

LOCAL GOVERNMENT ORDINANCE (No. 3) 1962.

409

No. 12 of 1963.

An Ordinance to amend the *Local Government Ordinance 1954-1960*, as amended by the *Local Government Ordinance 1962* and the *Local Government Ordinance (No. 2) 1962*.

[Assented to 13th February, 1963.]

BE it ordained by the Legislative Council for the Northern Territory of Australia, in pursuance of the powers conferred by the *Northern Territory (Administration) Act 1910-1961*, as follows:—

1.—(1.) This Ordinance may be cited as the *Local Government Ordinance (No. 3) 1962*. Short title and citation.

(2.) The *Local Government Ordinance 1954-1960*, as amended by the *Local Government Ordinance 1962* and the *Local Government Ordinance (No. 2) 1962*, is in this Ordinance referred to as the Principal Ordinance.

(3.) Section one of the *Local Government Ordinance (No. 2) 1962* is amended by omitting sub-section (4.)

(4.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Local Government Ordinance 1954-1962*.

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

3. Section five of the Principal Ordinance is amended— Definitions.

(a) by omitting the definition of “annual election”;

(b) by omitting the definition of “nomination day” and inserting in its stead the following definition:—

“ ‘nomination day’ means the day fixed by a council as the day upon which nominations for an election close;”;

A notice in the following terms was published in *Government Gazette* No. 12A of 20th March, 1963:—

“I, Roger Bede Nott, the Administrator of the Northern Territory of Australia, by this notice fix the twentieth day of March, 1963, to be the date on which the *Local Government Ordinance, 1954-1962*, comes into operation.”

See also section 17 of the *Local Government Ordinance 1963* (No. 28 of 1963).

(c) by omitting paragraph (a) of the definition of “polling day” and inserting in its stead the following paragraph:—

“(a) in relation to a three yearly election, the day on which, under this Ordinance, that election is required to be held;”;

(d) by omitting from the definition of “supplementary election” the word “annual” and inserting in its stead the words “three yearly”; and

(e) by inserting after the definition of “this Ordinance” the following definition:—

“‘three yearly election’ means one of the elections which, under this Ordinance, are required to be held on a date fixed under section forty-nine of this Ordinance.”.

Minister may constitute, &c., a municipality.

4. Section eight of the Principal Ordinance is amended by omitting from sub-section (1.) paragraphs (e), (f), (g), (h) and (i).

5. After section eight of the Principal Ordinance the following section is inserted:—

Administrator in Council may divide, &c., a municipality.

“8A. Subject to the provisions of this Ordinance, the Administrator in Council may, by notice in the *Gazette*—

(a) divide or re-divide a municipality into wards;

(b) determine or alter the boundaries of a ward;

(c) give a name to, or alter the name of, a municipality or ward;

(d) abolish all wards in a municipality; and

(e) subject to section thirty-two of this Ordinance, determine or alter the number of councillors to be elected for a municipality.”.

Minister to settle matters requiring adjustment following exercise of his powers.

6. Section nine of the Principal Ordinance is amended by omitting from sub-section (1.) the words “the last preceding section” and inserting in their stead the words “section eight of this Ordinance”.

Power to provide for retirement of councillors in certain circumstances.

7. Section ten of the Principal Ordinance is amended by omitting the word “Minister” and inserting in its stead the words “Administrator in Council”.

8. Section eleven of the Principal Ordinance is repealed and the following section inserted in its stead:—

Proclamation constituting new municipality.

“11.—(1.) Where the Minister, pursuant to section eight of this Ordinance, constitutes a town, area or place to be a new municipality, he shall in the notice determine and describe the boundaries of the municipality.

“(2.) Where the Minister, pursuant to section eight of this Ordinance, constitutes a town, area or place to be a new municipality, the Administrator in Council shall, by notice in the Gazette—

- (a) assign a name to the municipality;
- (b) appoint a date for the election of the first mayor and councillors;
- (c) state the number of councillors to be elected to a municipality; and
- (d) if the municipality is divided into wards—
 - (i) determine and describe the boundaries of the wards; and
 - (ii) assign a name to each of the wards.”

9. Sections thirteen and fourteen of the Principal Ordinance are repealed and the following sections inserted in their stead:—

“13. Where the Minister annexes a portion of the Territory to a municipality, he shall determine and describe the boundaries of the municipality.

Adjustment of boundaries following annexation of new area.

“14.—(1.) Where the Minister annexes a portion of the Territory to a municipality, the Administrator in Council shall—

Adjustment of wards on annexation of new area.

- (a) abolish all wards and constitute the municipality an undivided municipality;
- (b) abolish all wards and re-divide the municipality into wards;
- (c) retain the existing wards and constitute the portion annexed to be one or more new ward; or
- (d) annex the portion to an existing ward or, in separate portions, to more than one existing ward.

“(2.) Where the Administrator in Council does any of the things referred to in the last preceding sub-section, he shall determine and describe the boundaries of the wards, if any, affected by the annexation or by the reconstitution of wards within the municipality.”

10. Section fifteen of the Principal Ordinance is amended by inserting after the words “The Minister” the words “or Administrator in Council, as the case may be,”.

Minister may receive petitions and counter-petitions.

11. Section sixteen of the Principal Ordinance is amended by inserting after the words “the Minister” the words “or Administrator in Council, as the case may be,”.

Minister to give public notice of substance of petition, &c.

12. Section seventeen of the Principal Ordinance is amended by inserting after the words “The Minister” the words “or Administrator in Council, as the case may be,”.

Minister may grant or refuse petition.

13. Section twenty-one is repealed and the following section inserted in its stead:—

Petition for
alteration, &c.,
of wards, &c.

“ 21. A petition praying for the division or re-division of a municipality or ward, for the alteration of the boundaries or for the abolition or retention of a ward, for the union of wards or for the alteration of the number of councillors for a municipality or ward shall be—

- (a) under the common seal of the Council; or
- (b) signed by not less than two-fifths of the electors of the municipality.”

Presentation
of
petition, &c.

14. Section twenty-four of the Principal Ordinance is amended by inserting after the word “Minister” (first occurring) the words “or the Administrator in Council, as the case may be,”.

Form, &c., of
petitions.

15. Section twenty-six of the Principal Ordinance is amended by inserting after the word “Minister” the words “or the Administrator in Council, as the case may be,”.

Operation of
notice given
under this Part.

16. Section twenty-seven of the Principal Ordinance is amended by inserting the words “or the Administrator in Council” after the word “Minister”.

Errors, &c., may
be rectified.

17. Section twenty-eight of the Principal Ordinance is amended—

- (a) by inserting after the word “Minister” (first occurring) the words “or the Administrator in Council”; and
- (b) by inserting after the word “Minister” (second occurring) the words “or the Administrator in Council, as the case may be,”.

Qualifications
for election
as mayor and
councillor.

18. Section thirty-five of the Principal Ordinance is amended—

- (a) by omitting sub-section (1.) and inserting in its stead the following sub-section:—

“ (1.) Subject to this section, a person who is duly enrolled as an elector for a municipality is qualified to hold office as mayor or councillor of that municipality.”;

- (b) by omitting from sub-section (4.) all words after the word “shall” and inserting in their stead the following words:—

“not be present during any discussion before the council or vote on a question directly or indirectly relating to that contract or security.”;
and

(c) by omitting sub-section (5.) and inserting in its stead the following sub-section:—

“(5.) Where a member of a council contravenes the provisions of the last preceding sub-section—

(a) he is disqualified from holding office as a mayor or councillor of the council; and

(b) any decision taken by the council on a question in relation to which he contravenes those provisions is void.”.

19. Section thirty-eight of the Principal Ordinance is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

Resignation of member.

“(2.) Where a member so resigns, the resignation becomes effective on the date upon which it is received by the clerk.”.

20. Section forty of the Principal Ordinance is amended by omitting sub-section (1.) and inserting in its stead the following sub-section:—

Council to declare office vacant.

“(1.) At the meeting of the council at which the clerk informs the council of a matter pursuant to the provisions of the last preceding section, the council shall declare the office of the mayor or councillor, as the case requires, to be vacant.”.

21. Section forty-one of the Principal Ordinance is amended by adding at the end thereof the following word and paragraph:—

Date of vacancy in office.

“; or (c) when a notice of resignation made by a member of the council is received by the clerk.”.

22. Section forty-two of the Principal Ordinance is amended by omitting the word “annual” and inserting the words “three yearly” in its stead.

Meeting to determine mayor's allowance.

23. Section forty-seven of the Principal Ordinance is amended by omitting the words “an annual” and inserting the words “a three yearly” in their stead.

Preliminary matters.

24. Section forty-nine of the Principal Ordinance is repealed and the following section inserted in its stead:—

“49.—(1.) Subject to this section a council may fix the date of the first and succeeding three yearly elections for a municipality.

Three yearly elections.

“(2.) The date fixed by a council for a three yearly election shall be a Saturday in the month of May or June occurring in the period of twelve months after the second anniversary of the date upon which the constitution of the municipality came into effect or the second anniversary of the date of the last three yearly election as the case may be.

“(3.) The first three yearly election for the Municipality of Darwin shall be fixed by the Council to be a Saturday in the month or *May or June next occurring after the commencement of the *Local Government Ordinance (No. 3) 1962.*”.

25. Section fifty of the Principal Ordinance is repealed and the following section inserted in its stead:—

Term of
office of
mayor and
councillor.

“50. A person who is elected as mayor or councillor of a municipality shall, subject to this Ordinance, hold office until the conclusion of the next succeeding three yearly election.”.

Repeal of
section
fifty-one.

26. Section fifty-one of the Principal Ordinance is repealed.

27. Section fifty-two of the Principal Ordinance is repealed and the following section inserted in its stead:—

Filling of
extraordinary
vacancies.

“52.—(1.) Where an office of councillor becomes vacant less than two years after the last three yearly election, a supplementary election to fill the extraordinary vacancy shall be held in accordance with this Ordinance.

“(2.) Where an office of councillor becomes vacant more than two years after the last three yearly election, the extraordinary vacancy so created may be filled by the appointment by the Administrator in Council of a person to act as councillor until the next succeeding election after the vacancy occurs but if no such appointment is made shall not be filled until the next succeeding election after the vacancy occurs.

“(3.) Where an office of mayor becomes vacant the Administrator in Council shall appoint a councillor from the municipality to be mayor and such councillor shall hold office as mayor until the conclusion of the next succeeding three yearly election.”.

Repeal of
section
fifty-four.

28. Section fifty-four of the Principal Ordinance is repealed.

29. Section fifty-seven of the Principal Ordinance is repealed and the following section inserted in its stead:—

Qualifications
for enrolment.

“57. Subject to this Part, a person who is enrolled as an elector for an election of a member of the House of Representatives for the Northern Territory, and who resides in a municipality or a ward of a municipality, is qualified to be enrolled as an elector for that municipality or ward.”.

30 Section fifty-seven A of the Principal Ordinance is repealed.

Repeal of section fifty-seven A.

31 Section fifty-nine of the Principal Ordinance is amended by omitting sub-section (1.) and inserting the following sub-section in its stead:—

Clerk to compile electors' roll.

“ (1.) The clerk shall on enrolment day compile a roll of electors and shall include on that roll the names of all persons who are enrolled on that day as electors for the election of a member of the House of Representatives for the Northern Territory and whose residential address appears to be within the municipality.”.

32 Sections sixty and sixty-three of the Principal Ordinance are repealed and the following section is inserted in their stead:—

“ 60. The clerk shall notify each person whose name is enrolled pursuant to section fifty-nine of this Ordinance of the fact that his name has been enrolled in the municipality or the ward as the case may be.”

Clerk to notify enrolment.

33 Part VI. of the Principal Ordinance is repealed and the following section inserted in its stead:—

“ 64.—(1.) A person whose name is enrolled and a person whose name is not enrolled pursuant to section fifty-nine may, within twenty-eight days after enrolment day, protest in writing to the clerk that his name has been wrongly enrolled or omitted from the roll as the case may be.

Revision of electors' rolls.

“ (2.) The clerk, if he is satisfied that the person's name has been wrongly enrolled or omitted from the roll, may allow the protest and remove the person's name from the roll or include that person's name on the roll as the case may be.

“ (3.) If the clerk does not allow the protest, he shall refer the protest to a Local Court of Full Jurisdiction and shall notify the person that he has done so.

“ (4.) Where a clerk has referred a protest to a Local Court under the last preceding sub-section, the Court shall hear and determine the question whether or not the person's name should be enrolled and may disallow the protest or direct that the person's name be removed from or included on the roll.”.

34. Section eighty-five of the Principal Ordinance is amended—

Appointment of returning officer.

(a) by omitting from sub-section (1.) the word “ shall ” and inserting in its stead the word “ may ”; and

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

“ (1A.) If no person is appointed under the last preceding sub-section the clerk shall be the returning officer.”.

35. Section eighty-seven of the Principal Ordinance is repealed and the following section inserted in its stead:—

Nomination day.

“ 87. Nomination day shall be the twenty-eighth day before the day fixed under section forty-nine of this Ordinance to be polling day.”.

Closing of nominations.

36. Section eighty-eight of the Principal Ordinance is amended by omitting the words “an annual election” and inserting in their stead the words “a three yearly election”.

Clerk to give notice.

37. Section eighty-nine of the Principal Ordinance is amended by adding at the end thereof the words “but if he does not do so the election is not thereby invalidated.”.

38. Section ninety-two of the Principal Ordinance is repealed and the following section inserted in its stead:—

Qualification for nomination.

“ 92.—(1.) A person is not entitled to be nominated for the office of mayor or councillor unless he is qualified to hold office in accordance with the provisions of section thirty-five of this Ordinance.

“ (2.) A person is not entitled to be nominated for the office of mayor unless he is also nominated for the office of councillor in the municipality, or in a ward of the municipality, at that election.”.

Person may be nominated for only one office.

39. Section ninety-three of the Principal Ordinance is amended by adding in sub-section (1.) thereof after the words “this section” the words “and section ninety-two of this Ordinance”.

Duties of Returning Officer on nomination day.

40. Section ninety-four of the Principal Ordinance is amended—

(a) by omitting from paragraph (c) all words after the word “following” and inserting in their stead the words “the day fixed by or under this Ordinance to be polling day for that election”; and

(b) by omitting from paragraph (d) all words after the word “election” and inserting the following words in their stead “to the day fixed by or under this Ordinance to be polling day for that election”.

41 Section ninety-six of the Principal Ordinance is amended by omitting sub-sections (1.) and (2.) and inserting in their stead the following sub-section:—

Form of
ballot paper.

“(1.) A ballot paper to be used in an election shall be in accordance with Form 1 or Form 2 of the Fourth Schedule to this Ordinance, as the case requires.”

42. Section ninety-seven of the Principal Ordinance is amended by omitting paragraph (g) of sub-section (1.) and inserting in its stead the following paragraph:—

Conduct of
polling.

“(g) the elector may cast his vote by proceeding to a voting compartment immediately after he receives his ballot paper and there marking the ballot paper in accordance with the directions set out on the ballot paper;”

43 Section ninety-eight of the Principal Ordinance is amended by omitting paragraphs (b) and (c).

Informal
ballot
papers.

44 Section one hundred of the Principal Ordinance is amended by omitting paragraph (e) from sub-section (3.).

Questions
not to be
asked of a
voter.

45. Section one hundred and two of the Principal Ordinance is amended by omitting from paragraph (c) the words “contrary to the provisions of this Ordinance,”.

Power to
arrest in
connexion
with certain
acts at
polling
places.

46. Section one hundred and seven of the Principal Ordinance is amended by inserting in paragraph (d) of sub-section (1.), after the word “count”, the words “, in accordance with the next succeeding section,”.

Duties of
returning
officer on
polling
day.

47 Section one hundred and eight of the Principal Ordinance is repealed and the following sections are inserted in its stead:—

“108.—(1.) In determining the result of an election for mayor, councillor or councillors the returning officer shall proceed as follows:—

Determination
of result of
election.

- (a) the returning officer shall ascertain the total number of first preference votes given for each candidate;
- (b) the candidate who has received the fewest first preference votes shall be excluded and each ballot paper counted to him shall be counted to the candidate next in order of the voter's preference;
- (c) the process of excluding the candidate who has the fewest votes and counting each of his ballot papers to the unexcluded candidate next in order

of the voter's preference shall be repeated until the number of unexcluded candidates is equal to the number of offices vacant;

- (d) the unexcluded candidates so determined shall be declared elected; and
- (e) if, on any count, two or more candidates have an equal number of votes and one of them has to be excluded, the returning officer shall decide which shall be excluded.

“(2.) Where, in a municipality which is not divided into wards, an election is held using ballot papers in accordance with Form 2 of the Fourth Schedule to this Ordinance, the returning officer shall proceed as in sub-section (1.) of this section but no preference marked on that portion of the ballot paper referring to the election of a mayor shall be considered in determining the election of councillors and no preference marked on that portion of the ballot paper referring to the election of councillors shall be considered in determining the election of a mayor.

“(3.) Where, in an election for mayor and councillors, a candidate for the office of mayor fails to gain election to an office of councillor in the municipality, he shall be excluded and each ballot paper counted to him in the election of the mayor shall be counted to the unexcluded candidate next in order of the voter's preference.”

Cases requiring supplementary election.

48. Section one hundred and nine of the Principal Ordinance is amended by omitting paragraph (a) of sub-section (1.) and inserting the following paragraph in its stead:—

- “(a) an office of mayor or councillor becomes vacant before the second anniversary of the last three yearly election;”

Certain offences render election void.

49. Section one hundred and nineteen of the Principal Ordinance is amended by omitting the word “annual” and inserting the word “triennial” in its stead.

Administrator may do or cause certain things to be done in connexion with elections.

50. Section one hundred and twenty of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1.) the word “council” (first occurring) and inserting in its stead the word “person”, and
- (b) by adding in sub-section (2.) after the word “Administrator” the following:—
“whether or not the specified day is past or the specified time has expired”.

51 Section one hundred and twenty-two of the Principal Ordinance is repealed. Repeal of section 122.

52. Section one hundred and twenty-six of the Principal Ordinance is amended by omitting paragraph (b) and inserting the following paragraph in its stead:— Notice of special meeting.

- “(b) give—
- (i) three days’ notice of the meeting; or
- (ii) if the mayor directs the clerk that the business is urgent, one day’s notice of the meeting.”.

53. Section one hundred and forty-one of the Principal Ordinance is amended by omitting from paragraph (b) of subsection (1.) the words “every year” and inserting in their stead the words “every fifth year”. Surveyor-General to furnish valuations to council.

54. Section one hundred and forty-nine of the Principal Ordinance is amended— Particulars to be entered in rate book.

- (a) by omitting the words “A council” and inserting in their stead the words “The clerk”;
- (b) by omitting from paragraph (a) the word “its” and insert in its stead the word “the”;
- (c) by omitting from paragraph (d) the word “it” and inserting in its stead the words “the council”.

55. Section one hundred and fifty of the Principal Ordinance is amended— Names of persons to be entered in or removed from rate book.

- (a) by omitting the words “A council” and inserting in their stead the words “The clerk”;
- (b) by omitting the word “it” (wherever occurring) and inserting in its stead the word “he”.

56. The Principal Ordinance is amended by adding at the end thereof the following Schedule:— Fourth Schedule.

“FOURTH SCHEDULE.
BALLOT PAPER.

Form 1.

Section 96.

THE NORTHERN TERRITORY OF AUSTRALIA.
Local Government Ordinance 1954-1962.

Directions.—Mark your vote on this ballot paper by placing the numbers (here insert 1, 2, 3, and 4 where there are four candidates and so on as the case requires) in the squares respectively opposite the names of the candidates so as to indicate your preference for them.

CANDIDATES.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

*Local Government Ordinance
(No. 3) 1962.*

Form 2.

Section 96.

THE NORTHERN TERRITORY OF AUSTRALIA.
Local Government Ordinance 1954-1962.

BALLOT PAPER.

Directions.—Mark your vote on this ballot paper by placing the numbers (here insert 1, 2, 3, and 4 where there are four candidates and so on as the case requires) in the squares respectively opposite the names of the candidates for councillor so as to indicate your preference for them, and the numbers (here insert 1, 2, 3, and 4 and so on, as the case requires) in the squares opposite the names of the candidates for mayor.

CANDIDATES.

For election as Councillor.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Voters must place a number in every square.

CANDIDATES.

For election as Mayor.

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Voters must place a number in every square.”
