

NORTHERN TERRITORY OF AUSTRALIA

LITTER ACT

As in force at 1 May 1997

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NORTHERN TERRITORY OF AUSTRALIA

As in force at 1 May 1997

LITTER ACT

An Act relating to litter

1 Short Title

This Act may be cited as the *Litter Act*.

2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3 Definitions

In this Act, unless the contrary intention appears:

authorized receptacle means a rubbish receptacle that the Minister causes to be provided for the disposal of rubbish or a bin or container provided by a person for the purpose of a rubbish collection authorized by the Minister.

boat includes a launch, yacht, canoe, raft, pontoon and any thing capable of carrying persons or goods through or on water.

Chief Health Officer means the Chief Health Officer appointed under the *Public Health Act*.

clerk, in relation to a municipality, means the clerk, by whatever name called, of the municipality or the council of the municipality.

litter means litter, garbage, rubbish, refuse or waste matter, and includes the body of a dead animal.

municipality means a municipality or community government area within the meaning of the *Local Government Act* or Jabiru as defined in section 3 of the *Jabiru Town Development Act*.

officer means a person who is:

- (a) a member of the Police Force;

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- (b) employed by:
- (i) the Conservation Commission of the Northern Territory;
 - (ii) the Darwin Port Authority; or
 - (iii) the council of a municipality,
- for the purpose of enforcing by-laws made by that Commission or Authority or the council of that municipality;
- (c) a person appointed under the *Public Health Act* to be a Health Surveyor or Health Officer; or
- (d) a person appointed under section 5.

public place means:

- (a) a street, road or lane, whether a thoroughfare or not, being a street, road or lane that is open to or used by the public, and includes a footpath, bridge, court, entrance, drive-way, verge, nature strip, traffic island and gutter of such a street, road or lane;
- (b) a park, reserve, recreational or sporting ground, beach or other open place, being a park, reserve, ground, beach or place that is open to or used by the public, but does not include a place approved by the Chief Health Officer for the disposal of rubbish; or
- (c) water in, and off the coast of, the Northern Territory that is open to or used by the public.

registered owner, in relation to a motor vehicle or boat, means the person in whose name the motor vehicle or boat is registered under a law of the Northern Territory relating to motor vehicles or boats.

vacant Crown land means Crown land, as defined in the *Crown Lands Act*:

- (a) in which no person (other than the Crown in right of the Territory) has an estate or interest; or
- (b) if a person (other than the Crown in right of the Territory) has an estate or interest in the land it is only an interest under a licence or an estate or interest under a law in force in the Territory relating to the exploration for, or mining or extraction of, minerals, petroleum or gas,

being land of which there is apparently no person having the immediate care and control and which is not:

- (c) a public place; or
- (d) a place approved by the Chief Health Officer for the disposal of rubbish.

4 Application

- (1) Except as provided by this section, this Act does not apply in a municipality or to freehold land or to land held under a lease.
- (2) The Minister may, by notice published in the *Gazette*, on consideration of a request in writing so to do made:
 - (a) by the council of a municipality in respect of that municipality; or
 - (b) by the owner of freehold land, or lessee of land held under a lease, in respect of that land,

extend the application of this Act to all, or such part as is specified in the notices, of that municipality or land, as the case may be, and thereupon this Act has that extended application accordingly.

- (3) This Act applies to and in relation to all vacant Crown land whether or not it is in a municipality.

5 Officers

- (1) The Minister may appoint a person to be an officer for the purposes of this Act.
- (2) The Minister shall issue to an officer appointed under this Act a certificate stating that he is such an officer.
- (3) No officer appointed under this section shall be empowered to issue notices under section 9A unless, on appointment by the Minister, he is specifically authorized so to do.

6 Litter

- (1) Subject to this section, a person shall not leave, throw, deposit or abandon litter in, onto or from a public place or vacant Crown land elsewhere than into an authorized receptacle.

Penalty: \$2,000.

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- (2) It is not an offence against subsection (1) if:
- (a) the litter was left in the public place or vacant Crown land, elsewhere than in an authorized receptacle, to be collected in pursuance of a service for the collection of garbage authorized by the Minister; or
 - (b) a public entertainment or spectacle was, at the time, being held in the public place.
- (3) It is a defence to a prosecution for an offence against this section if the defendant satisfies the court that:
- (a) the litter was in the public place or vacant Crown land as the result of an accident and that, by reason of injury to himself or other reasonable cause, he was prevented from cleaning up the litter; or
 - (b) it was not practicable to dispose of the litter in an authorized receptacle or in a place approved by the Chief Health Officer for the disposal of rubbish and the litter was disposed of by the defendant in such a manner as to be unlikely to cause annoyance or a nuisance to other persons.
- (4) The penalty for an offence against this section is a fine not exceeding \$2,000 but, where a person is found guilty of an offence against this section and the litter left, thrown, deposited or abandoned was, in the opinion of the court, liable to cause injury to, or danger to the health of, a person using the public place or vacant Crown land or damage to property, the court may impose a fine not exceeding \$3,000 for the offence.

7 Dead animals on street, &c.

- (1) A person who, in a public place or vacant Crown land, causes the death of or injury to an animal so that it cannot remove itself shall forthwith remove the body of the animal or the animal, as the case may be, from any part of the public place or vacant Crown land that is used by vehicular or pedestrian traffic.

Penalty: \$500.

- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant satisfies the court that it was not practicable for him to remove the body of the animal or the animal, as the case may be, from where it was and he gave notice of the occurrence to a member of the Police Force as soon as practicable after the occurrence.

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- (1) Subject to this section, where a person in or on a motor vehicle or boat registered under a law of the Territory relating to motor vehicles or boats commits an offence against this Act, the registered owner of the motor vehicle or boat at the time of the alleged offence or, if the registered owner was not, at that time, the driver of the motor vehicle or boat, the person who was the driver shall be deemed to have committed the offence.
 - (2) In a prosecution for an offence against this Act:
 - (a) a document purporting to be issued by the Registrar of Motor Vehicles bearing his written, stamped or printed signature and stating that during a specified period, or on a specified date, a person named in the document was the registered owner of a specified motor vehicle is evidence of the matters stated in the document without proof of the signature; and
 - (b) a document purporting to be issued by the Darwin Port Authority stating that during a specified period, or on a specified date, a person named in the document was the registered owner of a specified boat is evidence of the matters stated in the document without proof of the signature.
 - (3) Nothing in this section affects the liability of an actual offender other than the registered owner or driver of a motor vehicle or boat, but the owner and driver shall not be liable for the same offence against this Act if the actual offender is found guilty for that offence.
 - (4) The owner of a motor vehicle or boat shall not be deemed to have committed an offence against this Act if the motor vehicle or boat was, at the time of the alleged offence, stolen or illegally taken or used.
 - (5) An officer may serve, by post or otherwise, on the registered owner of a motor vehicle or boat a notice in writing in accordance with this section.
 - (6) A notice under subsection (5) shall:
 - (a) identify the motor vehicle or boat by the number-plate affixed to it or by its registration markings;
 - (b) state in general terms the nature, time, date and place of the alleged offence; and
 - (c) contain a notification that the registered owner may make a statutory declaration as provided by subsection (7).

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- (7) The registered owner or driver of a motor vehicle or boat shall not, unless the contrary is proved, be deemed to have committed an offence against this Act if, within 14 days after service of the notice referred to in subsection (6) or of the summons in respect of the alleged offence, he furnishes to a person, if any, specified in the notice, or, in any other case, to the Commissioner of Police, a statutory declaration made by him stating:
- (a) that it is made for the purposes of this section; and
 - (b) that he was not the person who actually committed the offence, and the name and address of the person who actually committed the offence or was the driver of the motor vehicle or boat at the time of the alleged offence.
- (8) Where the registered owner of a motor vehicle or boat is a body corporate, the body corporate shall not, unless the contrary is proved, be deemed to have committed an offence against this Act if, within 14 days after service of the notice referred to in subsection (6) or of the summons in respect of the alleged offence, a director, manager or secretary of the body corporate furnishes to a person, if any, specified in the notice, or, in any other case, to the Commissioner of Police, a statutory declaration made by him stating:
- (a) that it is made for the purposes of this section;
 - (b) that the motor vehicle or boat was not being used for the purposes of the body corporate at the time of the alleged offence; and
 - (c) the name and address of the person who was the driver of the motor vehicle or boat at that time or actually committed the offence.
- (9) At the hearing of a prosecution for an offence against this Act against the registered owner of a motor vehicle or boat, the court shall dismiss the charge if it is satisfied (whether on a statutory declaration or otherwise) that the registered owner was not the person who actually committed the offence.
- (10) At the hearing of a prosecution for an offence against this Act against the driver of a motor vehicle or boat, the court shall dismiss the charge if it is satisfied that the driver was not the person who actually committed the offence.

9 Copy of statutory declaration to be served with summons

- (1) Where a person named in a statutory declaration made and given under section 8 in respect of an alleged offence against this Act is

charged with the offence, the person shall not be found guilty of the offence unless a copy of the statutory declaration is affixed to the summons for the alleged offence at the time it was served on him.

- (2) A statutory declaration duly made and given under section 8 in respect of an alleged offence against this Act and so served on a person named in the statutory declaration as the driver of a motor vehicle or as the actual offender is admissible in evidence in a prosecution in respect of that alleged offence against that person and is evidence that he was the driver of the motor vehicle or the actual offender, as the case may be.

9A Notices

- (1) Where an officer has reason to believe that an offence has been committed against section 6, he may serve or cause to be served a notice in accordance with this section.
- (2) A notice under subsection (1) may be served:
- (a) by handing the notice personally to the person who appears to have committed the offence; or
 - (b) in a case where section 8(1) applies:
 - (i) by handing it personally to the driver of the motor vehicle or boat;
 - (ii) by securely placing or affixing the notice upon the motor vehicle or boat in a conspicuous position;
 - (iii) by handing the notice personally to the owner of the motor vehicle or boat or by leaving it at his last-known place of residence or business with a person apparently over the age of 16 years and apparently an occupant of or employed at that place;
 - (iv) by sending it by prepaid post to the owner of the motor vehicle or boat addressed to him:
 - (A) at his last-known place of residence or business; or
 - (B) in the case of the owner of a motor vehicle or boat registered under a law of a State or of the Australian Capital Territory – at the latest address of the owner in the record of registration of the motor vehicle or boat; or
 - (v) where the owner of a motor vehicle or boat has furnished a statutory declaration in accordance with

section 8(7) – by handing the notice personally to, or by sending it by prepaid post addressed to, the person whose name is specified in the statutory declaration as being in charge of the motor vehicle or boat at the time of the alleged offence or by leaving it at the last-known place of residence or business with a person apparently over the age of 16 years and apparently an occupant of or employed at that place.

- (3) A notice under this section shall:
- (a) clearly specify the date, time and place of the alleged offence;
 - (b) if it is served:
 - (i) by being placed upon or affixed to a motor vehicle or boat – be addressed to **the owner** of the motor vehicle or boat without further description of the owner; and
 - (ii) in any other manner clearly show on its face the full name, or surname and initials, and the address of the person on whom it is served;
 - (c) clearly indicate the nature of the offence;
 - (d) contain an indication to the person on whom it is served that, if he does not wish the matter to be dealt with by the Court, he may make a signed statement to that effect in the manner specified in the notice and pay the amount of the prescribed penalty within the period of 14 days after the date of the notice;
 - (e) clearly specify the place at which, and the manner in which, the amount of the prescribed penalty may be so paid; and
 - (f) contain such other particulars, if any, as the Minister considers necessary.
- (4) Where a notice under this section has been served and, before the expiration of the specified period of 14 days or, where the person in authority so allows, at any time before the service of a summons in respect of the alleged offence, the amount of the prescribed penalty is paid in accordance with the notice and a statement, signed by the person on whom the notice was served or by the owner of the motor vehicle, to the effect that he does not wish the matter to be dealt with by a court is received by the person in authority:
- (a) the liability of a person in respect of the alleged offence shall be deemed to be discharged;

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- (b) no further proceedings shall be taken in respect of the alleged offence; and
 - (c) no person shall be regarded as having been found guilty for the alleged offence.
- (5) Nothing in this section:
- (a) prevents the service of more than one notice in respect of the same offence, but it is sufficient for the application of subsection (4) to a person on whom more than one such notice has been served for that person to pay the amount of the prescribed penalty and to make the statement referred to in that subsection in accordance with any notice so served on him;
 - (b) prevents or affects (except as provided by subsection (4)) the institution of prosecution or proceedings in respect of an alleged offence or limits the amount of the fine that may be imposed by a court in respect of an offence under this Act; or
 - (c) shall be construed:
 - (i) as requiring the serving of a notice before a person is prosecuted under this Act; or
 - (ii) as affecting the liability of a person to be prosecuted in a court in respect of an alleged offence in relation to which a notice has not been served.
- (6) Where the amount of the prescribed penalty in respect of an offence is paid by cheque, payment is to be deemed not to be made unless and until the cheque is cleared upon presentation.
- (7) For the purposes of this section, the prescribed penalty for an offence is \$50.
- (8) All moneys paid pursuant to the issue and service of a notice under this section shall:
- (a) if the notice is issued by an officer employed by the Conservation Commission of the Northern Territory in respect of an offence which occurs in or on an area under the control of that Commission – belong to that Commission;
 - (b) if the notice is issued by an officer employed by the Darwin Port Authority in respect of an offence which occurs in or on an area under the control of that authority – belong to that authority; and

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- (c) if the notice is issued by an officer employed by the council of a municipality in respect of an offence which occurs in or on an area within that municipality – belong to that council.
 - (9) For the purpose of subsection (4), ***the person in authority*** is the person named in the notice as being the person in authority.

10 Cost of clean up

Where a person is found guilty of an offence against this Act, the court, in addition to any other penalty, may order the person found guilty to pay the reasonable costs of cleaning up the litter with which the offence was committed.

11 Powers of officers

- (1) An officer, on production of a certificate under section 5 or other evidence that he is an officer within the meaning of this Act, may require a person who, he reasonably believes, has committed an offence against this Act to give his full name and address to the officer.
- (2) A person shall not obstruct, hinder or molest an officer in the exercise of his powers under this Act.

Penalty: \$500.

- (3) A person who, when required to do so by an officer, without reasonable cause, refuses to give his full name and address to the officer or states a false name or address to the officer is guilty of an offence punishable upon being found guilty by a fine not exceeding \$500.

11A Prosecution where section 220 of *Local Government Act* applies

- (1) Proceedings for an offence against this Act committed in a municipality shall not be commenced except by the clerk or a person authorized in writing by the clerk for that purpose.
- (2) Subsection (1) does not apply to or in relation to:
 - (a) vacant Crown Land; or
 - (b) an area vested in, or under the control of, the Conservation Commission of the Northern Territory or the Darwin Port Authority,

situated within a municipality.

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- (3) A document purporting to be signed by the clerk of a municipality and to authorize a person named in it to commence a prosecution under this Act is evidence of the person's authority to commence a prosecution for an offence committed in the municipality.

12 Proof of proclamation, &c., of public place not necessary

- (1) In a prosecution for an offence against this Act instituted by an officer, it is not necessary to prove the proclamation, reservation or dedication of the public place, or the alignments or measurements of a public place or vacant Crown land, in or on which the offence is alleged to have occurred.
- (2) In a prosecution for an offence against this Act in relation to vacant Crown land, an allegation in the complaint instituting the proceeding that the land is vacant Crown land is prima facie evidence that there was apparently no person having the immediate care and control of the Crown land at the relevant time.

ENDNOTES

1**KEY**

Key to abbreviations

| | |
|------------------------------|-------------------------------------|
| amd = amended | od = order |
| app = appendix | om = omitted |
| bl = by-law | pt = Part |
| ch = Chapter | r = regulation/rule |
| cl = clause | rem = remainder |
| div = Division | renum = renumbered |
| exp = expires/expired | rep = repealed |
| f = forms | s = section |
| Gaz = <i>Gazette</i> | sch = Schedule |
| hdg = heading | sdiv = Subdivision |
| ins = inserted | SL = Subordinate Legislation |
| lt = long title | sub = substituted |
| nc = not commenced | |

2**LIST OF LEGISLATION*****Litter Ordinance 1972 (Act No. 36, 1972)***

| | |
|-------------|---|
| Assent date | 31 July 1972 |
| Commenced | 30 August 1972 (Gaz No. 35, 30 August 1972) |

Litter Ordinance (No. 2) 1972 (Act No. 70, 1972)

| | |
|-------------|-----------------|
| Assent date | 5 December 1972 |
| Commenced | 5 December 1972 |

Litter Ordinance 1973 (Act No. 60, 1973)

| | |
|-------------|------------------|
| Assent date | 11 December 1973 |
| Commenced | 11 December 1973 |

Ordinances Revision Ordinance 1973 (Act No. 87, 1973)

| | |
|-------------|----------------------------|
| Assent date | 11 December 1973 |
| Commenced | 11 December 1973 (s 12(2)) |

Amending Legislation***Ordinances Revision Ordinance 1974 (Act No. 34, 1974)***

| | |
|-------------|---------------------------|
| Assent date | 26 August 1974 |
| Commenced | 11 December 1973 (s 3(2)) |

Ordinances Revision Ordinance (No. 2) 1974 (Act No. 69, 1974)

| | |
|-------------|------------------------|
| Assent date | 24 October 1974 |
| Commenced | 11 December 1973 (s 3) |

Ordinances Revision Ordinance 1976 (Act No. 27, 1976)

| | |
|-------------|---|
| Assent date | 28 June 1976 |
| Commenced | ss 1, 2 and 6: 28 June 1976 (s 6(2)); ss 3 and 4: 11 December 1973; s 5: 24 October 1974 |

Litter Ordinance 1975 (Act No. 29, 1975)

Assent date 7 November 1975
Commenced 7 November 1975

Litter Ordinance 1976 (Act No. 51, 1976)

Assent date 12 November 1976
Commenced 17 December 1976 (Gaz No. 51, 17 December 1976, p 1497)

Transfer of Powers (Further Provisions) Ordinance 1977 (Act No. 51, 1977)

Assent date 9 December 1977
Commenced 1 January 1978 (s 6)

Transfer of Powers (Self-Government) Ordinance 1978 (Act No. 54, 1978)

Assent date 1 July 1978
Commenced 1 July 1978 (s 8)

Transfer of Powers (Health) Act 1978 (Act No. 122, 1978)

Assent date 21 December 1978
Commenced 1 January 1979 (s 3)

Litter Amendment Act 1990 (Act No. 20, 1990)

Assent date 20 June 1990
Commenced 22 June 1990 (Gaz S37, 22 June 1990)

Sentencing (Consequential Amendments) Act 1996 (Act No. 17, 1996)

Assent date 19 April 1996
Commenced s 7: 19 April 1996; rem: 1 July 1996 (s 2, s 2 *Sentencing Act 1995* (Act No. 39, 1995) and Gaz S15, 13 June 1996)

Statute Law Revision Act 1997 (Act No. 17, 1997)

Assent date 11 April 1997
Commenced 1 May 1997 (Gaz G17, 30 April 1997, p 2)

3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Ordinances Revision Ordinance 1973* (Act No. 87, 1973) (as amended) to the following provisions: ss 3, 6, 7, 8, 9 and 11.

4 LIST OF AMENDMENTS

| | |
|----------|---|
| It | amd No. 20, 1990, s 10 |
| ss 1 – 2 | amd No. 20, 1990, s 10 |
| s 3 | amd No. 70, 1972, s 3; No. 29, 1975, s 3; No. 51, 1976, s 4; No. 51, 1977, s 3; No. 54, 1978, s 3; No. 122, 1978, s 52; No. 20, 1990, ss 4 and 10; No. 17, 1997, s 17 |
| s 4 | amd No. 60, 1973, s 3; No. 29, 1975, s 4; No. 51, 1977, s 3; No. 54, 1978, s 3; No. 20, 1990, ss 5 and 10 |
| s 5 | amd No. 51, 1976, s 5; No. 51, 1977, s 3; No. 54, 1978, s 3; No. 20, 1990, s 10 |
| s 6 | amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 20, 1990, ss 6 and 10; No. 17, 1996, s 6; No. 17, 1997, s 17 |
| s 7 | amd No. 20, 1990, ss 7 and 10 |
| s 8 | amd No. 20, 1990, s 10; No. 17, 1996, s 6 |

ENDNOTES

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|------------|---|
| s 9 | amd No. 20, 1990, s 10 |
| s 9A | ins No. 51, 1976, s 6 amd No. 51, 1977, s 3; No. 54, 1978, s 3; No. 20, 1990, s 10; No. 17, 1996, s 6 |
| ss 10 – 11 | amd No. 20, 1990, s 10; No. 17, 1996, s 6 |
| s 11A | ins No. 51, 1976, s 7 sub No. 20, 1990, s 8 |
| s 12 | amd No. 20, 1990, ss 9 and 10 |