

NORTHERN TERRITORY OF AUSTRALIA
LOCAL GOVERNMENT AMENDMENT ACT (No. 3) 1995

No. 57 of 1995

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NORTHERN TERRITORY OF AUSTRALIA

No. 57 of 1995

AN ACT

to amend the *Local Government Act* and to
repeal the *Dog Act Repeal Act*

[Assented to 28 December 1995]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act* 1978 of the Commonwealth, as follows:

1. Short Title

This Act may be cited as the *Local Government Amendment Act (No. 3) 1995*.

2. Commencement

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

3. Principal Act

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

4. New section

The Principal Act is amended by inserting after section 185 the following:

"185A. Court may order destruction of animal

"(1) The Local Court may, on the application of an authorised person, order the seizure or destruction of an animal in circumstances provided for in a by-law of a kind referred to in section 186.

"(2) Where a by-law creates an offence which relates to an animal, the Court of Summary Jurisdiction may order the destruction of that animal in addition to or instead of the penalty prescribed for the failure to comply with or the contravention of the by-law."

5. By-laws relating to animals

Section 186 of the Principal Act is amended by omitting all words after "the authority of an authorised person".

6. New Section

The Principal Act is amended by inserting after section 186 the following:

"186A. Registration of non-resident dogs

"(1) Notwithstanding sections 182 and 186, a council shall not make a by-law requiring the registration of a dog that is not usually kept within its council area, and a by-law relating to the registration of dogs, expressed in general terms, shall be construed accordingly.

"(2) For the purposes of subsection (1), a dog shall be taken to be usually kept within a council area if it has been usually kept within the council area for a period of not less than 3 months."

7. Appointment of authorised persons

Section 204(4) of the Principal Act is amended -

- (a) by omitting "section 205(1)" and substituting "section 205"; and
- (b) by omitting "name and address" and substituting "name and address or proof of the person's identity,".

8. Repeal and substitution

Sections 205 and 206 of the Principal Act are repealed and the following substituted:

"205. Powers of authorised persons

"(1) Where an authorised person reasonably suspects that a person has committed an offence against this Act, the Regulations, By-laws or another Act, regulation or by-law the authorised person is empowered to enforce, the authorised person may -

- (a) require the person to provide his or her name and address; and/or
- (b) require the person to produce proof of his or her identity.

"(2) An authorised person may, with the consent of the occupier or, in the absence of the occupier, the owner of any land not open to or used by the public ('private land') or in pursuance of a warrant issued by a Justice under section 206, enter onto private land where the person has reasonable grounds to believe -

- (a) an offence has been, is being or is about to be committed against an Act, regulation or by-law the person is empowered to enforce; and
- (b) that there is on the land evidence relating to that offence,

to seize anything found on the land that is such evidence.

"(3) An authorised person may, with the consent of the occupier or, in the absence of the occupier, the owner of any land not open to or used by the public ('private land') or, in pursuance of a warrant issued by a Justice under section 206, enter onto private land -

- (a) where the person has reasonable grounds to believe that there is on the land an animal that, in contravention of the by-laws the person is empowered to enforce, is unregistered to seize the animal; or
- (b) to perform a function or exercise a power imposed on or given to the person by or under this or any other Act.

"(4) A person who -

- (a) after being required to do so under subsection (1), refuses to give his or her name and address;
- (b) after being required to do so under subsection (1), refuses to provide proof of his or her identity;
- (c) obstructs or hinders an authorised person in the execution of his or her duty; or

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(d) falsely represents himself or herself to be an authorised person,
is guilty of an offence.

Penalty: \$1,000.

"(5) A person shall be deemed to have complied with subsection (1)(b), where the person-

- (a) has a reasonable excuse for not producing proof of his or her identity at the time when required to do so under that subsection; and
- (b) within 2 working days of being required, produces proof of his or her identity at the office of the council.

"205A. Additional powers of authorised persons in relation to animals in an emergency

"(1) Where, in the opinion of an authorised person, it is necessary to do so in an emergency to -

- (a) prevent injury to a person or animal;
- (b) protect the health of a person or animal; or
- (c) relieve the suffering of an animal,

the authorised person may enter onto any land not open to or used by the public ('private land'), without the consent of the occupier or owner, or a warrant -

- (d) to perform a function imposed on or exercise a power given to the person by or under this or any other Act; or
- (e) to seize and/or destroy a savage, diseased or injured animal.

"(2) Where -

- (a) an authorised person has reasonable grounds for believing that, within the preceding 24 hours, a person was attacked and seriously injured by a dog in a public place;
- (b) the dog has been positively identified; and
- (c) the dog is on private land,

the authorised person may enter onto the private land, without the consent of the occupier or owner, or a warrant, to seize and/or destroy the dog.

"205B. Assistance of Police

"An authorised person may, in the exercise of his or her powers or the performance of his or her functions under this Division, call on a member of the Police Force for assistance.

"206. Entry warrant

"(1) Where it is made to appear to a Justice by application on oath or affirmation by an authorised person -

- (a) that there are reasonable grounds to believe there is on private land (within the meaning of section 205(2)) evidence referred to in that subsection and that entry onto that land is required to enable an authorised person to seize that evidence;
- (b) that entry onto such land is required to enable an authorised person to seize an animal which, in contravention of the by-laws which the person is empowered to enforce, is unregistered; or
- (c) that entry onto such land is required to enable an authorised person to perform a function imposed on or exercise a power given to the person by or under this or any other Act,

the Justice may issue a warrant authorising the applicant or another authorised person, subject to such conditions, if any, as are specified in the warrant and with such assistance as is thought necessary, to enter onto the private land for the purpose for which the warrant was sought.

"(2) A warrant under this section ceases to have effect 14 days after the date it is issued."

9. Repeal of *Dog Act Repeal Act*

The *Dog Act Repeal Act* (Act No. 5 of 1991) is repealed.
