



NORTHERN TERRITORY OF AUSTRALIA

No. 14 of 1982

AN ACT

To amend the *Local Government Act*

[Assented to 8 April 1982]

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. 2) 1982*.

2. PRINCIPAL ACT

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

3. INTERPRETATION

Section 424 of the Principal Act is amended -

- (a) by inserting in the definition of "community government council" after "elected" the words "or appointed";
- (b) by inserting in the definition of "community government scheme" after "local government" the words "or other"; and
- (c) by inserting in the definition of "election" after "an election" the words "or a by-election".

4. CONTENTS OF COMMUNITY GOVERNMENT SCHEMES

Section 425 of the Principal Act is amended -

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(a) by inserting after sub-section (1)(b) the following:

"(ba) the composition of the community government council;"

(b) by omitting from sub-section (1)(j) "elections;" and substituting "elections and the manner in which elections may be held;"

(c) by inserting after sub-section (1)(k) the following:

"(ka) the removal and replacement of members of the community government council, whether permanently or temporarily, as a result of their unauthorized absence from council meetings;

(kb) the appointment and powers of substitutes to act for members of the community government council who are absent from the community government area;" and

(d) by omitting sub-section (2).

5. EXHIBITION OF DRAFT COMMUNITY GOVERNMENT SCHEMES

Section 432(1) of the Principal Act is amended by inserting after "such places" the words ", for such period".

6. SUBMISSIONS

Section 433 of the Principal Act is amended by adding at the end "within such period as may be specified in the notice under section 432(2) pertaining to that draft community government scheme."

7. MINISTER TO BE SATISFIED OF CERTAIN THINGS

Section 435 of the Principal Act is amended by omitting paragraph (b) and substituting the following:

"(b) if the draft community government scheme makes provision in relation to -

(i) the composition of the council;

(ii) the procedure for calling elections and the manner in which elections may be held;

(iii) the eligibility of persons to be members;

(iv) the eligibility of persons to vote at elections;

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- (v) the removal and replacement of members of the council as a result of their unauthorized absence from council meetings; or
- (vi) the appointment and powers of substitutes to act for members of the community government council who are absent from the community government area,

he is satisfied that a substantial majority of the residents of the area to which the scheme relates is in favour of the proposals contained in the scheme in relation to that matter;".

8. NEW SECTION

The Principal Act is amended by inserting after section 444 the following:

"444A. BY-ELECTIONS

"It shall not be necessary to hold a by-election to fill a vacancy, howsoever arising, in the office of a member of a community government council where such vacancy arises less than 6 months before the last day upon which a general election is required to be held in accordance with section 444."

9. VACANCY OF OFFICE OF MEMBER

Section 450 of the Principal Act is amended -

- (a) by omitting from paragraph (d) "or"; and
- (b) by omitting from paragraph (e) "section 425(k)." and substituting the following:
"section 425(k); or
- (f) the member is, by reason of his unauthorized absence from meetings of the council, removed in accordance with the applicable community government scheme."

10. AMENDMENT OF DIVISION HEADING

The Principal Act is amended by omitting the heading to Division 9 of Part XX and substituting the following:

*"Division 9 - Functions and Powers of
Community Government Councils"*.

11. FUNCTIONS OF COMMUNITY GOVERNMENT COUNCILS

Section 454 of the Principal Act is amended -

- (a) by omitting from paragraph (1) "or"; and

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(b) by omitting paragraph (m) and substituting the following:

"(m) welfare; or

(n) such other matter as the Minister may approve."

12. NEW SECTION

The Principal Act is amended by inserting after section 454 the following:

"454A. POWERS OF COMMUNITY GOVERNMENT COUNCILS

"(1) A community government council has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions and the exercise of its powers.

"(2) Without limiting the generality of sub-section (1), for the purpose of performing all or any of its functions, a community government council may, subject to this Act, make charges for work done and for services, facilities, amenities and utilities provided."

13. BY-LAWS

Section 476(1) of the Principal Act is amended -

(a) by omitting "Act" (first occurring) and substituting "Part,";

(b) by inserting after "by-laws" (first occurring) the words "not inconsistent with any other law of the Territory";

(c) by omitting from paragraph (a) "prescribed"; and

(d) by omitting from paragraph (g) "exercise" and substituting "performance".

14. NEW SECTIONS

The Principal Act is amended by inserting after section 478 the following:

"478A. FIXED PENALTY FOR BREACH OF BY-LAWS

"(1) In this section 'fixed penalty' means the specified sum referred to in sub-section (2) payable in lieu of the penalty which may otherwise be imposed for a breach of a by-law.

"(2) Subject to this section, by-laws made under section 476 may provide that a person who is alleged to have infringed those by-laws and on whom a notice of infringement has been served may pay to the community

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government council as an alternative to prosecution a specified sum, not exceeding \$20, in lieu of the penalty by which an infringement of those by-laws is otherwise punishable.

"(3) The Minister may -

- (a) by instrument, specify those by-laws or classes of by-laws which may impose a fixed penalty; and
- (b) when considering by-laws forwarded to him in accordance with section 478(1), determine that those by-laws should not include by-laws relating to the imposition of a fixed penalty, and thereafter return them to the council in accordance with section 478(3) with a request that they be amended accordingly.

"(4) By-laws which provide for the imposition of a fixed penalty shall specify -

- (a) the amount of the fixed penalty;
- (b) subject to sub-section (5), the form of a notice of infringement;
- (c) the person or persons who may issue a notice of infringement;
- (d) the person to whom payment of the fixed penalty may be made; and
- (e) the period within which the fixed penalty shall be paid in order to avoid prosecution.

"(5) A notice of infringement shall indicate -

- (a) the name of the alleged offender;
- (b) in general terms the nature of the offence alleged to have been committed;
- (c) the date, time and place of the alleged offence;
- (d) the amount of the fixed penalty;
- (e) the period within which, and the place where, the fixed penalty may be paid; and
- (f) that the alleged offender may, if he so wishes, be dealt with by a court of competent jurisdiction.

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"478B. ENFORCEMENT

"A person shall not -

- (a) wilfully obstruct or hinder an officer of or a person employed by a community government council -
 - (i) in the performance of his duties under this Part; or
 - (ii) whilst that officer or person is doing anything on behalf of the community government council which the council is, by this Part, authorized to cause to be done;
- (b) refuse to give his correct name and address to an officer who, having found that person in the act of committing, or having reasonable cause to suspect that person of having committed, an offence against this Act, demands his name and address; or
- (c) give a name or address which is false in any particular to an officer who has lawfully demanded his name and address.

Penalty: \$200."

15. CONDUCT PREJUDICIAL TO ELECTIONS

Section 486 of the Principal Act is amended by omitting "with or be prejudicial to, the fair conduct of an election." and substituting the following:

"with or be prejudicial to, the fair conduct of an election.

Penalty: \$200."

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