

NORTHERN TERRITORY OF AUSTRALIA

MEDICAL SERVICES (TRAFFIC, PARKING AND GENERAL CONDUCT) BY-LAWS

Subordinate Legislation No. 26 of 2017

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**Schedule Infringement notice offences and
 prescribed amounts**

NORTHERN TERRITORY OF AUSTRALIA

Subordinate Legislation No. 26 of 2017*

Medical Services (Traffic, Parking and General Conduct) By-laws

I, Catherine Ann Stoddart, Chief Executive Officer of the Department of Health, make the following by-laws under the *Medical Services Act*.

Dated 4 August 2017

C. A. STODDART
Chief Executive Officer

* Notified in the *Northern Territory Government Gazette* on 10 August 2017.

Part 1 Preliminary matters

1 Citation

These By-laws may be cited as the *Medical Services (Traffic, Parking and General Conduct) By-laws*.

2 Definitions

In these By-laws:

infringement notice, for Part 4, see by-law 21(1).

infringement notice offence, for Part 4, see by-law 20(1).

motor vehicle:

- (a) means a vehicle designed to be self-propelled; and
- (b) includes a trailer when attached to a vehicle mentioned in paragraph (a).

person in charge, of declared premises to which these By-laws apply, means the person appointed under section 7(2)(a) of the Act in relation to the declared premises.

prescribed amount, for Part 4, see by-law 20(2).

vehicle means any means of conveyance over land and includes the following:

- (a) a bicycle or tricycle;
- (b) rollerskates, rollerblades and skateboards;
- (c) an animal being driven or ridden;
- (d) a motorised wheelchair or mobility aid capable of travelling at a speed greater than 7 km/h.

Note for by-law 2

The Interpretation Act contains definitions and other provisions that may be relevant to these By-laws.

3 Application of By-laws

To the extent of any inconsistency with local government by-laws applying to an area to which these By-laws apply, these By-laws prevail over the local government by-laws.

Part 2 Regulation of traffic and parking

4 Vehicles within declared premises

- (1) The person in charge of declared premises may, by sign, regulate or prohibit the following:
 - (a) driving a motor vehicle within the declared premises;
 - (b) driving or riding other vehicles within the declared premises.
- (2) A sign regulating or prohibiting the driving or riding of vehicles as mentioned in clause (1) may relate to the following:
 - (a) all or specified vehicles, or a specified class of vehicles;
 - (b) all or specified places within the declared premises.

Examples for clause (2)

- 1 *A sign could direct that delivery vehicles take a certain route within the declared premises.*
- 2 *A sign could prohibit vehicles, other than ambulances, from certain areas of the declared premises.*

- (3) A person commits an offence if:
 - (a) the person drives or rides a vehicle; and
 - (b) in doing so, contravenes a sign mentioned in clause (1).

Maximum penalty: 10 penalty units.

- (4) An offence against clause (3) is an offence of strict liability.
- (5) It is a defence to a prosecution for an offence against clause (3) if the defendant has a reasonable excuse.

5 Parking areas

- (1) The person in charge of declared premises may set aside an area of the declared premises to be a parking area.
- (2) To regulate parking in a parking area, the person in charge may:
 - (a) determine the conditions for parking in the area; and
 - (b) notify the conditions on signs erected in the area.
- (3) The person in charge may also install meters or ticket vending machines in the area to regulate parking.

- (4) A person commits an offence if the person stands or parks a vehicle in a parking area:
- (a) in contravention of a sign applying to the area; or
 - (b) in a bay marked as a disabled parking bay and the vehicle does not display a disabled parking permit; or
 - (c) if parking bays are marked in the area – with any part of the vehicle outside a parking bay; or
 - (d) with any part of the vehicle outside the area.

Maximum penalty: 5 penalty units.

- (5) An offence against clause (4) is an offence of strict liability.
- (6) It is a defence to a prosecution for an offence against clause (4) if the defendant has a reasonable excuse.

6 Parking permits

- (1) The person in charge of declared premises may determine classes of parking permits for the declared premises and the eligibility criteria for each class of permit.
- (2) An authorised officer may grant parking permits of the class, and subject to the conditions, the officer considers appropriate.
- (3) Without limiting clause (2), a parking permit may be subject to conditions relating to all or any of the following:
- (a) the vehicle, vehicles, or kind of vehicles to which it relates;
 - (b) the areas in which the permit holder is permitted to park;
 - (c) the times during which, or the period of time for which, the permit holder is permitted to park;
 - (d) the number of persons who must be in the vehicle at the time it arrives at, or departs from, the declared premises.
- (4) A parking permit:
- (a) takes effect on the day specified in it; and
 - (b) remains in effect for the period specified in it, unless the permit is cancelled before the end of that period.

(5) If the holder of a parking permit of a particular class ceases to satisfy any of the eligibility criteria for that class of permit, the permit holder must advise an authorised officer of that fact.

(6) A person commits an offence if the person fails to comply with clause (5).

Maximum penalty: 5 penalty units.

(7) An offence against clause (6) is an offence of strict liability.

(8) It is a defence to a prosecution for an offence against clause (6) if the defendant has a reasonable excuse.

Part 3 Conduct generally

7 Littering

(1) A person commits an offence if the person deposits litter within declared premises.

Maximum penalty: 10 penalty units.

(2) An offence against clause (1) is an offence of strict liability.

(3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

8 Glass in certain areas

(1) The person in charge of declared premises may, by sign, prohibit glass in an area of the declared premises.

(2) A person commits an offence if the person brings glass into an area of declared premises where glass is prohibited.

Maximum penalty: 10 penalty units.

(3) An offence against clause (2) is an offence of strict liability.

(4) It is a defence to a prosecution for an offence against clause (2) if the defendant has a reasonable excuse.

(5) A person commits an offence if:

(a) the person intentionally breaks glass or other material within declared premises; and

- (b) the broken glass or material could cause injury and the person is reckless in relation to that circumstance.

Maximum penalty: 20 penalty units.

- (6) A person commits an offence if:

- (a) the person breaks glass or other material within declared premises; and
- (b) the person fails to promptly and safely clean up and dispose of the broken glass or material.

Maximum penalty: 10 penalty units.

- (7) An offence against clause (6) is an offence of strict liability.
- (8) It is a defence to a prosecution for an offence against clause (6) if the defendant has a reasonable excuse.

9 Throwing objects

- (1) A person commits an offence if the person throws or propels an object within declared premises in a way likely to:
 - (a) damage property; or
 - (b) injure a person or an animal.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

10 Lighting or maintaining fires

- (1) A person commits an offence if the person lights or maintains a fire within declared premises.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

11 Interfering with plants

- (1) A person commits an offence if the person interferes with, picks, cuts, removes, damages or plants a tree, shrub or plant within declared premises.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

12 Structures, fixtures and equipment

- (1) A person commits an offence if the person:
- (a) interferes with, defaces or damages a structure, fixture or piece of equipment within declared premises; or
 - (b) erects or installs a structure within declared premises; or
 - (c) moves a structure within declared premises.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

13 Handbills

- (1) A person commits an offence if, within declared premises, the person:
- (a) distributes a handbill; or
 - (b) affixes a handbill to a structure.

Maximum penalty: 5 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

14 Use of sound amplification system

- (1) A person commits an offence if, within declared premises, the person uses a loudspeaker or system of sound amplification without the approval of the person in charge of the declared premises.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

15 Possession or consumption of alcoholic beverage or illicit substance

- (1) A person commits an offence if, within declared premises, the person possesses or consumes:

- (a) a beverage containing alcohol; or
- (b) an illicit substance.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.
- (4) Without limiting clause (3), it is a reasonable excuse if the person in charge has given permission for the possession or consumption.
- (5) An authorised officer who believes on reasonable grounds that a person has possession of a beverage containing alcohol, or an illicit substance, without the permission of the person in charge of the declared premises, may seize the beverage or substance and dispose of it in a manner approved by the person in charge.

16 Camping prohibited

- (1) A person commits an offence if the person camps within declared premises.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.

- (3) If an authorised officer believes on reasonable grounds that a person has contravened, or is contravening, clause (1), the authorised officer may direct the person to:

- (a) leave the declared premises; and
- (b) remove anything used for camping in contravention of clause (1) from the declared premises.

- (4) A person commits an offence if the person contravenes a direction given to the person under clause (3).

Maximum penalty: 10 penalty units.

- (5) An offence against clause (4) is an offence of strict liability.

- (6) It is a defence to a prosecution for an offence against clause (4) if the defendant has a reasonable excuse.

- (7) In this by-law:

camp includes any of the following:

- (a) stay overnight in a vehicle, tent or other temporary shelter;
- (b) stay overnight in the open air;
- (c) prepare a temporary shelter, park a vehicle, or put in place any equipment or bedding for the purpose of staying overnight or sleeping.

17 Animals prohibited

- (1) A person commits an offence if the person brings an animal into or onto declared premises.

Maximum penalty: 10 penalty units.

- (2) Clause (1) does not apply:

- (a) if the animal is an assistance dog; or
- (b) if the animal is in or on the premises with the approval of the person in charge.

- (3) An offence against clause (1) is an offence of strict liability.

- (4) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

- (5) In this by-law:

animal includes a mammal, bird, reptile, fish or insect.

assistance dog means a dog:

- (a) trained by an assistance dog training institution; and
- (b) used as an assistance dog by a person who is wholly or partially blind or deaf, or has another form of disability requiring the use of an assistance dog.

18 Obstructing staff

- (1) A person commits an offence if the person obstructs or hinders a member of the staff at declared premises in the performance of the staff member's duties.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

19 Nuisance to others

- (1) A person commits an offence if the person does any of the following:

- (a) obstructs or disturbs another person in the exercise and enjoyment of any lawful activity while the other person is at or on declared premises;
- (b) anything likely to annoy another person at or on declared premises;
- (c) behaves in a disorderly, indecent or offensive way;
- (d) uses offensive or indecent language;
- (e) behaves in a way likely to injure the person or another person;
- (f) restricts access to a facility in or at declared premises.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

Part 4 Infringement notices

20 Infringement notice offence and prescribed amount payable

- (1) An ***infringement notice offence*** is an offence against a provision specified in the Schedule.
- (2) The ***prescribed amount*** for an infringement notice offence is the amount in dollars, or the amount equal to the monetary value of the number of penalty units, specified for the offence in the Schedule.

21 Service of infringement notice

- (1) If an authorised officer believes on reasonable grounds that a person has committed an infringement notice offence, the authorised officer may serve a notice (an ***infringement notice***) on the person.
- (2) For clause (1), the authorised officer ***serves*** an infringement notice on the other person when the authorised officer does one of the following:
 - (a) gives the notice to:
 - (i) the person; or
 - (ii) a person who is or appears to be the driver of the vehicle believed to have been involved in the offence; or
 - (iii) the owner of the vehicle;
 - (b) places or affixes the notice on the vehicle in a conspicuous position;
 - (c) posts the notice to the owner of the vehicle at the owner's postal address, place of residence or place of business.
- (3) Clause (2) does not limit section 25 of the *Interpretation Act*.

22 Contents of infringement notice

- (1) The infringement notice must specify the following:
 - (a) the name and address of the person, if known;
 - (b) a brief description of the vehicle (including its number plate details if known) believed to have been involved in the infringement notice offence;
 - (c) the date the infringement notice is served on the person;

- (d) the date, time and place of the infringement notice offence;
 - (e) a description of the offence;
 - (f) the prescribed amount payable for the offence;
 - (g) the enforcement agency, as defined in the *Fines and Penalties (Recovery) Act*, to which the prescribed amount is payable.
- (2) The infringement notice must include a statement to the effect of the following:
- (a) the person may expiate the infringement notice offence and avoid any further action in relation to the offence by paying the prescribed amount to the specified enforcement agency within 28 days after the notice is served on the person;
 - (b) the person may elect under section 21 of the *Fines and Penalties (Recovery) Act* to have the matter dealt with by a court instead of under that Act by completing a statement of election and giving it to the specified enforcement agency;
 - (c) if the person does nothing in response to the notice, enforcement action may be taken under the *Fines and Penalties (Recovery) Act*, including (but not limited to) action for the following:
 - (i) suspending the person's licence to drive;
 - (ii) seizing personal property of the person;
 - (iii) deducting an amount from the person's wages or salary;
 - (iv) registering a statutory charge on land owned by the person;
 - (v) making a community work order for the person and imprisonment of the person if the person breaches the order.
- (3) Also, the infringement notice must include an appropriate form for making the statement of election mentioned in clause (2)(b).

23 Electronic payment and payment by cheque

- (1) If the person uses electronic means to pay the prescribed amount, payment is not effected until the amount is credited to the bank account specified in the infringement notice.

- (2) If the person tenders a cheque in payment of the prescribed amount, payment is not effected unless the cheque is cleared on first presentation.

24 Withdrawal of infringement notice

- (1) The person in charge may review the circumstances in which an infringement notice was issued:
 - (a) if requested to do so by the person to whom the notice was issued, or another person; or
 - (b) on the person in charge's own initiative.
- (2) If satisfied it is appropriate in the circumstances, the person in charge may withdraw the infringement notice and notify the person to whom the notice was issued of that action.

25 Liability of owner for infringement

- (1) This by-law applies if an offence against Part 2 is committed and the name of the offender is not ascertained at the time of issuing an infringement notice relating to the offence.
- (2) The owner, at the time the offence occurs, of the vehicle involved in the offence is taken to have committed the offence whether or not the owner in fact committed the offence.
- (3) However, the owner is not taken to have committed the offence if:
 - (a) the vehicle was, at the time of the alleged offence, stolen or unlawfully used without the owner's consent; or
 - (b) the vehicle is registered under the *Motor Vehicles Act* and at the time of the alleged offence:
 - (i) the owner had sold or disposed of the vehicle, but the registration of the vehicle had not yet been transferred to the new owner; and
 - (ii) the owner had provided the Registrar with a notice of disposal in respect of the vehicle as required by section 20 of that Act; or
 - (c) within 14 days after the owner receives or is served with the first of an infringement notice, a courtesy letter under Part 2, Division 3 of the *Fines and Penalties (Recovery) Act* or a summons in relation to the offence, the owner delivers to the person in charge a statutory declaration made by the owner:

- (i) stating that another person was in control of the vehicle at the time the offence was committed and setting out the name and address of the other person and any other information known to the owner that may assist in identifying or locating the other person; or
 - (ii) stating that the vehicle was sold before the offence was committed and setting out the date of the sale, the name and address of the person to whom it was sold and – if the sale was made through an agent – the name and address of the agent; or
 - (iii) stating that at the time the offence was committed the vehicle had been stolen or was being used unlawfully without the owner's consent.
- (4) If the owner of the vehicle is a body corporate – a director, secretary or manager of the body corporate may make a statutory declaration for clause (3).
- (5) If the owner of the vehicle is the Territory, the Commonwealth, a State, another Territory or a statutory corporation – a person authorised, or apparently authorised, for the purpose may make a statutory declaration for clause (3).
- (6) A person named in a statutory declaration as being in control of a vehicle at the time of an offence cannot be found guilty of the offence unless a copy of the statutory declaration is affixed to the summons for the offence at the time the summons is served on the person.
- (7) Unless a court orders otherwise, a statutory declaration mentioned to in clause (3)(c):
 - (a) is admissible in evidence in a prosecution against the person in relation to the offence; and
 - (b) is evidence that the person was the driver of the vehicle at the time of the offence.
- (8) If a person is specified as the new owner of a vehicle in a notice of disposal mentioned in clause (3)(b):
 - (a) the person is to be taken to be the owner of the vehicle at the time of the offence for this by-law (other than clause (3)(b)); and
 - (b) this by-law applies as if a reference to the owner of the vehicle (other than in clause (3)(b)) were a reference to the person.

- (9) Subject to clause (10), nothing in this by-law affects the liability of an actual offender who is not the owner of the vehicle.
- (10) If a penalty has been imposed on a person in relation to an offence:
 - (a) another person cannot be charged with the same offence; and
 - (b) a further penalty cannot be imposed on or recovered from another person in relation to the same offence.
- (11) Clause (10) does not apply if the traffic infringement notice in relation to the offence is withdrawn in accordance with by-law 24.

26 Evidence of ownership of motor vehicle

In a prosecution for an offence against Part 2, a certificate issued by a person authorised under an Act (or an Act of the Commonwealth, a State or another Territory) to issue the certificate stating any of the following is evidence of the matters set out in the certificate:

- (a) that a specified person was the registered owner of a specified vehicle on a particular date;
- (b) that a specified person was recorded as the new owner of a specified vehicle from a particular date in a record of a notice of disposal in respect of the vehicle;
- (c) if the specified vehicle is not registered at the time of issuing the certificate – that a specified person was the last registered owner of the vehicle as at a particular date.

27 Application of Part

- (1) This Part does not prejudice or affect the start or continuation of proceedings for an infringement notice offence for which an infringement notice has been served unless the offence is expiated.
- (2) Also, this Part does not:
 - (a) require an infringement notice to be served; or
 - (b) affect the liability of a person to be prosecuted in a court for an offence if an infringement notice has not been served in relation to the offence; or
 - (c) prevent more than one infringement notice for the same offence being served on a person.

- (3) If more than one infringement notice for the same offence has been served on a person, the person may expiate the offence by paying the prescribed amount in accordance with any one of the notices.

Part 5 Administrative matters

28 Signs erected within declared premises

- (1) The person in charge of declared premises may erect or exhibit signs, including advertising signs, within the declared premises.
- (2) A person commits an offence if the person removes, alters, defaces or otherwise interferes with a sign mentioned in clause (1).

Maximum penalty: 10 penalty units.

- (3) An offence against clause (2) is an offence of strict liability.
- (4) It is a defence to a prosecution for an offence against clause (2) if the defendant has a reasonable excuse.

29 Power to require name and address

If an authorised officer reasonably suspects a person of having committed an offence against these By-laws, the authorised officer may direct the person:

- (a) to state the person's name and address; and
- (b) if the authorised officer considers further evidence of identity is necessary – to provide further evidence of identity.

30 Compliance with directions

- (1) A person commits an offence if the person contravenes a direction:
- (a) given to the person by an authorised officer; or
- (b) notified by a sign erected on or at declared premises.

Maximum penalty: 10 penalty units.

- (2) An offence against clause (1) is an offence of strict liability.
- (3) It is a defence to a prosecution for an offence against clause (1) if the defendant has a reasonable excuse.

- (4) Without limiting clause (3), it is a reasonable excuse if:
- (a) the direction given was for the person to leave the declared premises; and
 - (b) the person was at the declared premises for treatment and, at the time the direction was given, was awaiting treatment.

31 Assistance of police

An authorised officer may call on a police officer for assistance in the exercise of powers under these By-laws.

Schedule Infringement notice offences and prescribed amounts

by-law 20

Provision	Prescribed amount (in penalty units unless otherwise indicated)
by-laws 4(3), 6(6), 8(2) and (6), 11(1), 13(1), 14(1), 15(1), 16(1) and (4), 17(1) and 30(1)(b)	1
by-law 5(4)(a), (c) or (d)	\$40
by-law 5(4)(b)	\$135
by-laws 7(1), 8(5), 9(1), 10(1), 12(1), 18(1), 19(1), 28(2) and 30(1)(a)	2