

## No. 10 of 1966

An Ordinance to amend the *Local Government Ordinance 1954-1965*

[Assented to 26th March, 1966.]

**B**E it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act 1910-1965*, as follows:—

1.—(1.) This Ordinance may be cited as the *Local Government Ordinance 1966*.

Short title  
and citation

(2.) The *Local Government Ordinance 1954-1965* is in this Ordinance referred to as the Principal Ordinance.

(3.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Local Government Ordinance 1954-1966*.

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

Commencement

3. Section 349 of the Principal Ordinance is amended by omitting paragraphs (102A), (102B) and (102C).

By-laws

4. After section 354 of the Principal Ordinance the following sections are inserted:—

“354A.—(1.) In this section—

‘motor vehicle’ has the meaning set out in sub-section (1.) of section five of the *Motor Vehicles Ordinance 1949-1965*;

Proof of  
parking  
offences

‘officer’ means a member of the Police Force of the Territory or a person employed by a council for the purpose of

\* The date fixed was 1 September 1966 (see *Northern Territory Government Gazette* No. 43 of 31 August 1966, page 181).

enforcing by-laws made by the council that create offences;

'offence' means an offence created by a by-law regulating or prohibiting the standing of motor vehicles in roads or in specified parts of roads or in public places;

'park' means stand a motor vehicle in a road or part of a road or in a public place;

'registered owner', in relation to a motor vehicle, means the person in whose name the motor vehicle is registered under the *Motor Vehicles Ordinance 1949-1965* at the time when an offence is committed by reason of the standing of the vehicle at that time in a road or in a specified part of a road or in a public place.

"(2.) This section shall not apply to or in relation to an offence unless the by-law creating the offence provides that it shall so apply.

"(3.) Subject to this section, where an offence is committed by reason of the parking of a motor vehicle, the registered owner of the motor vehicle shall be deemed to have committed the offence.

"(4.) For the purpose of proving an offence, evidence that—

(a) the name and address of a person were shown painted on or affixed to the outside of a motor vehicle; or

(b) the name and address of a person purporting to be the name and address of the registered owner of a motor vehicle were shown in any manner in or upon that motor vehicle,

is evidence that the person whose name and address were so shown was at the time they were shown the registered owner of that motor vehicle.

"(5.) Where an officer finds a motor vehicle so parked that an offence has been committed, and the officer does not know who committed the offence, the officer may—

(a) hand to the registered owner of the motor vehicle a notice in writing in accordance with the next succeeding sub-section; or

(b) affix such a notice in a conspicuous position to the motor vehicle.

"(6.) The notice referred to in the last preceding sub-section shall—

- (a) be identified by a serial number;
- (b) be addressed to the person who is the registered owner of the motor vehicle either by his name, or, if the officer does not know his name, by his designation as the registered owner of the motor vehicle, identifying the motor vehicle by the number plate affixed to it;
- (c) describe the motor vehicle that was so parked that an offence was committed and identify it by the number plate affixed to it;
- (d) allege that the registered owner committed an offence at a time, date and place specified in the allegation;
- (e) state in general terms the nature of the offence alleged to have been committed;
- (f) state in general terms that the person to whom it is addressed may elect not to be dealt with in the manner prescribed in the next succeeding paragraph but to have the alleged offence prosecuted in a court of summary jurisdiction—
  - (i) if he desires to contest the question whether the offence alleged was in fact committed;
  - (ii) if he desires to submit to such a court any matter in mitigation of penalty; or
  - (iii) if for any other reason he elects to have the offence prosecuted in such a court;
- (g) state in general terms that the person to whom it is addressed may, if he does not elect to have the offence prosecuted in a court of summary jurisdiction—
  - (i) complete the form attached to or written on the notice; and
  - (ii) on or before such date, being a date not less than ten days after the date on which the notice is given, and within such hours as are specified in the notice forward or deliver it, together with the sum of Two dollars by way of penalty, to the clerk or an officer specified in the notice as a person authorized by the clerk to receive the form and that sum by way of penalty; and
- (h) set out in general terms the provisions of subsection (10.) of this section.

“(7.) If an officer informs the clerk—

- (a) that a motor vehicle has been so parked that an offence has been committed; and
- (b) that no notice has been handed to the registered owner of the motor vehicle or affixed to the motor vehicle in accordance with sub-section (5.) of this section,

the clerk may give to the registered owner of the motor vehicle notice in writing in accordance with the last preceding sub-section.

“(8.) Subject to sub-section (10.) of this section, where—

- (a) in relation to an offence, notice has been given under sub-section (5.) or (7.) of this section; and
- (b) payment of the sum of money by way of penalty that is specified in the notice has not been made in accordance with the notice,

a prosecution for the offence may be commenced, upon the complaint of the clerk or a person authorized by him to make such a complaint, against the registered owner of the motor vehicle or any other person alleged to have committed the offence.

“(9.) The signature of the clerk shall be judicially noticed for the purposes of a prosecution for an offence.

“(10.) The registered owner of a motor vehicle shall not be deemed to have committed an offence if he was not the driver of the motor vehicle at the time the offence was committed and—

- (a) not later than ten days after the day on which he is served with a notice under sub-section (5.) or (7.) of this section in relation to the offence he furnished to the clerk a statutory declaration in which he states facts which prove to the satisfaction of the clerk—
  - (i) that some other person was the driver of the motor vehicle at the time when the offence was committed and that the name and address of residence of that other person are as set out in the statutory declaration;
  - (ii) that he sold the motor vehicle before the offence was committed and that the sale

was made on the date specified in the statutory declaration to a person whose name and address are as set out in the statutory declaration and, if the sale was made through an agent, that the name and address of the agent are as set out in the statutory declaration; or

(iii) that at the time when the offence was committed he was unable to exercise any control over the motor vehicle because it had been stolen from him or was being used unlawfully without his consent; or

(b) he satisfies the court hearing a charge for the offence as to the truth of the matters as to which he has made a statutory declaration under the last preceding paragraph.

“354B.—(1.) In this section—

‘official traffic sign’ means a notice, sign or device marked, placed or erected on or at the side of a road in a municipality, by authority of the council of the municipality, for the purpose of regulating traffic or guiding, directing or warning persons in charge of motor vehicles.

Averments as to  
official traffic  
signs

“(2.) In any prosecution for a contravention of, or failure to comply with, a by-law, an averment of the prosecutor contained in the complaint that a notice, sign or other device is, or on a specified date was, an official traffic sign is evidence of the matter averred.

“(3.) The last preceding sub-section applies to a matter averred although evidence in support or rebuttal of the matter averred or of any other matter is given.

“(4.) Evidence given in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of the evidence shall be neither increased nor diminished by reason of this section.

“(5.) An averment shall not be evidence for the purposes of this section unless a statement of the matter contained in the averment has been served on the defendant in the same manner as the process requiring his attendance before the court.

“(6.) Service of a statement of the matter contained in the averment may be proved in the same manner as service of the process requiring the defendant’s attendance before the court may be proved.

“(7.) Upon the hearing of proceedings in respect of a contravention, or failure to comply with, a by-law, the court may, if the amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to it to be desirable or to be necessary to enable the real question in dispute to be determined.

“(8.) If the court considers the defendant has been misled by the form of the averment, it may refuse to allow any or all of the amendments, adjourn the hearing of the case for such period as it thinks fit and make such order as to the costs of the adjournment as it thinks proper.”

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