



# NORTHERN TERRITORY OF AUSTRALIA

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No. 3 of 1982

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## AN ACT

To amend the Local Government Act

[Assented to 12 February 1982]

**B**E 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. 2) 1981.

### 2. PRINCIPAL ACT

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

### 3. REPEAL AND SUBSTITUTION

Section 305 of the Principal Act is repealed and the following substituted:

#### "305. POWERS AND FUNCTIONS OF COUNCILS

"(1) A council of a municipality shall have the functions of local government from time to time granted to it under this section, shall be charged with the peace, order and good government of the municipality and shall have the control of the working of such good government.

"(2) Subject to this Act, and in particular the provisions of this Part defining the functions of a council in relation to roads and footpaths and public health and sanitation, the functions of a council are those set out in Column 1 of Schedule 5, and a council may, within the fields of activities listed in Column 2 of Schedule 5 opposite those functions, do any acts not otherwise unlawful which may be necessary for the proper exercise and performance of those functions.

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"(3) The Administrator may, in relation to a function listed in Column 1 of Schedule 5, from time to time by regulation extend or vary the list of fields of activity set out opposite that function in Column 2 of Schedule 5 and a council's powers under sub-section (2) may accordingly be exercised within those fields of activity.

"(4) A council may do any acts not otherwise unlawful for the proper performance of a duty or function imposed or conferred upon it by any other Act.

"(5) A council shall have full power under Part XVII to make by-laws -

- (a) for the peace, order and good government of the municipality and its inhabitants;
- (b) for the direction, administration and control of the workings and business of the government of the municipality; and
- (c) for the effective carrying out of the functions of local government from time to time granted to it,

and all such by-laws may be made and carried into effect by the council as it thinks fit for the proper exercise and performance of the functions of local government, whether the subject-matter be within the express powers conferred on the council by this Act or not.

"(6) Where the performance of a function includes the doing and executing by a council of an act, matter or thing on land or premises, the council shall have full power and authority to do and execute that act, matter or thing on such land or premises and the cost of doing and executing that act, matter or thing shall be part of and included in the cost of performing that function.

"(7) Any land or part of land acquired by a council, other than land or part of land acquired at market value by the council, for a particular purpose which is found to be not required for that purpose may not be disposed of by that council without the prior approval of the Minister.

"(8) A council may -

- (a) carry out work or provide goods or services of any nature for another council, public body or institution or person at the cost of that council, body or institution or person;
- (b) carry out on behalf of such persons any works required under by-laws made by the council to be carried out by persons to whom those by-laws apply, and may recover in accordance with those by-laws the expense of so doing or such proportion of that expense as it thinks fit from the persons on whose behalf the work has been carried out; and
- (c) let or hire out any of its machinery and appliances.

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"(9) Where a council may perform a function by virtue of this section, it may, with the consent of the Minister, which shall not be given unless he is satisfied that the exercise of those powers will not be detrimental to the interests of the municipality, exercise its powers in relation to that function either wholly or partly outside the boundaries of the municipality."

4. REPEAL AND SUBSTITUTION

(1) Sections 348 to 351 inclusive of the Principal Act are repealed and the following substituted:

"348. MODEL BY-LAWS

"(1) The Administrator may cause to be prepared model by-laws dealing with all or any of the matters on which a council has power to make by-laws under this or any other Act.

"(2) All model by-laws prepared under sub-section (1) shall be laid before the Legislative Assembly.

"(3) The Legislative Assembly may pass a resolution of which notice has been given at any time within 6 sitting days of the Assembly after model by-laws prepared under sub-section (1) have been laid before it, disallowing the model by-laws.

"(4) A resolution passed in accordance with sub-section (3) shall disallow the whole of the model by-laws, and no resolution shall be passed to disallow part only of the model by-laws.

"(5) The Administrator shall -

(a) where no notice of a motion for the disallowance of the model by-laws has been given in accordance with sub-section (3) within the period referred to in that sub-section; or

(b) where notice of a motion referred to in paragraph (a) has been given and the motion is defeated,

by notice in the Gazette within one month after the expiration of the period mentioned in sub-section (3) or of the defeat of the motion, as the case may be, publish the model by-laws.

"(6) After publication under sub-section (5), model by-laws may be adopted in accordance with section 349 by any council which has power to make by-laws on the matter dealt with in the model by-laws.

"349. ADOPTION BY COUNCIL OF MODEL BY-LAWS

"(1) A council may, at a meeting at which not less than two-thirds of the members then in office are present, by resolution carried by a majority of the members then in office, adopt without variation model by-laws.

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"(2) Notice of the resolution by a council to adopt model by-laws shall be published in the Gazette, and the model by-laws shall be effective within the municipality on and from the date of such publication or such later date as may be specified in the resolution.

"(3) For the avoidance of doubt it is declared that section 63 of the Interpretation Act shall not apply to the process of adoption of model by-laws by a council.

"350. MAKING OF BY-LAWS

"(1) A council may make by-laws not inconsistent with this Act, including by-laws to amend or vary model by-laws adopted by the council, for or in respect of any of the functions carried out by it under section 305, whether inside or outside the boundaries of the municipality.

"(2) By-laws made under this section may be expressed to bind the Crown in right of the Territory, but no such by-laws shall take effect before the expiration of 12 sitting days of the Legislative Assembly after they have been laid before the Assembly in accordance with section 63(3)(c) of the Interpretation Act and, if no later date for the commencement of the by-laws is provided for in the by-laws, they shall take effect on the day immediately following that expiration as if, for the purposes of section 63(3)(b) of the Interpretation Act, that date was expressly provided for in the by-laws as the date of commencement.

"(3) By-laws shall be made by a council at a meeting at which not less than two-thirds of the members then in office are present, by resolution carried by a majority of the members then in office.

"(4) The common seal of the council shall be affixed in the presence of the mayor and the clerk to by-laws made by a council.

"351. PENALTIES AND RECOVERY OF EXPENSES

"(1) By-laws may prescribe penalties not exceeding \$500 or imprisonment for 3 months for a failure to comply with their requirements or a contravention of the by-laws and, in addition, may prescribe a penalty of \$50 for each day during which the offence or contravention continues.

"(2) Where no penalty is expressly prescribed in by-laws for failure to comply therewith or a contravention thereof, a court of competent jurisdiction may impose a penalty not exceeding \$500 or imprisonment for 3 months.

"(3) By-laws may provide that, in addition to a penalty imposed in respect of a breach of the by-laws, any expense incurred by the council in consequence of that breach, or in the execution of work required by the by-laws to be executed by a person and not executed by him, shall be recovered in whole or in part from the person committing the breach or failing to execute the work as a debt due by that person to the council.

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"351A. PERMITS, LICENCES, FEES AND CHARGES

"(1) Without limiting the generality of the powers conferred upon a council by this Act, the power to control and regulate shall be deemed to include a power to license, or refuse to license, or to prevent and prohibit, and either generally for or in respect of a matter the subject of the by-laws or for or in respect of any class or classes of that matter.

"(2) By-laws may -

- (a) impose charges, dues, fares, fees and rents in respect of any property, undertaking, service, matter or thing whatever;
- (b) prescribe, regulate or determine the purposes for which and the conditions upon which a council will grant permits, licences, authorities and registrations or supply a service, product, commodity or item of information;
- (c) prescribe the manner in which applications may be made for permits, licences and authorities and the fees payable for such permits, licences and authorities to be granted by the council and for the renewal or transfer of those permits, licences and authorities;
- (d) provide for the payment of fees for inspections by officers or employees of the council; and
- (e) prescribe the fees or costs to be paid by persons for or in connection with any matter or thing required or permitted to be done or supplied by the council.

"(3) A council may, at a meeting at which not less than two-thirds of the members then in office are present, by resolution carried by a majority of the members then in office, vary the fees, costs or charges prescribed in any by-laws adopted or made by that council.

"351B. METHOD OF CARRYING OUT WORKS AND SECURITY FOR COSTS

"(1) By-laws made by a council may -

- (a) require any works to be executed or things to be done by a person to whom the by-laws apply -

- (i) in or of such materials;
- (ii) within such period of time; and
- (iii) in such manner,

as is directed in a particular case by the council, an officer or employee of the council or any other person referred to in the by-laws;

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- (b) require works to be executed only by qualified and licensed persons; and
- (c) state that the council is willing to carry out the works required to be executed.

"(2) Without limiting the generality of the powers conferred on a council by sub-section (1), the power to direct the manner of execution of any work shall include the power to require the person carrying out the work to pay to the council or enter into a bond for payment to the council of such sum as it thinks necessary to provide security against any costs which it may incur as a result of the execution of the work.

"351C. DELEGATIONS

"By-laws may grant or delegate to the mayor or aldermen or to an officer or employee of the council the power -

- (a) to sign, seal, or sign and seal notices, orders and agreements, which the council is entitled to issue, sign, seal, revoke or cancel;
- (b) to sign letters, receipts and other documents; and
- (c) to do or perform any act, deed, or thing necessary, ancillary, or incidental to the exercise of the functions of the council.

"351D. APPLICABILITY OF BY-LAWS

"(1) By-laws may be made to apply to the whole or separately to a part or parts of the municipality and described by the boundaries in such by-law, and may provide with respect to any prescribed matters of prohibition, restraint or regulation, either absolutely or with relation to classes, grades, situations, distances or other acts, matters or things to be laid down or referred to in general terms therein, and with or without relation to a right of approval, disapproval, or inspection to be vested in the council or some officer or employee of the council.

"(2) Notwithstanding that by-laws are expressed to apply to the whole or a particular part of the municipality or to all classes or a particular class of persons, the council may, at a meeting of which not less than 14 days notice has been given, by resolution carried by not less than two-thirds of the members then in office, determine that the application of the by-laws be limited -

- (a) by suspending the by-laws in their entirety for such period, not exceeding 3 months; or
- (b) by ceasing to apply the by-laws to such part or parts of the municipality or such classes of persons or such situations,

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as may be specified in the resolution, and the by-laws shall be suspended or cease to apply accordingly.

"(3) The council shall cause a copy of a determination made under sub-section (2) to be published -

(a) in the Gazette; and

(b) in a newspaper circulating in the municipality,

within 14 days after making the determination.

### "351E. FORMS, &c.

"(1) By-laws may leave any matter or thing to be determined, applied, dispensed with, prohibited or regulated by the council from time to time by resolution, either generally or for a class or classes of cases or in a particular case.

"(2) By-laws may prescribe forms for and in connection with any applications, matters and proceedings.

### "351F. ENFORCEMENT

"By-laws may authorize officers, employees, or persons appointed by the council, or members of the Police Force, to arrest or remove persons offending against any by-law made under this Act.

### "351G. EVIDENCE AND JURISDICTION

By-laws may prescribe as to matters that shall be received in evidence and as to burden of proof in relation to offences against the by-laws.

### "351H. APPEALS

"By-laws may provide that a person aggrieved by a decision of the council made or taken under the provisions of a by-law shall have a right of appeal, subject to such conditions and limitations as are specified in the by-laws and to rules of court made under the Local Courts Act, to the Local Court against that decision, and the Local Court shall have jurisdiction accordingly to hear and determine the appeal and make such order, including an order as to costs, as it thinks fit.

### "351J. BY-LAWS TO BE MADE AVAILABLE TO PUBLIC

"(1) A council shall cause printed copies of all by-laws made or adopted by it to be kept at its office where they may be inspected by members of the public during the business hours of the council.

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"(2) Copies of the by-laws referred to in sub-section (1) shall be made available by the council for purchase by members of the public at a reasonable cost."

(2) All by-laws made under the sections of the Principal Act repealed by sub-section (1) and in force immediately prior to the commencement of this Act shall, to the extent that they are not inconsistent with the provisions of the Principal Act as amended by this Act, continue in force as if made under the Principal Act as amended by this Act.

5. REPEAL

Section 356 of the Principal Act is repealed.

6. PERSON NOT TO REFUSE, &c., TO CARRY OUT DUTIES UNDER THIS ACT

Section 397 of the Principal Act is amended by omitting "Penalty: 200 dollars." and substituting "Penalty: \$500."

7. NEW SCHEDULE

The Principal Act is amended by adding after Schedule 4 the following:

"SCHEDULE 5

FUNCTIONS OF COUNCILS

Section 305

Function	Fields of activity
Aerodromes	Construction, operation and management
Ambulance service	Financial assistance to persons or bodies providing ambulance services
Animals	Control of stray, injured and diseased animals Removal of dead animals Provision and operation of pounds Provision of, and financial assistance to, veterinary hospitals and clinics



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Function	Fields of activity
	Provision, control and regulation of zoos
	Control and regulation of the keeping of domestic and other animals
	Protection of wild animals
	Financial assistance to animal shelters and refuges
Arts, culture and handicrafts	Provision and operation of buildings and facilities and financial assistance to cultural or artistic performances
	Provision of cultural or artistic entertainments
	Provision of cultural and craft activities
	Assistance to organizations providing cultural and craft activities
Building	Control and regulation of -
	(a) dangerous and ruinous buildings and structures;
	(b) verandahs, awnings and balconies
	Building construction standards and general building controls as delegated by Act or regulation from time to time
Cemeteries	Provision and operation of cemeteries, crematoria and associated facilities
	Control and regulation of cemeteries, burial grounds, crematoria and burials

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Function	Fields of activity
	Control and regulation of the undertaking of funerals held in cemeteries and crematoria
Community development	Participation with, and assistance to, community bodies in joint undertakings Support for community initiatives Provision of facilities and programmes for young persons Social planning
Conservation	Control, regulation and management of historical sites Control and regulation of the removal of trees
Drainage	Construction and maintenance of culverts and drains Control of drainage from private and public land
Education	Provision of, and assistance to persons providing, extra-mural courses
Electricity	Generation, distribution and supply of electricity
Environment	Regulation and control of - (a) advertising signs and structures; (b) caravans, caravan parks, camping and camping grounds; (c) flammable grasses and materials; (d) unsightly or abandoned chattels; (e) unkempt properties;

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Function	Fields of activity
	(f) noisy trades;
	(g) dangerous excavations;
	(h) noxious trades;
	(j) noxious plants
Fire prevention	Regulation and control of - (a) erection and use of structures of flammable material; (b) storage and accumulation of combustible material Control of flammable weeds
Housing	Provision of public housing Provision of housing for council employees Provision of emergency housing Provision of accommodation for aged persons
Libraries	Provision and operation of libraries and associated services Control and regulation of libraries and library premises
Municipal administration	Control and regulation of proceedings at meetings of the council and its committees Control and management of the business of the council Regulation of elections Control and regulation of employees of the council Publication of financial information Prescription of fees and charges

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Function	Fields of activity
Museums	Borrowing money Provision and operation of museums and museum collections Control and regulation of museums
Parking	Regulation and control Provision, operation, maintenance and leasing of car-parks
Parks, reserves and foreshores	Control and regulation of - (a) use of vehicles; (b) conduct of persons; (c) removal of materials. Control of animals
Public buildings	Provision, operation and management of buildings, structures and enclosures Provision, maintenance and management
Public entertainment	Control and regulation of places of public entertainment Control and regulation of entertainment in public places
Public health and safety	Sanitation Control and regulation of - (a) private swimming pools; (b) itinerant vendors and trading on roadsides and in public places; (c) deposit of offensive or dangerous materials;

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Function	Fields of activity
	(d) premises and persons engaged in production and sale of food;
	(e) noxious or offensive emissions;
	(f) noise;
	(g) hotels, boarding-houses and hostels;
	(h) barbers and hairdressing establishments;
	(j) laundries and cleaning establishments;
	(k) second-hand stores and dealers;
	(m) premises used for the keeping of animals, birds and poultry
	Provision of public conveniences
	Collection and disposal of nightsoil
	Vermin control
	Control and regulation of eradication of mosquitoes and insects
Public places	Regulation of conduct of persons
	Control of animals
Public transport	Provision and operation of public transport services
	Control and regulation of vehicles plying for hire, and their drivers
Quarries	Operation of quarries
	Sale of materials

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Function	Fields of activity
Reclamation	Execution of works Financial assistance for reclamation programmes
Recreation	Provision of, and assistance to, community recreation programmes Provision of recreation facilities Provision, operation and management of public swimming pools and facilities Provision, control and regulation of caravans, caravan parks, tents and camping grounds
Rivers and watercourses	Maintenance of rivers and watercourses Control and regulation of riparian owners, access by public, and conduct of public
Roads	Construction, reconstruction and maintenance of roads Planting and maintenance of trees, shrubs, and lawns Provision, operation and maintenance of street lighting, signs and furniture Control and regulation of - (a) private roads, lanes, alleys and rights-of-way; (b) fences abutting roads; (c) property identification; (d) obstructions on roads; (e) location and design of culverts and crossing places;

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Function	Fields of activity
Sales and services	(f) encroachment by trees and vegetation;
	(g) planting, maintenance and removal of trees and vegetation on roads;
	(h) petrol pumps
	Execution of private works and recovery of costs
	Imposition of charges and deposits for services or goods provided
	Sale of commodities or products to the public at terms comparable to those offered by private enterprise
Sewerage	Operation of restaurants, kiosks and refreshment rooms
	Operation of markets
Social services	Construction, operation and management of sewerage systems and associated works
	Provision, operation and management of -
	(a) child care centres and children's facilities;
	(b) homes for the aged;
	(c) facilities for aged or disabled persons
	Provision of services and facilities for the welfare of disadvantaged persons
	Assistance to persons or bodies providing facilities for disadvantaged persons

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Function	Fields of activity
Tourism	Promotion and advertising of the municipality, provision of information, directories and signposting
Town planning	Administration of development control  Subdivision control
Traffic	Regulation and control of vehicular, pedestrian and other traffic on roads, in public places, parks and reserves and pedestrian malls
Waste management	Control and regulation of the disposal of waste material of all types  Provision of works and services for the disposal of waste material of all types
Water supply	Construction and maintenance of water supply works and reticulation systems".

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