

NORTHERN TERRITORY OF AUSTRALIA

JABIRU TOWN DEVELOPMENT (PRIVATE SWIMMING POOL) BY-LAWS

As in force at 1 January 1984

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JABIRU TOWN DEVELOPMENT (PRIVATE SWIMMING POOL) BY-LAWS

By-laws under the *Jabiru Town Development Act*

1 Citation

These By-laws may be cited as the *Jabiru Town Development (Private Swimming Pool) By-laws*.

2 Definitions

In these By-laws, unless the contrary intention appears:

child means a person who has not attained the age of 6 years.

land includes premises.

installation, in relation to a private swimming pool, includes the construction of the private swimming pool.

private swimming pool means a place, structure, building or excavation constructed for the purpose of swimming, wading or like activities but does not include:

- (a) a pool or like place constructed by or on behalf of the Authority for use by the public; or
- (b) a private swimming pool that is less than 4.7 square metres in area, cannot be filled with water to a depth greater than 30 centimetres and is of a portable nature.

Town Manager means the person employed by the Authority as town manager of Jabiru and includes a person authorized by the Authority to act in his place.

3 Permit to install private swimming pool

- (1) A person shall not install a private swimming pool in or on land unless he obtains a permit from the Authority to install the private swimming pool.

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- (2) A permit from the Authority to install a private swimming pool may be obtained by lodging with the Authority:
- (a) an application in a form; and
 - (b) the fee,
determined by the Authority.
- (3) The Authority may grant a permit to install a private swimming pool to a person who has applied under clause (2) and satisfies the Authority that the private swimming pool, when installed, will be enclosed in accordance with by-law 4.

4 Fencing of private swimming pools

- (1) A private swimming pool shall be enclosed by a fence, wall or building:
- (a) at least 1.22 metres in height; and
 - (b) of such a construction as:
 - (i) may reasonably be expected to prevent a child from gaining access to the private swimming pool by passing beneath, over or through the fence, wall or building;
 - (ii) not to afford foot or hand holds to a child entering or attempting to enter the private swimming pool by scaling the fence, wall or building; and
 - (iii) to ensure that it is and remains of sufficient strength and durability to prevent access to that private swimming pool by a child.
- (2) A gate or other device for gaining access to a private swimming pool fenced in accordance with the requirements of clause (1) that is incorporated in a fence, wall or building enclosing the private swimming pool, shall be fitted with:
- (a) a positive self-closing self-latching mechanism, attached to the inside of the gate or other device, and situated not less than 15 centimetres below the top of the gate or other device; and
 - (b) a mechanism which enables the gate or device to be permanently locked.

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- (3) The occupier of land in or on which there is a private swimming pool may comply with clause (1) by causing the whole or a portion of the land containing the private swimming pool to be completely enclosed by a fence, wall or building which complies with clauses (1) and (2).

5 Notice of completion

Where a person has, or has caused to be, installed a private swimming pool, he shall notify the Authority, within 24 hours of the completion of the installation, that the pool has been installed.

6 Power of entry

- (1) The Chairman of the Authority may authorize a person to enter land in order to ascertain whether a private swimming pool is in or on the land and, if any, to inspect the pool and its surrounds to ensure that by-law 4 is complied with.
- (2) A person authorized under clause (1) may enter land and inspect the pool and its surrounds in accordance with the authorization.

7 Notices to fence

Without prejudice to proceedings which the Authority may initiate in respect of a breach of these By-laws, the Authority may:

- (a) where it comes to its notice that a private swimming pool in or on land has not been fenced in accordance with by-law 4, serve on the occupier of the land a notice requiring him to erect, within 14 days of the service of the notice, such fencing as may be necessary to secure compliance with by-law 4 and, in addition, may supply detailed specifications as to the fencing to be erected; and
- (b) where a person on whom a notice has been served under paragraph (a) fails to comply with such notice, carry out or cause to be carried out the necessary works and recover the cost of so doing as a debt due and payable to the Authority by the person.

8 Duty of compliance

Where these By-laws impose a duty upon the occupier of land or premises and the Authority is unable to secure the occupier's compliance with these By-laws and the occupier is not the owner of the land, it may, where the circumstances so require, serve notice upon and take proceedings against the owner of the land.

9 Appeals

Where a person is aggrieved by a notice, order, decision or action of the Authority made under these By-laws, he may, within 21 days of the date of the notice, order, decision or of such action, appeal to the Local Court against such notice, order, decision or action.

10 Exemptions

The Authority may, by notice in the *Gazette*, declare a person or class of persons to be exempt from the requirements of these By-laws.

11 Offences and penalties

- (1) A person shall not contravene or fail to comply with a provision of, or a notice under, these By-laws.
- (2) A person who contravenes or fails to comply with a provision of, or a notice under, these By-laws for which a penalty is not provided by a provision of these By-laws other than this by-law, is punishable upon conviction by a fine of \$200.

11A Regulatory offences

An offence of contravening or failing to comply with a provision of, or a notice under, by-law 3(1), 4 or 7(a) is a regulatory offence.

12 Transitional

Where immediately before the commencement of these By-laws a private swimming pool was in or on land:

- (a) the occupier of the land shall, within one month after the commencement of these By-laws, notify the Town Manager that a private swimming pool is in or on the land; and
- (b) by-law 11 shall not apply in relation to the occupier until the expiration of one month after the commencement of these By-laws.

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

Jabiru Town Development (Private Swimming Pool) By-laws (SL No. 6, 1983)

Notified	18 February 1983
Commenced	18 February 1983

Criminal Law (Regulatory Offences) Act 1983 (Act No. 68, 1983)

Assent date	28 November 1983
Commenced	1 January 1984 (s 2 s 2 <i>Criminal Code Act 1983</i> (Act No. 47, 1983), <i>Gaz</i> G46, 18 November 1983, p 11 and <i>Gaz</i> G8, 26 February 1986, p 5)

3 LIST OF AMENDMENTS

bl 11A	ins Act No. 68, 1983, s 136
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