

NORTHERN TERRITORY OF AUSTRALIA

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Regulations 1991, No. 13\*

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By-laws under the *Local Government Act*

The Darwin City Council, in pursuance of the powers conferred on it by the *Local Government Act* and in accordance with section 204(2) and (3) of the Act, at a meeting held on 26 February 1991, made the following By-laws and, for the purposes of section 63(2)(a) of the *Interpretation Act*, authorized Gary Raymond Storch, the Clerk, to sign them.

Dated 22 March 1991.

G R Storch  
Town Clerk

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DARWIN (PRIVATE SWIMMING POOL)  
(AMENDMENT NO.2) BY-LAWS

1. CITATION

These By-Laws may be cited as the Darwin (Private Swimming Pool) (Amendment No. 2) By-laws.

2. PRINCIPAL BY-LAWS

The Darwin (Private Swimming Pool) By-laws 1983, as amended by the Darwin (Private Swimming Pool) (Amendment No. 1) By-laws and the *Criminal Law (Regulatory Offences) Act 1983*, are in these By-laws referred to as the Principal By-laws.

3. DEFINITIONS

By-law 3 of the Principal By-laws is amended -

- (a) by omitting the definition of "fence" and substituting the following:

"'fence' means a barrier other than a hedge or other barrier of growing vegetation;"

- (b) by inserting in the definition of "private swimming pool", after "building or excavation", the words "(including a spa pool)"; and

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\* Notified in the *Northern Territory Government Gazette* on 24 April 1991.

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- (c) by inserting after the definition of "small child" the following:

"'spa pool' means a water retaining structure with a capacity of not less than 680L with which is associated the facility to inject air bubbles or jets of turbulent water."

3. REGISTRATION OF PRIVATE SWIMMING POOLS

By-law 5 of the Principal By-laws is amended -

- (a) by omitting clause (1) and substituting the following:

"(1) Where on the commencement of the Darwin (Private Swimming Pool) (Amendment No.2) By-laws there is a private swimming pool on land which swimming pool has not, before that commencement, been registered under these By-laws as then in force, the owner of the pool shall, within 14 days after that commencement, apply to the Council for registration of the pool.";

- (b) by omitting from clause (3) "Penalty: \$200.";

- (c) by omitting clause (4) and substituting the following:

"(4) An application under clause (1) or (3) shall be in writing in a form approved by the Council and shall be accompanied by such fee as is determined by the Council.";

- (d) by inserting after clause (5) the following:

"(5A) A person shall not construct or install a private swimming pool for an owner or occupier of land required by this by-law to obtain registration of the proposed pool unless he has first -

- (a) been provided with by that owner or occupier or has obtained on his behalf, a certificate of registration in relation to the proposed pool issued under clause (5); and

- (b) notified the Council that he proposes to construct or install the private swimming pool referred to in the certificate.

"(5B) A notification under clause (5A)(b) shall be in writing in a form approved by the Council.".

- (e) by omitting from clause (6) "30 days" and substituting "14 days";

- (f) by omitting from clause (6) paragraph (c) and substituting the following:

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"(c) where the certificate of registration was issued in respect of a proposed private swimming pool -

- (i) the construction or installation of the pool is completed; or
- (ii) the pool is first filled to a depth of not less than 300 mm at its deepest point,

whichever first occurs."; and

(g) by omitting clause (7).

4. FENCING OF PRIVATE SWIMMING POOLS

By-law 6 of the Principal By-laws is amended -

- (a) by omitting from clause (1) "Penalty: \$200.";
- (b) by omitting from clause (2) "that sub-section" and substituting "that clause"; and
- (c) by adding at the end the following:

"(4) The owner of a private swimming pool shall cause the pool to be maintained in a clean and sanitary state."

5. REPEAL AND SUBSTITUTION

By-law 7 of the Principal By-laws is repealed and the following substituted:

"7. POWER OF ENTRY

"(1) The Council may authorise an employee of the Council to enter land on which that employee believes, on reasonable grounds, there is installed or constructed, or is in the process of being installed or constructed, a private swimming pool, and that employee may -

- (a) enter the land accordingly;
- (b) inspect the land and the swimming pool, if any, to ensure that these By-laws are being complied with; and
- (c) require a person who is on the land to disclose to the employee the person's name and address.

"(2) A person required under clause (1)(c) to disclose his name and address shall forthwith disclose his true name and current address."

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6. NOTICES TO CARRY OUT WORK

By-law 8(1) of the Principal By-laws is amended by omitting paragraphs (a) and (b) and substituting the following:

"(a) where, in the opinion of the Council or an officer or employee of the Council -

(i) a private swimming pool has not been enclosed in accordance with By-law 6; or

(ii) a private swimming pool has not been maintained and is likely to cause a public nuisance or give rise to a condition adverse or dangerous to public health, or to attract vermin,

the Council or that officer or employee may, by notice in writing served on the owner of the private swimming pool or of the land on which the private swimming pool is situated, require that person, at his own expense, to execute and carry out such work and do such things for the purpose of complying with these By-laws -

(iii) by such time; and

(iv) in such manner,

as is specified in the notice; and

(b) where a person on whom a notice under paragraph (a) has been served fails to comply with the notice within the time specified in the notice or such further time as the Council, in writing, allows, the Council may carry out or cause to be carried out any necessary work and for that purpose may enter upon the land with such workmen and machinery as are or is reasonably necessary and do all things reasonably necessary to be done."

7. EXEMPTIONS

By-law 9 of the Principal By-laws is amended by inserting after "these By-laws" the words ", subject to such conditions, qualifications and limitations, if any, as are specified in the resolution,".

8. NEW BY-LAWS

The Principal By-laws are amended by adding at the end the following:

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"10. PROOF OF NON-APPLICATION &c.

"In proceedings for an offence against these By-laws a certificate signed by the Town Clerk and certifying that the Council has not received by a date specified in the certificate -

- (a) an application under By-law 5(1) or (3);
- (b) notification under By-law 5(5A); or
- (c) a notice under By-law 5(6).

shall be *prima facie* evidence of such matters.

"11. GENERAL PENALTY

"A person who contravenes or fails to comply with these By-laws, or a requirement lawfully made under these By-laws by the Council or an officer or employee of the Council, is guilty of an offence and is liable on conviction to a fine not exceeding \$500 and \$50 for each day during which the offence continues after the serving of the summons on the person."

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The common seal of the Darwin City Council was affixed hereto in pursuance of a resolution of the Council authorising the seal to be so affixed passed on 26 February 1991.

A.K. Markham  
Lord Mayor

G.R. Storch  
Town Clerk

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