

LOCAL GOVERNMENT ORDINANCE (No 3) 1978

No. 70 of 1978

An Ordinance to amend the *Local Government Ordinance*

[Assented to 13 July 1978]

BE it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

Short title

1. This Ordinance may be cited as the *Local Government Ordinance (No. 3) 1978*.

Principal Ordinance

2. The *Local Government Ordinance* is in this Ordinance referred to as the Principal Ordinance.

Definitions

3. Section 5 of the Principal Ordinance is amended by inserting after the definition of "Valuer-General" the following definition:

" 'vehicle' means a conveyance or carriage whether capable of self propulsion or not and whether capable of registration under the *Motor Vehicles Ordinance* or not but does not include a perambulator or a device designed principally for the self propulsion of an infirm person."

Tenders to be called for contracts over a certain amount
By-laws

4. Section 333 of the Principal Ordinance is amended by omitting the figures "2,000" and substituting "6000".

5. Section 349 of the Principal Ordinance is amended—

(a) by omitting sub-section (36) and substituting the following sub-section:

"(36) Regulating the depositing of material on land which may—

- (a) cause a public nuisance of any nature;
- (b) give rise to a condition dangerous to public health;
- (c) form an attraction to vermin or a harbourage for vermin on that land; or
- (d) give rise to either a real or potential danger either on or off the land.";
- (b) by inserting in sub-section (55) after "Council," the words "the establishment and conducting of stables and";
- (c) by inserting in sub-section (56) after "regulating" the words "the establishment and conducting of kennels and prescribing fees for the establishment and conducting of kennels and for regulating";

- (d) by omitting sub-section (70) and substituting the following sub-section:

“(70) Regulating or prohibiting the standing of animals and vehicles, in roads, in specified parts of roads, in public places or in other places vested in or under the control of the council, and for providing for the removal, impounding and disposal of animals or vehicles left standing in contravention of a by-law regulating or prohibiting such standing and for the recovery of costs involved in the removal, impounding and disposal of such animals and vehicles.”;

- (e) by omitting from sub-section (77) “(being reserves adjacent to foreshores)”;

- (f) by omitting sub-section (79) and substituting the following sub-section:

“(79) Regulating or prohibiting the admission of persons, animals or vehicles to buildings, reserves, land or enclosures which are the property of or under the control of the council and for the removal of persons, animals or vehicles from those buildings, reserves, land or enclosures, as the case may be, for breach of such by-laws;”.

6. Section 354A of the Principal Ordinance is repealed and the following section substituted:

“354A. (1) In this section—

‘officer’ means a member of the Police Force of the Territory or a person employed by a council for the purpose of enforcing by-laws made by the council that create offences;

‘offence’ means an offence created by a by-law regulating or prohibiting the standing of vehicles in roads or in specified parts of roads or in public places;

‘park’ means stand a vehicle in a road or part of a road or in a public place;

‘registered owner’, in relation to a vehicle, means the person in whose name the vehicle is registered under the *Motor Vehicles Ordinance*, or under a Statute of a State or Territory which provides for the registration of vehicles, at the time when an offence is committed by reason of the standing of the vehicle at that time in a road or in a specified part of a road or in a public place, and, subject to this section, shall be presumed to be the owner of the vehicle.

“(2) This section shall not apply to or in relation to an offence unless the by-law creating the offence provides that it shall so apply.

“(3) Subject to this section, where an offence is committed by reason of the parking of a vehicle, the owner of the vehicle shall be deemed to have committed the offence.

“(4) For the purpose of proving an offence, evidence that—

- (a) the name and address of a person were shown painted on or affixed to the outside of a vehicle; or

Proof of
parking
offences

- (b) the name and address of a person purporting to be the name and address of the registered owner of a vehicle were shown in any manner in or upon that vehicle,

is evidence that the person whose name and address were so shown was at the time they were shown the owner of that vehicle.

“(5) Where an officer finds a vehicle so parked that an offence has been committed, and the officer does not know who committed the offence, the officer may—

- (a) hand to the registered owner of the vehicle a notice in writing in accordance with sub-section (6); or
- (b) affix such a notice in a conspicuous position to the vehicle.

“(6) The notice referred to in sub-section (5) shall—

- (a) be identified by a serial number;
- (b) be addressed to the person who is the owner of the vehicle either by his name, or, if the officer does not know his name, by his designation as the registered owner of the vehicle, identifying the vehicle by the number plate affixed to it;
- (c) describe the vehicle that was so parked that an offence was committed and identify it by the number plate affixed to it;
- (d) allege that the registered owner committed an offence at a time, date and place specified in the allegation;
- (e) state in general terms the nature of the offence alleged to have been committed;
- (f) state in general terms that the person to whom it is addressed may elect not to be dealt with in the manner prescribed in paragraph (g) but to have the alleged offence prosecuted in a court of summary jurisdiction—
 - (i) if he desires to contest the question whether the offence alleged was in fact committed;
 - (ii) if he desires to submit to such a court any matter in mitigation of penalty; or
 - (iii) if for any other reason he elects to have the offence prosecuted in such a court;
- (g) state in general terms that the person to whom it is addressed may, if he does not elect to have the offence prosecuted in a court of summary jurisdiction—
 - (i) complete the form attached to or written on the notice; and
 - (ii) on or before such date, being a date not less than 14 days after the date on which the notice is given, and within such hours as are specified in the notice forward or deliver it, together with the sum of 5 dollars by way of penalty, to the clerk or an officer specified in the notice as a person authorised by the clerk to receive the form and that sum by way of penalty; and

(h) set out in general terms the provisions of sub-section (10).

“(7) If an officer informs the clerk—

- (a) that a vehicle has been so parked that an offence has been committed; and
- (b) that no notice has been handed to the registered owner of the vehicle or affixed to the vehicle in accordance with sub-section (5),

the clerk may give to the owner of the vehicle notice in writing in accordance with sub-section (6).

“(8) Subject to sub-section (10), where—

- (a) in relation to an offence, notice has been given under sub-section (5) or (7); and
- (b) payment of the sum of money by way of penalty that is specified in the notice has not been made in accordance with the notice,

a prosecution for the offence may be commenced, upon the complaint of the clerk or a person authorized by him to make such a complaint, against the owner of the vehicle or any other person alleged to have committed the offence.

“(9) The signature of the clerk shall be judicially noticed for the purposes of a prosecution for an offence.

“(10) The owner of a vehicle shall not be deemed to have committed an offence if he was not in control of the vehicle at the time the offence was committed and—

(a) not later than 14 days after the day on which he is served with a notice under sub-section (5) or (7) in relation to the offence he furnished to the clerk a statutory declaration in which he states facts which prove to the satisfaction of the clerk—

- (i) that some other person was in control of the vehicle at the time when the offence was committed and that the name and address of residence of that other person are as set out in the statutory declaration;
- (ii) that he sold the vehicle before the offence was committed and that the sale was made on the date specified in the statutory declaration to a person whose name and address are as set out in the statutory declaration and, if the sale was made through an agent, that the name and address of the agent are as set out in the statutory declaration; or
- (iii) that at the time when the offence was committed he was unable to exercise any control over the vehicle because it had been stolen from him or was being used unlawfully without his consent; or

(b) he satisfies the court hearing a charge for the offence as to the truth of the matters as to which he has made a statutory declaration under paragraph (a).”.

7.(1) The amendments effected by this Ordinance shall not affect a ^{Savings} by-law in force immediately prior to the commencement of this Ordinance and any such by-law shall be as valid and continue in such force as it would have had if this Ordinance had not been commenced.

(2) Any proceedings which may be or may have been instituted in relation to an alleged offence contrary to a provision of the Principal Ordinance or a by-law made under the principal Ordinance immediately prior to the commencement of this Ordinance shall continue or may be instituted as though this Ordinance had not commenced.
