10 notified the NT Minister that the Minister proposes to make
11 the request in relation to the premises.

12 (2) The Minister may, by written notice, request the NT Minister to
13 appoint an assessor (within the meaning of the NT Liquor Act) to
14 conduct an assessment in relation to the premises:

15 (a) in accordance with the terms specified in the request; and

16 (b) within the period specified in the request.

17 (3) If the NT Minister receives a request under subsection (2), then:

18 (a) the NT Minister must appoint an assessor to conduct an
19 assessment in relation to the premises in accordance with the
20 terms, and within the period, specified in the request; and

21 (b) the assessor must:

22 (i) conduct an assessment in relation to the premises in
23 accordance with the terms, and within the period,
24 specified in the request; and

25 (ii) give the NT Minister a copy of the assessment; and

26 (c) the NT Minister must give the Minister a copy of the
27 assessment as soon as practicable after receiving it from the
28 assessor.

29 (4) However, subsection (3) does not apply if the NT Minister:

30 (a) declines the request on the grounds referred to in
31 subsection (5); and

32 (b) complies with the requirements of subsection (6).

Part 2 Tackling alcohol abuse

Division 5 Assessments of licensed premises

Section 15

- 1 (5) The NT Minister may decline the request if the NT Minister
2 reasonably believes that compliance with the request:
3 (a) would place an undue financial burden on the Northern
4 Territory (including the NT Licensing Commission); or
5 (b) would otherwise be inappropriate.
- 6 (6) If the NT Minister declines the request under subsection (5), the
7 NT Minister must, within 28 days of receiving the request:
8 (a) give the Minister a statement setting out the decision and the
9 reasons for it; and
10 (b) publish the statement on the NT Minister’s website.
- 11 (7) If the Minister receives a statement from the NT Minister under
12 subsection (6), the Minister may publish the statement on the
13 Minister’s website.
14

1

2 **Division 6—Alcohol management plans**

3 **Subdivision A—Approving alcohol management plans**

4 **16 Application for approval of an alcohol management plan**

- 5 (1) A person or entity may apply for approval of an alcohol
6 management plan by lodging a written application in accordance
7 with this section.
- 8 (2) An application under subsection (1) must:
- 9 (a) be in the form (if any) that is prescribed by the rules; and
10 (b) include the information (if any) that is prescribed by the
11 rules; and
12 (c) be accompanied by the alcohol management plan; and
13 (d) be accompanied by other documents (if any) that are
14 prescribed by the rules.
- 15 (3) The alcohol management plan must:
- 16 (a) be in the form (if any) that is prescribed by the rules; and
17 (b) include the information (if any) that is prescribed by the
18 rules.
- 19 (4) An application under subsection (1) is lodged by being delivered:
- 20 (a) to a person apparently performing duties at a place that is
21 prescribed by the rules; or
22 (b) in a manner, and to a place, that is prescribed by the rules; or
23 (c) to a person approved for the purpose by the Secretary.

24 **17 Determination to approve or refuse plan**

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

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

Section 18

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

27 **18 Procedure before refusing approval of plan**

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

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

19 **19 Duration of approval of an alcohol management plan**

- 20 An approval of an alcohol management plan is in force for the
21 period:
22 (a) beginning on the day specified in the approval or, if no day is
23 specified, the day the approval is granted; and
24 (b) ending on whichever of the following days occurs first:
25 (i) the day specified in the approval as the day the approval
26 ceases to be in force;
27 (ii) the day the approval is revoked;
28 (iii) the day this Act ceases to have effect (see section 118).

29 **20 Notice of determination about whether plan approved**

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

Section 21

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

6 **Subdivision B—Variation and revocation of alcohol**
7 **management plans**

8 **21 No variation of alcohol management plan without approval**

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

12 **22 Application for approval to vary alcohol management plan**

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

1 **23 Approval of variation of alcohol management plan**

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

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

- 8 (2) When considering whether to approve a variation of an alcohol
9 management plan under subsection (1), the Minister must have
10 regard to:

- 11 (a) the object of this Part (see section 7); and
12 (b) any matter that is prescribed by the rules; and
13 (c) any other matter that the Minister considers relevant.

- 14 (3) The Minister may refuse to approve a variation of an alcohol
15 management plan under subsection (1) if the applicant for the
16 variation does not give the Minister sufficient documents, material
17 or assistance to enable the Minister to make an informed decision.

- 18 (4) Subsection (3) does not limit the grounds on which the Minister
19 may refuse to vary an alcohol management plan.

- 20 (5) If the Minister makes a determination under subsection (1), the
21 Minister must give written notice of the determination to the
22 applicant for the approval of the variation.

- 23 (6) If the Minister refuses to approve the variation, the notice under
24 subsection (5) must specify the reasons for the refusal.

- 25 (7) A determination under subsection (1) takes effect on the day the
26 notice under subsection (5) is given, or on a later day specified in
27 the notice.

28 **24 Revocation of approval of alcohol management plan**

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

Section 25

1 (b) the plan is ineffective in achieving the object of this Part (see
2 section 7); or

3 (c) the plan was varied without approval under subsection 23(1).

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

7 (2) If the Minister revokes an approval of an alcohol management plan
8 under subsection (1), the Minister must give written notice of the
9 revocation to the person or entity the Minister considers is the most
10 appropriate to notify (the *nominated person*).

11 (3) A revocation takes effect on the day the notice under subsection (2)
12 is given, or on a later day specified in the notice.

13 **25 Procedure before refusing to approve variation or revoking**
14 **approval**

15 (1) If an application under subsection 22(1) has been made for
16 approval to vary an alcohol management plan, and the Minister
17 proposes to refuse to approve the variation, the Minister must give
18 written notice of the proposed refusal to the applicant.

19 (2) If the Minister proposes to revoke an approval of an alcohol
20 management plan under subsection 24(1), the Minister must give
21 written notice of the proposed revocation to the nominated person.

22 (3) A notice under subsection (1) or (2) must:
23 (a) specify the reasons for the proposed refusal or revocation;
24 and
25 (b) invite written submissions in relation to the matters specified
26 in the notice; and
27 (c) specify that written submissions must be lodged during the
28 period (the *submission period*) that is:
29 (i) the period specified in the notice; or
30 (ii) if the Minister agrees in writing to a longer period—that
31 longer period; and
32 (d) specify the manner in which written submissions are to be
33 lodged.

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

12 **Subdivision C—Community managed alcohol areas**

13 **26 Community managed alcohol areas**

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

Section 27

1

2 **Division 7—Alcohol protected areas**

3 **27 Rules prescribing the areas that are alcohol protected areas**

4 *Rules may prescribe alcohol protected area*

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

7 *Rules may be revoked or varied*

8 (2) The rules may revoke or vary a rule made for the purposes of
9 subsection (1).

10 (3) If:

11 (a) the Minister approves an alcohol management plan under
12 subsection 17(1); and

13 (b) a rule (the *relevant rule*) made for the purposes of
14 subsection (1) prescribes that the whole or part of the area
15 covered by the plan is an alcohol protected area;

16 then the Minister must consider making a rule for the purposes of
17 subsection (2) that revokes or varies the relevant rule so that the
18 area covered by the plan is no longer an alcohol protected area.

19 *When rules may be made*

20 (4) A rule may be made for the purposes of subsection (1):

21 (a) on the Minister's own initiative; or

22 (b) following a request made to the Minister by, or on behalf of,
23 a person who is ordinarily resident in the area to which the
24 rules relate; or

25 (c) following a revocation of an approval of an alcohol
26 management plan relating to the area under subsection 24(1);
27 or

28 (d) following the cessation of an approval of an alcohol
29 management plan in relation to the area (see section 19).

30 (5) A rule may be made for the purposes of subsection (2):

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

7 *Community consultation*

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

25 *Criteria for making rules*

- 26 (9) In making a rule for the purposes of subsection (1) or (2) in
27 relation to an area, the Minister must have regard to the following
28 matters:
29 (a) the object of this Part (see section 7);
30 (b) the wellbeing of people living in the area;
31 (c) whether there is reason to believe that people living in the
32 area have been the victims of alcohol-related harm;

Section 27

- 1 (d) the extent to which people living in the area have expressed
2 their concerns about being at risk of alcohol-related harm;
3 (e) the extent to which people living in the area have expressed
4 the view that their wellbeing will be improved if this Part
5 applies in relation to the area;
6 (f) whether there is an alcohol management plan that covers the
7 area or part of the area (whether or not the plan is approved
8 under Division 6);
9 (g) any submissions of the kind referred to in paragraph (6)(b);
10 (h) any other matter that the Minister considers relevant.

11 *Effect of revocation or variation on things done etc. before*

- 12 (10) If:
13 (a) a rule is made for the purposes of subsection (1) in relation to
14 an area; and
15 (b) under subsection (2):
16 (i) the rule is revoked; or
17 (ii) the rule is varied so that the area is no longer an alcohol
18 protected area;
19 then this Part continues to apply in relation to that area, after the
20 revocation or variation takes effect, in relation to things done, or
21 omitted to be done, before the revocation or variation takes effect.
22

1
2 **Division 8—Independent review of Commonwealth and**
3 **Northern Territory laws relating to alcohol**

4 **28 Independent review of Commonwealth and Northern Territory**
5 **laws relating to alcohol**

6 (1) No later than 2 years after commencement, the Minister and the
7 NT Minister must cause an independent review to be undertaken of
8 the operation of the following laws:

9 (a) this Part and instruments made for the purposes of this Part;

10 (b) the following laws of the Northern Territory:

11 (i) the NT Liquor Act and the NT Liquor Regulations;

12 (ii) the *Alcohol Reform (Substance Misuse Assessment and*
13 *Referral for Treatment Court) Act 2011* and instruments
14 made under that Act;

15 (iii) the *Alcohol Reform (Prevention of Alcohol-related*
16 *Crime and Substance Misuse) Act* and instruments made
17 under that Act;

18 (c) any other law of the Commonwealth or the Northern
19 Territory that is specified by the Minister and the NT
20 Minister.

21 (2) The review must:

22 (a) assess the effectiveness of those laws in reducing
23 alcohol-related harm to Aboriginal people living in the
24 Northern Territory; and

25 (b) assess whether any provisions of those laws should be
26 amended or repealed to increase the effectiveness of those
27 laws in reducing alcohol-related harm to Aboriginal people
28 living in the Northern Territory; and

29 (c) consider any other matter specified by the Minister and the
30 NT Minister.

31 (3) The review must be completed, and a report of the review must be
32 prepared, before the end of 3 years after commencement.

Part 2 Tackling alcohol abuse

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

Section 28

- 1 (4) The person undertaking the review must give the report of the
2 review to the Minister and the NT Minister.
- 3 (5) The Minister must cause a copy of the report to be tabled in each
4 House of the Parliament within 15 sitting days of receiving it.
- 5 (6) The NT Minister must cause a copy of the report to be tabled in the
6 Northern Territory Legislative Assembly within 15 sitting days of
7 receiving it.
8

1

2 Division 9—Other matters**3 29 NT Licensing Commission etc. to provide information**

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

8 30 Modified NT Liquor Act and NT Liquor Regulations

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

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

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

15 31 AAT review of determinations under this Part

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

- 18 (a) a determination under subsection 12(4) about what is not
19 authorised by a NT licence;
- 20 (b) a determination under subsection 12(5) about the conditions
21 of a NT licence;
- 22 (c) a determination under subsection 13(3) about what is not
23 authorised by a NT permit;
- 24 (d) a determination under subsection 13(4) about the conditions
25 of a NT permit;
- 26 (e) a determination under subsection 14(1) about posting a notice
27 about alcohol offences in an alcohol protected area;
- 28 (f) a determination under subsection 17(1) to refuse to approve
29 an alcohol management plan;

Part 2 Tackling alcohol abuse

Division 9 Other matters

Section 31

- 1 (g) a determination under subsection 17(6) to refuse to make a
2 determination under subsection 17(1) in relation to an
3 application for approval of an alcohol management plan;
4 (h) a determination under subsection 23(1) to refuse to approve a
5 variation of an alcohol management plan;
6 (i) a determination under subsection 24(1) to revoke an approval
7 of an alcohol management plan.
8

1

Part 3—Land reform

2

Division 1—Introduction

3

32 Guide to this Part

4

5

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.

6

7

8

9

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.

10

11

12

13

14

15

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.

16

17

33 Object of this Part

18

19

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

20

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

21

22

23

- (b) to promote economic development in town camps and community living areas.

24

25

Section 34

1

2 **Division 2—Town camps**

3 **34 Modifying NT laws in relation to town camps**

4 (1) The regulations may modify any law of the Northern Territory
5 relating to:

- 6 (a) the use of land; or
7 (b) dealings in land; or
8 (c) planning; or
9 (d) infrastructure; or
10 (e) any matter prescribed by the regulations;

11 to the extent that the law applies to a town camp.

12 (2) A *town camp* is land that, at commencement, is leased primarily
13 for residential, community or cultural purposes for Aboriginal
14 people under:

- 15 (a) the *Crown Lands Act* of the Northern Territory (the *NT*
16 *Crown Lands Act*); or
17 (b) the *Special Purposes Leases Act* of the Northern Territory
18 (the *NT Special Purposes Leases Act*).

19 Note: The references to the *Crown Lands Act* and the *Special Purposes*
20 *Leases Act* of the Northern Territory are to be construed as references
21 to those Acts as originally enacted and as amended from time to time:
22 see section 10A of the *Acts Interpretation Act 1901* of the
23 Commonwealth.

24 (3) If regulations made for the purposes of subsection (1) modify a law
25 of the Northern Territory (the *relevant law*), then:

- 26 (a) immediately on the commencement of those regulations, the
27 relevant law is taken to be modified accordingly; and
28 (b) after the commencement of those regulations, the relevant
29 law, as modified, applies in the same way as it would apply
30 if, instead of those regulations, a law of the Northern
31 Territory had made those modifications; and
32 (c) after the commencement of those regulations, the relevant
33 law may be further modified by a law of the Northern
34 Territory or by regulations under subsection (1), in the same

- 1 way as it could be further modified if, instead of those
2 regulations, a law of the Northern Territory had made those
3 modifications.
- 4 (4) The regulations may modify the NT Crown Lands Act or the NT
5 Special Purposes Leases Act, or both Acts, to provide that a lease
6 granted under the NT Special Purposes Leases Act is taken to have
7 been granted under the NT Crown Lands Act.
- 8 (5) If regulations made for the purposes of subsection (4) modify the
9 NT Crown Lands Act or the NT Special Purposes Leases Act (the
10 *relevant law*), then:
11 (a) immediately on the commencement of those regulations, the
12 relevant law is taken to be modified accordingly; and
13 (b) after the commencement of those regulations, the relevant
14 law, as modified, applies in the same way as it would apply
15 if, instead of those regulations, a law of the Northern
16 Territory had made those modifications; and
17 (c) after the commencement of those regulations, the relevant
18 law may be further modified by a law of the Northern
19 Territory or by regulations under subsection (4), in the same
20 way as it could be further modified if, instead of those
21 regulations, a law of the Northern Territory had made those
22 modifications.
- 23 (6) The regulations may modify a lease granted under the NT Crown
24 Lands Act or NT Special Purposes Leases Act by modifying the
25 purposes for which the land that is the subject of the lease may be
26 used.
- 27 (7) If regulations made for the purposes of subsection (6) modify a
28 lease, then:
29 (a) immediately on the commencement of those regulations, the
30 lease is taken to be modified accordingly; and
31 (b) after the commencement of those regulations, the lease, as
32 modified, applies in the same way it would apply if, instead
33 of those regulations, a law of the Northern Territory had
34 made those modifications; and
35 (c) after the commencement of those regulations, the lease may
36 be further modified by a law of the Northern Territory or by
-

Part 3 Land reform
Division 2 Town camps

Section 34

1 regulations under subsection (6), in the same way as it could
2 be further modified if, instead of those regulations, a law of
3 the Northern Territory had made those modifications.

4 (8) Before making regulations for the purposes of this section in
5 relation to a town camp, the Minister must consult with:

- 6 (a) the Government of the Northern Territory; and
7 (b) the lessee of the land that is the town camp; and
8 (c) any other person the Minister considers appropriate to
9 consult.

10 (9) A failure to comply with subsection (8) does not affect the validity
11 of the regulations.
12

1

2 **Division 3—Community living areas**

3 **35 Modifying NT laws in relation to community living areas**

4 (1) The regulations may modify any law of the Northern Territory
5 relating to:

- 6 (a) the use of land; or
7 (b) dealings in land; or
8 (c) planning; or
9 (d) infrastructure; or
10 (e) any matter prescribed by the regulations;

11 to the extent that the law applies to a community living area.

12 (2) A **community living area** is an area granted or created as an
13 Aboriginal community living area by or under a law of the
14 Northern Territory.

15 Example: Land granted under subsection 46(1A) of the *Lands Acquisition Act* of
16 the Northern Territory is a community living area.

17 (3) If regulations made for the purposes of subsection (1) modify a law
18 of the Northern Territory (the **relevant law**), then:

- 19 (a) immediately on the commencement of those regulations, the
20 relevant law is taken to be modified accordingly; and
21 (b) after the commencement of those regulations, the relevant
22 law, as modified, applies in the same way as it would apply
23 if, instead of those regulations, a law of the Northern
24 Territory had made those modifications; and
25 (c) after the commencement of those regulations, the relevant
26 law may be further modified by a law of the Northern
27 Territory or by regulations under subsection (1), in the same
28 way as it could be further modified if, instead of those
29 regulations, a law of the Northern Territory had made those
30 modifications.

31 (4) Before making regulations for the purposes of subsection (1) in
32 relation to a community living area, the Minister must consult
33 with:

Part 3 Land reform

Division 3 Community living areas

Section 35

- 1 (a) the Government of the Northern Territory; and
2 (b) if the owner of the land that is the community living area
3 requests to be consulted about the making of regulations for
4 the purposes of subsection (1)—the owner; and
5 (c) the Land Council (within the meaning of the *Aboriginal Land*
6 *Rights (Northern Territory) Act 1976*) in whose area the
7 community living area is located; and
8 (d) any other person the Minister considers appropriate to
9 consult.
- 10 (5) A failure to comply with subsection (4) does not affect the validity
11 of the regulations.
12

1

2 **Part 4—Food security**

3 **Division 1—Guide to this Part**

4 **36 Guide to this Part**

5

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 certain Aboriginal communities.

6

7

8

9

10

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.

11

12

13

14

15

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.

16

17

18

19

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.

20

21

22

23

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

24

25

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.

26

27

Section 37

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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.

Section 37

1
2
3
4
5

- (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.

1

2 **Division 2—Certain community stores must be licensed**

3 **38 Prohibition on operating a community store without a licence**

4 *Prohibition*

5 (1) A person who is the owner or manager of a community store must
6 not operate the store, or allow the store to be operated, in the food
7 security area if:

8 (a) a determination that the owner is required to hold a
9 community store licence is in force under subsection 41(1);
10 and

11 (b) under subsection 43(1), the person has been notified of the
12 determination; and

13 (c) the owner does not hold a community store licence for the
14 store.

15 Civil penalty: 50 penalty units.

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

19 *Exceptions*

20 (3) Subsection (1) does not apply if:

21 (a) the owner makes an application for a community store
22 licence during the application period referred to in paragraph
23 43(2)(b); and

24 (b) the Secretary has not made a determination under subsection
25 45(1) about whether to grant the licence.

26 (4) Subsection (1) does not apply on a day in the application period
27 referred to in paragraph 43(2)(b) unless the owner has been
28 notified under subsection 50(2), before or on that day, that the
29 Secretary has refused to grant the licence.

30 (5) If:

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

9 **39 Meaning of *community store*, *owner* and *manager***

10 *Meaning of community store*

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

19 *Meanings of owner and manager*

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

Section 39

Unincorporated associations and partnerships as owners

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

- (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

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

3 (7) A change in the composition of an unincorporated association or a
4 partnership does not affect the continuity of the unincorporated
5 association or partnership.

6 (8) The *committee of management* of an unincorporated association
7 means the body (however described) that governs, manages or
8 conducts the affairs of the association.

9 **40 More than one owner or manager of a community store**

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

12 (a) if a provision of this Part requires or permits a notice to be
13 given to the owner of the community store, the notice may be
14 given to any of the owners;

15 (b) if a provision of this Part requires or permits a notice to be
16 given to the manager of the community store, the notice may
17 be given to any of the managers;

18 (c) the obligations, requirements and restrictions imposed, and
19 rights conferred, under this Part upon the owner of the
20 community store are taken to be imposed or conferred upon
21 each owner;

22 (d) the obligations, requirements and restrictions imposed, and
23 rights conferred, under this Part upon the manager of the
24 community store are taken to be imposed or conferred upon
25 each manager.
26

Section 41

1

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

4 **41 Determining whether a community store licence is required**

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

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

10 (2) Before making a determination under subsection (1), the Secretary
11 must consult people being serviced by the community store about
12 the proposal to make a determination under that subsection.

13 (3) A failure to comply with subsection (2) does not affect the validity
14 of a determination under subsection (1).

15 (4) In making a determination under subsection (1), the Secretary must
16 have regard to:

- 17 (a) the object of this Part (see section 37); and
18 (b) any assessment of the store under section 67; and
19 (c) the circumstances and views of people who are being
20 serviced by the store, to the extent that those circumstances
21 and views relate to the determination; and
22 (d) any other matter the Secretary considers relevant.

23 (5) The Secretary must not determine under subsection (1) that the
24 owner is required to hold a community store licence unless the
25 Secretary is satisfied that the store is an important source of food,
26 drink or grocery items for an Aboriginal community.

27 (6) The Secretary may revoke a determination under subsection (1).

28 **42 Procedure before determining that a licence is required**

29 (1) If the Secretary proposes to make a determination under subsection
30 41(1) that the owner of a community store is required to hold a
31 community store licence, the Secretary must give written notice of

- 1 the proposed determination to the owner and the manager of the
2 store.
- 3 (2) The notice must:
- 4 (a) specify the reasons for the proposed determination; and
5 (b) invite written submissions, from the owner and manager of
6 the store, about the matters specified in the notice; and
7 (c) specify that written submissions must be lodged during the
8 period (the *submission period*) that is:
9 (i) the period specified in the notice; or
10 (ii) if the Secretary agrees in writing to a longer period—
11 that longer period; and
12 (d) specify the manner in which written submissions are to be
13 lodged.
- 14 (3) For the purposes of subparagraph (2)(c)(i), the period specified in
15 the notice must be at least 10 business days after the day the notice
16 is given.
- 17 (4) The Secretary must not make a determination under subsection
18 41(1) that the owner of a community store is required to hold a
19 community store licence unless:
20 (a) each person required to be given a notice under
21 subsection (1) has been given such a notice; and
22 (b) the Secretary has considered all written submissions received
23 during the submission period.

24 **43 Notice of determination about whether licence is required**

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

Part 4 Food security

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

Section 43

- 1 (2) If the Secretary determines under subsection 41(1) that the owner
2 is required to hold a community store licence, the notice under
3 subsection (1) must:
4 (a) specify the reasons for the determination; and
5 (b) specify that the owner must apply for a community store
6 licence during the period (the *application period*) that is:
7 (i) the period specified in the notice; or
8 (ii) if the Secretary agrees in writing to a longer period—
9 that longer period; and
10 (c) provide information about how an application may be made;
11 and
12 (d) advise that subsection 38(1) may prohibit the store from
13 being operated if:
14 (i) an application for a community store licence is not
15 made by the owner of the store; or
16 (ii) an application is made but the Secretary refuses to grant
17 the licence.
- 18 (3) For the purposes of subparagraph (2)(b)(i), the period specified in
19 the notice must be at least 20 business days after the day the notice
20 is given.
21

1

2 **Division 4—Licensing of community stores**

3 **Subdivision A—Granting and refusing community store**
4 **licences**

5 **44 Application for a community store licence**

6 (1) The owner of a community store, or a person acting on the owner's
7 behalf, may apply for a community store licence in relation to the
8 community store by:

- 9 (a) lodging a written application in accordance with
10 subsections (2) and (3); or
11 (b) making an application in the manner approved by the
12 Secretary.

13 (2) An application under paragraph (1)(a) must:

- 14 (a) be in the form (if any) that is prescribed by the rules; and
15 (b) include the information (if any) that is prescribed by the
16 rules; and
17 (c) be accompanied by the documents (if any) that are prescribed
18 by the rules.

19 (3) An application under paragraph (1)(a) is lodged by being
20 delivered:

- 21 (a) to a person apparently performing duties at a place that is
22 prescribed by the rules; or
23 (b) in a manner, and to a place, that is prescribed by the rules; or
24 (c) to a person approved for the purpose by the Secretary.

25 **45 Determination to grant or refuse a community store licence**

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

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

Part 4 Food security

Division 4 Licensing of community stores

Section 46

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

21 **46 Meaning of *food security matters***

- 22 The *food security matters* relating to a community store are the
23 following matters, having regard to the nature and circumstances of
24 the store:
- 25 (a) whether the store will provide a satisfactory range of healthy
26 and good quality food, drink or grocery items;
- 27 (b) whether the store will take reasonable steps to promote good
28 nutrition and healthy products;
- 29 (c) whether the store will satisfactorily address other aspects of
30 the store's operations which may impact on food security,
31 including:
- 32 (i) the quality of the retail management practices of the
33 manager of the store; and

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

12 **47 Procedure before refusing a community store licence**

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

Section 48

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

7 **48 Community store licence may relate to more than one store**

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

10 **49 Duration of community store licence**

- 11 A community store licence is in force for the period:
12 (a) beginning on the day specified in the licence or, if no day is
13 specified, the day the licence is granted; and
14 (b) ending on whichever of the following days occurs first:
15 (i) the day the licence is revoked;
16 (ii) the day this Act ceases to have effect (see section 118).

17 **50 Notice of determination about whether licence granted**

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

1 **Subdivision B—Conditions of community store licences**

2 **51 Community store licence is subject to conditions**

3 A community store licence is subject to the following conditions:

- 4 (a) any conditions imposed by the Secretary under subsection
5 52(1) at the time of granting the licence;
- 6 (b) the condition set out in subsection 54(1) (monitoring and
7 audits);
- 8 (c) any conditions prescribed by the rules under subsection
9 55(1);
- 10 (d) any conditions imposed by the Secretary under subsection
11 58(1) (variation of licence).

12 **52 Conditions that may be imposed at time of grant**

13 (1) When granting a community store licence, the Secretary may
14 impose conditions on a community store licence that may relate to,
15 but are not limited to, the following:

- 16 (a) the food security matters (see section 46);
- 17 (b) auditing and reporting;
- 18 (c) documentation and record-keeping requirements;
- 19 (d) the income management regime under Part 3B of the *Social*
20 *Security (Administration) Act 1999* (including requirements
21 relating to funds received under that regime);
- 22 (e) the provision of goods or services to customers on credit or at
23 a discounted rate;
- 24 (f) notifying a change of owner or manager (whether or not the
25 change is permanent or temporary);
- 26 (g) notifying a change in the composition or structure of the
27 owner;
- 28 (h) assistance and facilities to be provided for the purposes of
29 making assessments under section 67 or monitoring
30 compliance with the conditions of the licence.

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

Section 53

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

53 Procedure before imposing a condition

- 11
- 12 (1) If the Secretary proposes to impose a condition on a community
13 store licence under subsection 52(1), the Secretary must give
14 written notice of the proposed condition to the owner and the
15 manager of the community store.
- 16 (2) The notice must:
- 17 (a) specify the proposed condition and the reasons for the
18 proposed condition; and
19 (b) invite written submissions, from the owner and manager of
20 the community store, about the proposed condition; and
21 (c) specify that written submissions must be lodged during the
22 period (the *submission period*) that is:
23 (i) the period specified in the notice; or
24 (ii) if the Secretary agrees in writing to a longer period—
25 that longer period; and
26 (d) specify the manner in which written submissions are to be
27 lodged.
- 28 (3) For the purposes of subparagraph (2)(c)(i), the period specified in
29 the notice must be at least 10 business days after the day the notice
30 is given.
- 31 (4) The Secretary must not impose a condition on a community store
32 licence unless:

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

5 **54 Condition about monitoring and audits**

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

17 **55 Conditions prescribed by the rules**

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

24 **56 Breach of condition**

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

28 Civil penalty: 20 penalty units.

Section 57

1 **Subdivision C—Variation and revocation of community store**
2 **licences**

3 **57 Application to vary a community store licence**

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

22 **58 Variation of community store licence**

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

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

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

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

Section 59

1 **59 Revocation of community store licence**

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

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

11 Note 2: A community store licence can also be revoked under subsection
12 65(1) (which relates to registration under the CATSI Act).

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

18 **60 Procedure before varying, refusing to vary or revoking a**
19 **community store licence**

- 20 (1) If:
21 (a) the Secretary proposes to vary a community store licence
22 under paragraph 58(1)(a); or
23 (b) an application under subsection 57(1) has been made for a
24 community store licence to be varied, and the Secretary
25 proposes to refuse to vary the licence in accordance with the
26 application; or
27 (c) the Secretary proposes to revoke a community store licence
28 under subsection 59(1);
29 the Secretary must give written notice of the proposed variation,
30 refusal or revocation to the owner and the manager of the
31 community store.
- 32 (2) A notice under subsection (1) must:
33 (a) specify the reasons for the proposed variation, refusal or
34 revocation; and

- 1 (b) invite written submissions in relation to the matters specified
2 in the notice; and
3 (c) specify that written submissions must be lodged during the
4 period (the *submission period*) that is:
5 (i) the period specified in the notice; or
6 (ii) if the Secretary agrees in writing to a longer period—
7 that longer period; and
8 (d) specify the manner in which written submissions are to be
9 lodged; and
10 (e) in the case of a proposed revocation—advise that, if a
11 community store licence is revoked, section 38 will prohibit
12 the store from being operated after the revocation takes
13 effect.
- 14 (3) For the purposes of subparagraph (2)(c)(i), the period specified in
15 the notice must be at least 10 business days after the day the notice
16 is given.
- 17 (4) The Secretary must not vary or refuse to vary a community store
18 licence under subsection 58(1), or revoke a community store
19 licence under subsection 59(1), unless:
20 (a) the persons required to be given a notice under subsection (1)
21 have been given such a notice; and
22 (b) the Secretary has considered all written submissions received
23 during the submission period.
24

Part 4 Food security

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

Section 61

1

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

5 **61 Requirement to register under the CATSI Act**

- 6 (1) The owner of a community store is liable to a civil penalty if:
7 (a) a determination that the owner is required to become
8 registered under the CATSI Act is in force under subsection
9 62(1); and
10 (b) under subsection 64(1) the person has been notified of the
11 determination; and
12 (c) the owner is not registered under that Act.

13 Civil penalty: 20 penalty units.

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

24 **62 Secretary may require registration**

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

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

Section 63

-
- 1 (2) In making a determination under subsection (1), the Secretary must
2 have regard to:
3 (a) the object of this Part (see section 37); and
4 (b) any other matter the Secretary considers relevant.
- 5 (3) The Secretary must not make a determination under subsection (1)
6 unless the owner holds a community store licence for the store.
- 7 (4) The Secretary may revoke a determination made under
8 subsection (1).

9 **63 Procedure before determining that registration is required**

- 10 (1) If the Secretary proposes to make a determination under subsection
11 62(1) that the owner of a community store is required to become
12 registered under the CATSI Act, the Secretary must give written
13 notice of the proposed determination to the owner of the store.
- 14 (2) The notice must:
15 (a) invite written submissions from the owner of the store in
16 relation to the requirement to become registered; and
17 (b) specify that written submissions must be lodged during the
18 period (the *submission period*) that is:
19 (i) the period specified in the notice; or
20 (ii) if the Secretary agrees in writing to a longer period—
21 that longer period; and
22 (c) specify the manner in which written submissions are to be
23 lodged.
- 24 (3) For the purposes of subparagraph (2)(b)(i), the period specified in
25 the notice must be at least 10 business days after the day the notice
26 is given.
- 27 (4) The Secretary must not make a determination under subsection
28 62(1) that the owner of a community store is required to become
29 registered under the CATSI Act unless:
30 (a) the owner has been given a notice under subsection (1); and
31 (b) the Secretary has considered all written submissions received
32 during the submission period.

Section 64

1 **64 Notice of determination that registration is required**

- 2 (1) If the Secretary makes any of the following determinations in
3 relation to a community store, the Secretary must give written
4 notice of the determination to the owner of the store:
5 (a) a determination under subsection 62(1) that the owner is or is
6 not required to be registered under the CATSI Act;
7 (b) a determination under subsection 62(4) revoking a
8 determination made under subsection 62(1).
- 9 (2) If the Secretary determines under subsection 62(1) that the owner
10 is required to be registered under the CATSI Act, the notice must:
11 (a) specify the reasons for the determination; and
12 (b) specify that the owner must apply for registration under that
13 Act during the period (the *registration period*) that is:
14 (i) the period specified in the notice; or
15 (ii) if the Secretary agrees in writing to a longer period—
16 that longer period; and
17 (c) advise that the owner may be subject to a civil penalty under
18 section 61 if:
19 (i) an application for registration is not made by the owner;
20 or
21 (ii) an application is made but registration under that Act is
22 refused; and
23 (d) advise that, if the owner does not become registered:
24 (i) the Secretary may revoke the community store licence
25 under subsection 65(1); and
26 (ii) if the community store licence is revoked, subsection
27 38(1) may prohibit the store from being operated after
28 the revocation takes effect.
- 29 (3) For the purposes of subparagraph (2)(b)(i), the period specified in
30 the notice must be at least 20 business days after the last day of the
31 submission period referred to in paragraph 63(2)(b).

32 **65 Community store licence may be revoked if owner is not**
33 **registered**

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

Section 66

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

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

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

24 **66 Procedure before revoking licence**

- 25 (1) If the Secretary proposes to make a determination under subsection
26 65(1) to revoke a community store licence, the Secretary must give
27 written notice of the proposed determination to the owner and
28 manager of the store.
- 29 (2) A notice under subsection (1) must:
30 (a) specify the reasons for the proposed revocation; and
31 (b) invite written submissions in relation to the matters specified
32 in the notice; and
33 (c) specify that written submissions must be lodged during the
34 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

- 1 (i) the period specified in the notice; or
2 (ii) if the Secretary agrees in writing to a longer period—
3 that longer period; and
4 (d) specify the manner in which written submissions are to be
5 lodged; and
6 (e) advise that, if the licence is revoked, subsection 38(1) may
7 prohibit the store from being operated after the revocation
8 takes effect.
- 9 (3) For the purposes of subparagraph (2)(c)(i), the period specified in
10 the notice must be at least 10 business days after the day the notice
11 is given.
- 12 (4) The Secretary must not make a determination under subsection
13 65(1) revoking a community store licence unless:
14 (a) the persons required to be given a notice under subsection (1)
15 have been given such a notice; and
16 (b) the Secretary has considered all written submissions received
17 during the submission period.
18

1

2 **Division 6—Assessments of community stores in relation to**
3 **licensing**

4 **67 Community stores may be assessed**

- 5 (1) The Secretary may, on the Secretary's own initiative, require an
6 authorised officer to assess a community store for one or more of
7 the following purposes:
8 (a) determining whether a community store licence is required to
9 be held in relation to a community store;
10 (b) determining whether to grant a community store licence in
11 relation to a community store;
12 (c) determining whether to impose, vary or revoke conditions on
13 a community store licence;
14 (d) determining whether to revoke a community store licence in
15 relation to a community store;
16 (e) monitoring compliance with this Part.
- 17 (2) Before requiring an authorised officer to make an assessment under
18 subsection (1), the Secretary must have regard to:
19 (a) the object of this Part (see section 37); and
20 (b) any other matter the Secretary considers relevant.
- 21 (3) In assessing a community store, an authorised officer may consult
22 with such persons as the authorised officer considers appropriate.
- 23 (4) The Secretary may require an authorised officer to assess a
24 community store whether or not an application under subsection
25 44(1) has been made in relation to the community store.

26 **68 Notice in relation to assessments**

- 27 (1) This section applies if an assessment of a community store is to be,
28 or is being, conducted.
- 29 (2) The Secretary, or the authorised officer responsible for conducting
30 the assessment, must give a written notice to the owner and the
31 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

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

13 **69 Appointment of authorised officers**

- 14 The Secretary may, in writing, appoint an appropriately qualified
15 person who is:
16 (a) an APS employee in the Department; or
17 (b) any other person engaged by the Department, under contract
18 or otherwise, to exercise powers, or perform duties or
19 functions, under this Part;
20 to be an authorised officer for the purposes of the exercise of the
21 powers conferred on authorised officers by this Part.

22 **70 Identity cards**

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

26 **71 Power to enter premises for the purposes of making assessments**

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

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

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

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

9 **72 Authorised officers may obtain access to records and assistance**

- 10 (1) This section applies if an authorised officer is assessing a
11 community store under section 67.

- 12 (2) The owner of the community store, the manager of the store, the
13 occupier of premises of the store or another person who apparently
14 represents the occupier, must, if requested, give an authorised
15 officer, or any other person assisting the authorised officer, such
16 documents as are reasonably necessary for the authorised officer to
17 make the assessment.

18 Criminal penalty: 60 penalty units.

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

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

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

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

31 Criminal penalty: 10 penalty units.

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

Section 73

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

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

3 **73 Power to compel information relating to assessments**

4 (1) This section applies to a person if the Secretary considers that:

5 (a) information (the *compellable information*) relating to an
6 assessment of a community store under section 67 is in the
7 person's possession, custody or control (whether held
8 electronically or in any other form); and

9 (b) the information is reasonably necessary for the purposes of
10 the assessment.

11 (2) The Secretary may, in writing, require the person to give
12 compellable information to the Secretary:

13 (a) within a specified period of time; and

14 (b) in a specified form or manner.

15 (3) The person must not fail to comply with a requirement under this
16 section.

17 Criminal penalty: 10 penalty units.

18 (4) Subsection (3) does not apply to the extent that the person has a
19 reasonable excuse. However, a person does not have a reasonable
20 excuse merely because the information in question is:

21 (a) of a commercial nature; or

22 (b) subject to an obligation of confidentiality arising from a
23 commercial relationship; or

24 (c) commercially sensitive.

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

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

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

1
2
3

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

1

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

3 **74 Areas that are not in the food security area**

4 (1) The rules may prescribe that at an area in the Northern Territory is
5 not in the food security area.

6 (2) The rules may revoke or vary a rule made for the purposes of
7 subsection (1).

8 (3) The Minister may make a rule for the purposes of subsection (1) or
9 (2):

- 10 (a) on the Minister's own initiative; or
11 (b) following a request made to the Minister by, or on behalf of,
12 a person who is ordinarily resident in the area to which the
13 rule relates.

14 (4) In making a rule for the purposes of subsection (1) or (2), the
15 Minister must have regard to the following matters:

- 16 (a) the object of this Part (see section 37);
17 (b) the wellbeing of people living in the area;
18 (c) any other matter that the Minister considers relevant.

19 (5) If a rule is made for the purposes of subsection (1) in relation to an
20 area, then this Part continues to apply in relation to that area, after
21 the rule takes effect, in relation to things done, or omitted to be
22 done, before the rule takes effect.

1

2 **Division 8—Enforcement relating to food security**

2

3 **Subdivision A—Civil penalties**

3

4 **75 Civil penalty orders**

4

5 *Application for order*

5

6 (1) The Secretary may apply to a relevant court for an order that a
7 person, who is alleged to have contravened a civil penalty
8 provision, pay the Commonwealth a pecuniary penalty.

6

7

8

9 (2) A subsection of this Part (or a section of this Part that is not
10 divided into subsections) is a *civil penalty provision* if the words
11 “civil penalty” and one or more amounts in penalty units are set out
12 at the foot of the subsection (or section).

9

10

11

12

13 (3) The Secretary must make an application under subsection (1)
14 within 6 years of the alleged contravention.

13

14

15 *Court may order person to pay pecuniary penalty*

15

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

16

17

18

19

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

20

21

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

22

23 *Determining the amount of a pecuniary penalty*

23

24 (6) The pecuniary penalty must not be more than the pecuniary penalty
25 specified for the civil penalty provision.

24

25

26 (7) In determining the amount of a pecuniary penalty, the court must
27 take into account all relevant matters, including:

26

27

28 (a) the nature and extent of the contravention; and

28

Section 76

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

6 **76 Civil enforcement of penalty**

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

12 **77 Conduct contravening more than one civil penalty provision**

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

19 **78 Multiple contraventions**

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

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

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

1 **79 Proceedings may be heard together**

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

4 **80 Civil evidence and procedure rules for civil penalty orders**

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

8 **81 Contravening a civil penalty provision is not an offence**

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

10 **82 Civil proceedings after criminal proceedings**

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

16 **83 Criminal proceedings during civil proceedings**

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

Section 84

1 **84 Criminal proceedings after civil proceedings**

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

7 **85 Evidence given in civil proceedings not admissible in criminal**
8 **proceedings**

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

22 **86 Ancillary contravention of civil penalty provisions**

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

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

4 *Civil penalty*

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

7 **87 Continuing contraventions of civil penalty provisions**

8 (1) If an act or thing is required under a civil penalty provision to be
9 done:

10 (a) within a particular period; or

11 (b) before a particular time;

12 then the obligation to do that act or thing continues until the act or
13 thing is done (even if the period has expired or the time has
14 passed).

15 (2) A person who contravenes a civil penalty provision that requires an
16 act or thing to be done:

17 (a) within a particular period; or

18 (b) before a particular time;

19 commits a separate contravention of that provision in respect of
20 each day during which the contravention occurs (including the day
21 the relevant civil penalty order is made or any later day).

22 **88 Mistake of fact**

23 (1) A person is not liable to have a civil penalty order made against the
24 person for a contravention of a civil penalty provision if:

25 (a) at or before the time of the conduct constituting the
26 contravention, the person:

27 (i) considered whether or not facts existed; and

28 (ii) was under a mistaken but reasonable belief about those
29 facts; and

30 (b) had those facts existed, the conduct would not have
31 constituted a contravention of the civil penalty provision.

Section 89

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

89 State of mind

- 14 (1) In proceedings for a civil penalty order against a person for a
15 contravention of a civil penalty provision (other than subsection
16 86(1)), it is not necessary to prove:
17 (a) the person's intention; or
18 (b) the person's knowledge; or
19 (c) the person's recklessness; or
20 (d) the person's negligence; or
21 (e) any other state of mind of the person.
- 22 (2) Subsection (1) does not affect the operation of section 88 (which is
23 about mistake of fact).

Subdivision B—Infringement notices

90 When an infringement notice may be given

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

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

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

16 **91 Matters to be included in an infringement notice**

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

Section 91

- 1 be liable to be prosecuted in a court for the alleged
2 contravention; or
- 3 (ii) if the provision is an offence provision that can also
4 constitute a civil penalty provision—the person is not
5 liable to be prosecuted in a court, and proceedings
6 seeking a civil penalty order will not be brought, in
7 relation to the alleged contravention; or
- 8 (iii) if the provision is a civil penalty provision—
9 proceedings seeking a civil penalty order will not be
10 brought in relation to the alleged contravention; and
- 11 (i) state that payment of the amount is not an admission of guilt
12 or liability; and
- 13 (j) state that the person may apply to the Secretary to have the
14 period in which to pay the amount extended; and
- 15 (k) state that the person may choose not to pay the amount and, if
16 the person does so:
- 17 (i) if the provision is an offence provision and does not also
18 constitute a civil penalty provision—the person may be
19 prosecuted in a court for the alleged contravention; or
- 20 (ii) if the provision is an offence provision and can also
21 constitute a civil penalty provision—the person may be
22 prosecuted in a court, or proceedings seeking a civil
23 penalty order may be brought, in relation to the alleged
24 contravention; or
- 25 (iii) if the provision is a civil penalty provision—
26 proceedings seeking a civil penalty order may be
27 brought in relation to the alleged contravention; and
- 28 (l) set out how the notice can be withdrawn; and
- 29 (m) state that if the notice is withdrawn:
- 30 (i) if the provision is an offence provision and does not also
31 constitute a civil penalty provision—the person may be
32 prosecuted in a court for the alleged contravention; or
- 33 (ii) if the provision is an offence provision and can also
34 constitute a civil penalty provision—the person may be
35 prosecuted in a court, or proceedings seeking a civil
36 penalty order may be brought, in relation to the alleged
37 contravention; or

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

10 **92 Extension of time to pay amount**

- 11 (1) A person to whom an infringement notice has been given may
12 apply to the Secretary for an extension of the period referred to in
13 paragraph 91(1)(h).
- 14 (2) If the application is made before the end of that period, the
15 Secretary may, in writing, extend that period. The Secretary may
16 do so before or after the end of that period.
- 17 (3) If the Secretary extends that period, a reference in this Division, or
18 in a notice or other instrument under this Division, to the period
19 referred to in paragraph 91(1)(h) is taken to be a reference to that
20 period so extended.
- 21 (4) If the Secretary does not extend that period, a reference in this
22 Division, or in a notice or other instrument under this Division, to
23 the period referred to in paragraph 91(1)(h) is taken to be a
24 reference to the period that ends on the later of the following days:
25 (a) the day that is the last day of the period referred to in
26 paragraph 91(1)(h);
27 (b) the day that is 7 days after the day the person was given
28 notice of the Secretary's decision not to extend.
- 29 (5) The Secretary may extend the period more than once under
30 subsection (2).

1 **93 Withdrawal of an infringement notice**

2 *Representations seeking withdrawal of notice*

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

6 *Withdrawal of notice*

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

26 *Notice of withdrawal*

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

- 1 (e) that:
- 2 (i) if the provision is an offence provision and does not also
- 3 constitute a civil penalty provision—the person may be
- 4 prosecuted in a court for the alleged contravention; or
- 5 (ii) if the provision is an offence provision and can also
- 6 constitute a civil penalty provision—the person may be
- 7 prosecuted in a court, or proceedings seeking a civil
- 8 penalty order may be brought, in relation to the alleged
- 9 contravention; or
- 10 (iii) if the provision is a civil penalty provision—
- 11 proceedings seeking a civil penalty order may be
- 12 brought in relation to the alleged contravention.

13 *Refund of amount if infringement notice withdrawn*

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

19 **94 Effect of payment of amount**

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

Section 95

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

4 **95 Effect of this Division**

5 This Division does not:

- 6 (a) require an infringement notice to be given to a person for an
7 alleged contravention of an enforceable provision; or
- 8 (b) affect the liability of a person for an alleged contravention of
9 an enforceable provision if:
- 10 (i) the person does not comply with an infringement notice
11 given to the person for the contravention; or
- 12 (ii) an infringement notice is not given to the person for the
13 contravention; or
- 14 (iii) an infringement notice is given to the person for the
15 contravention and is subsequently withdrawn; or
- 16 (c) prevent the giving of 2 or more infringement notices to a
17 person for an alleged contravention of an enforceable
18 provision; or
- 19 (d) limit the court’s discretion to determine the amount of a
20 penalty to be imposed on a person who is found to have
21 contravened an enforceable provision.

22 **Subdivision C—Enforceable undertakings**

23 **96 Acceptance of undertakings**

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

- 1 person does not contravene an enforceable provision, or is
2 unlikely to contravene such a provision, in the future.
- 3 (2) The undertaking must be expressed to be an undertaking under this
4 section.
- 5 (3) The person may withdraw or vary the undertaking at any time, but
6 only with the written consent of the Secretary.
- 7 (4) The consent of the Secretary is not a legislative instrument.
- 8 (5) The Secretary may, by written notice given to the person, cancel
9 the undertaking.

10 **97 Enforcement of undertakings**

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

Section 98

1 **Subdivision D—Injunctions**

2 **98 Grant of injunctions**

3 *Restraining injunctions*

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

10 *Performance injunctions*

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

18 **99 Interim injunctions**

19 *Grant of interim injunctions*

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

24 *No undertakings as to damages*

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

1 **100 Discharging or varying injunctions**

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

4 **101 Certain limits on granting injunctions not to apply**

5 *Restraining injunctions*

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

17 *Performance injunctions*

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

28 **102 Other powers of a relevant court unaffected**

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

Section 103

1 **Subdivision E—Civil jurisdiction of courts**

2 **103 Civil jurisdiction of courts**

3 (1) Jurisdiction is conferred on a court referred to in an item in the
4 following table in relation to civil matters arising under this Part,
5 subject to the limits on the court's jurisdiction (if any) specified in
6 the item:
7

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.

8 (2) Jurisdiction is conferred on the courts of the Northern Territory
9 only to the extent that the Constitution permits.

10 (3) Section 15C of the *Acts Interpretation Act 1901* does not apply to
11 civil proceedings under this Part.
12

1

2 **Division 9—Other matters**

3 **104 Information about criminal history**

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

15 **105 Power to request information from public officials etc.**

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

27 **106 Disclosure of information to public officials etc.**

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

Section 107

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

14 **107 This Part does not affect legal professional privilege**

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

17 **108 Application of Northern Territory laws to community stores**

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

22 **109 Interaction with other Commonwealth laws**

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

Section 110

- 1 (c) making an application for a community store licence under
2 subsection 44(1);
- 3 (d) determining under subsection 45(1) whether to grant a
4 community store licence;
- 5 (e) determining under subsection 52(1) to impose a condition of
6 a community store licence;
- 7 (f) making an application to vary a community store licence
8 under subsection 57(1);
- 9 (g) determining under subsection 58(1) to vary a community
10 store licence (including varying or refusing to vary the
11 conditions of the licence);
- 12 (h) determining under subsection 59(1) to revoke a community
13 store licence;
- 14 (i) determining under subsection 62(1) that the owner of a
15 community store is required to become registered under the
16 CATSI Act;
- 17 (j) determining under subsection 65(1) to revoke a community
18 store licence;
- 19 (k) requiring an authorised officer to assess a community store
20 under section 67;
- 21 (l) determining under subsection 74(1) that an area in the
22 Northern Territory is not in the food security area;
- 23 (m) taking any action in connection with an action referred to in
24 any of the above paragraphs;
- 25 (n) taking any action (including an action taken by the
26 Commonwealth, a Commonwealth authority, the holder of a
27 community store licence or a person acting in accordance
28 with a community store licence), being an action that is:
- 29 (i) required by a community store licence; or
30 (ii) authorised by a community store licence; or
31 (iii) in connection with an action referred to in
32 subparagraph (i) or (ii).

33 **110 AAT review of the Secretary's determinations under this Part**

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

Section 110

- 1 (a) a determination under subsection 41(1) that a community
2 store licence is required in relation to a community store;
3 (b) a determination under subsection 45(1) to refuse to grant a
4 community store licence;
5 (c) a determination under subsection 52(1) to impose conditions
6 on a community store licence;
7 (d) a determination under subsection 58(1) to refuse to vary a
8 community store licence;
9 (e) a determination under subsection 59(1) to revoke a
10 community store licence;
11 (f) a determination under subsection 62(1) that an owner of a
12 community store is required to be registered under the
13 CATSI Act;
14 (g) a determination under subsection 65(1) to revoke a
15 community store licence.
16

1

2 **Part 5—Other matters**

3 **Division 1—Introduction**

4 **111 Guide to this Part**

5

This Part has a number of miscellaneous provisions.

6

It requires the Minister to cause an independent review to be conducted of the first 7 years of the operation of this Act (see section 117).

7

8

9

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

10

11

12

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

13

Section 112

1

2 **Division 2—Miscellaneous**

3 **112 Delegation**

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

11 **113 References in Commonwealth or Northern Territory laws**

- 12 (1) A reference in a law of the Commonwealth, or a law of the
13 Northern Territory, to a law of the Northern Territory includes a
14 reference to a law of the Northern Territory as modified by this Act
15 or regulations made under this Act.
- 16 (2) A reference in a law of the Commonwealth, or a law of the
17 Northern Territory, to an offence against a law of the Northern
18 Territory includes a reference to an offence against a law of the
19 Northern Territory as modified by this Act or regulations made
20 under this Act.
- 21 (3) A reference in a law of the Commonwealth or a law of the
22 Northern Territory to a law of the Commonwealth does not include
23 a reference to a law of the Northern Territory as modified by this
24 Act or regulations made under this Act.
- 25 (4) A reference in a law of the Northern Territory to a particular law of
26 the Northern Territory includes a reference to that law as modified
27 by this Act or regulations made under this Act.

28 **114 Modification of Northern Territory laws**

29 To the extent that this Act, or regulations made under this Act,
30 modify an Act or regulations of the Northern Territory, the

1 *Interpretation Act* of the Northern Territory, and other Acts of the
2 Northern Territory of general application, apply in relation to this
3 Act or regulations made under this Act.

4 **115 Northern Territory (Self-Government) Act**

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

7 **116 Compensation for acquisition of property**

8 (1) Subsection 50(2) of the *Northern Territory (Self-Government) Act*
9 1978 and section 128A of the NT Liquor Act do not apply in
10 relation to any acquisition of property referred to in those
11 provisions that occurs as a result of the operation of this Act.

12 (2) However, if the operation of this Act would result in an acquisition
13 of property to which paragraph 51(xxxi) of the Constitution applies
14 from a person otherwise than on just terms, the Commonwealth is
15 liable to pay a reasonable amount of compensation to the person.

16 (3) If the Commonwealth and the person do not agree on the amount
17 of the compensation, the person may institute proceedings in a
18 court of competent jurisdiction for the recovery from the
19 Commonwealth of such reasonable amount of compensation as the
20 court determines.

21 (4) In this Act:

22 *acquisition of property* has the same meaning as in paragraph
23 51(xxxi) of the Constitution.

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

26 **117 Review of the operation of this Act**

27 (1) The Minister must cause an independent review to be undertaken
28 of the first 7 years of the operation of this Act.

29 (2) The review must:

Section 118

- 1 (a) assess the effectiveness of the special measures provided for
2 by this Act; and
3 (b) consider any other matter specified by the Minister.
- 4 (3) The review must be completed, and a report must be prepared,
5 before the end of 8 years after commencement.
- 6 (4) The person undertaking the review must give the report of the
7 review to the Minister.
- 8 (5) The Minister must cause a copy of the report to be tabled in each
9 House of the Parliament within 15 sitting days of receiving it.

10 **118 Sunset provision**

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

17 **119 Rules**

- 18 The Minister may, by legislative instrument, make rules
19 prescribing matters:
20 (a) required or permitted by this Act to be prescribed; or
21 (b) necessary or convenient to be prescribed for carrying out or
22 giving effect to this Act.

23 **120 Regulations**

- 24 The Governor-General may make regulations prescribing matters:
25 (a) required or permitted by this Act to be prescribed; or
26 (b) necessary or convenient to be prescribed for carrying out or
27 giving effect to this Act.