

LOCAL GOVERNMENT ORDINANCE (No. 3) 1969

95

No. 28 of 1969

An Ordinance to amend the *Local Government Ordinance 1954-1968* as amended by the *Local Government Ordinance 1969* and the *Local Government Ordinance (No. 2) 1969*

[Assented to 30 September, 1969]

BE it ordained by the Legislative Council for the Northern Territory of Australia as follows:—

1.—(1.) This Ordinance may be cited as the *Local Government Ordinance (No. 3) 1969*. Short title
and citation

(2.) The *Local Government Ordinance 1954-1968* as amended by the *Local Government Ordinance 1969* and the *Local Government Ordinance (No. 2) 1969* is in this Ordinance referred to as the Principal Ordinance.

(3.) Section 1 of the *Local Government Ordinance (No. 2) 1969* is amended by omitting sub-section (4.).

(4.) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Local Government Ordinance 1954-1969*.

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

3. Section 5 of the Principal Ordinance is amended— Definitions

(a) by inserting, after the definition of “electors’ roll”, the following definition:—

“‘expenditure’ means money actually paid by a council for a purpose specified in sub-section (1.) of section two hundred and ten of this Ordinance and includes, in relation to a trading undertaking, money payable by the council;”;

(b) by inserting, after the definition of “garbage”, the following definition:—

“‘income’ means money actually received by a council as revenue under section two hundred and five of this Ordinance and includes, in relation to a trading undertaking, money receivable by the council; and

* The date fixed was 1 July, 1979 (see *Northern Territory Government Gazette* No. 25 of 23 June, 1969, page 217).

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(c) by omitting from the definition of "supplementary election" the words "an three yearly election" and inserting in their stead the words "a three yearly election".

Grant of refusal of petition

4. Section 17 of the Principal Ordinance is amended by omitting the words "or eight A".

Jurisdiction of local court to make declaration as to disqualification

5. Section 37 of the Principal Ordinance is amended by adding at the end thereof the following sub-section:—

"(2.) Upon a court making a declaration under the last preceding sub-section, the clerk of that court shall, if the application for the declaration was made by a person other than the clerk of the municipality, forthwith notify the clerk of the municipality in writing of the making of the declaration."

Resignation of alderman

6. Section 38 of the Principal Ordinance is amended by omitting sub-section (2.).

Notification of certain matters to council

7. Section 39 of the Principal Ordinance is amended by omitting from paragraph (a) the words "a local court of full jurisdiction" and inserting in their stead the words "the local court of full jurisdiction situated nearest to the council office".

Absence without leave

8. Section 40 of the Principal Ordinance is amended by omitting sub-section (1.).

Vacancy in office

9. Section 41 of the Principal Ordinance is repealed and the following section inserted in its stead:—

"41. The office of mayor or alderman becomes vacant when—

- (a) the term for which he was appointed or elected expires;
- (b) a notice of resignation made by him under section thirty-eight of this Ordinance is received by the clerk;
- (c) the council declares his office to be vacant under the last preceding section;
- (d) the local court of full jurisdiction situated nearest to the council office declares that he is disqualified from holding office; or
- (e) he dies or becomes mentally defective within the meaning of the *Mental Defectives Ordinance 1940-1964.*"

Duties of returning officer on nomination day

10. Section 94 of the Principal Ordinance is amended by omitting the words "qualified to act in" (twice occurring) and inserting in their stead the words "nominated for".

11. Section 102 of the Principal Ordinance is amended by adding at the end of paragraph (c) the words "otherwise than in accordance with this Ordinance". Powers of arrest

12. Section 108 of the Principal Ordinance is amended— Determination of result of election

(a) by omitting sub-section (3.) and inserting in its stead the following sub-section:—

"(3.) Except in circumstances occasioned by the operation of paragraph (c) of sub-section (2.) of this section, the returning officer shall not count a vote to a candidate against whose name on the ballot paper a number greater than an effective number is placed."; and

(b) by omitting from sub-section (4.) the words "The returning officer" and inserting in their stead the words "Except in circumstances occasioned by the operation of paragraph (c) of sub-section (2.) of this section, the returning officer".

13. Section 110 of the Principal Ordinance is amended— Duty of council where supplementary election is necessary

(a) by omitting from paragraph (a) of sub-section (1.) the words "seven days" and inserting in their stead the words "fourteen days".

(b) by omitting from sub-paragraph (i) of paragraph (b) of sub-section (1.) the words "seven days" and inserting in their stead the words "fourteen days"; and

(c) by omitting from sub-paragraph (ii) of paragraph (b) of sub-section (1.) the words "fourteen days" and inserting in their stead the words "twenty-eight days".

14. Section 112 of the Principal Ordinance is amended by omitting the words "the council" and inserting in their stead the words "the Administrator in Council". Vacancy after supplementary election

15. After section 121 of the Principal Ordinance the following section is inserted:—

"122.—(1.) Subject to the next succeeding sub-section, the clerk shall give at least three days notice in writing of the date, time and place of a meeting to each member of the council. Notice of meetings

"(2.) The last preceding sub-section does not apply in relation to a meeting—

(a) the date, time and place of which has previously been fixed by resolution of the council; or

(b) that is to be held on a date and at a time and place notified to the members of the council present at a previous meeting."

Committees
of council

16. Section 131 of the Principal Ordinance is amended by omitting paragraph (c) of sub-section (2.) and inserting in its stead the following paragraphs:—

- “(c) may expend or contract to expend a sum not exceeding One hundred dollars;
- (ca) may, with the approval of the council, expend or contract to expend a sum exceeding One hundred dollars;
- (cb) shall not have power to borrow money or declare a rate; and”.

17. Section 148 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Rate book

“148. A council shall cause to be kept a book, to be known as the rate book, in such form as is determined by the council and approved by an inspector of local government accounts.”.

18. Section 155 of the Principal Ordinance is repealed and the following section inserted in its stead:—

Estimates

“155.—(1.) Before a council declares a rate or other annual charge it shall—

- (a) cause detailed estimates to be made of the income and expenditure of the fund to which the rate or other annual charge relates;
- (b) arrange for two copies of those estimates to be available at the council office for free inspection by the public; and
- (c) cause a summary of those estimates, in a form approved by an inspector of local government accounts, to be published on two separate occasions in a local newspaper together with a notification that two copies of those estimates are available at the council office for free inspection by the public.

“(2.) A council shall not declare a rate or other annual charge until at least ten days have elapsed since the date of the latter of the publications referred to in paragraph (c) of the last preceding sub-section, but shall declare the rate or other annual charge within thirty days of that date.

“(3.) The validity of a rate or other annual charge is not affected by reason of a failure on the part of a council to comply with the provisions of this section before or in declaring that rate or other annual charge.”.

Appeal against
entry in rate
book

19. Section 169 of the Principal Ordinance is amended—

- (a) by adding at the end of paragraph (b) the word “or”;
- (b) by omitting from paragraph (c) the word “or”

(last occurring); and
(c) by omitting paragraph (d).

20. Sections 171 and 172 of the Principal Ordinance are repealed and the following sections inserted in their stead:—

“171.—(1.) An appeal under either of the last two preceding sections may be instituted by serving notice in the prescribed form on the clerk of the council. Manner of appealing

“(2.) The clerk shall cause a notice of an appeal received by him under the last preceding sub-section to be laid before the council at its next meeting.

“172. The council may, at its meeting at which the clerk causes the notice of the appeal to be laid before it, allow an appeal and if it does so the clerk shall forthwith cause an appropriate alteration to be made in the rate book. Appeal heard by council in first instance

“172A. If the council does not, at its meeting at which the clerk causes the notice of the appeal to be laid before it, allow an appeal the clerk shall forthwith refer it to the local court of full jurisdiction situated nearest to the council office by serving the notice of the appeal on the clerk of the court and shall notify in writing the appellant that he has done so.” Referral of appeal to court

21. Section 204 of the Principal Ordinance is repealed and the following section inserted in its stead:—

“204. A council shall, as soon as practicable after each thirtieth day of June, cause annual financial statements showing prescribed particulars to be prepared.” Annual financial statements

22. Section 207 of the Principal Ordinance is repealed and the following section inserted in its stead:—

“207. The treasurer or, where there is no treasurer, the clerk shall, as soon as practicable, cause all money received by him on behalf of the council to be paid to the credit of the bank account of the council relating to the fund to which that money properly belongs.” Banking of council moneys

23. After section 210 of the Principal Ordinance the following section is inserted:—

“210A.—(1.) Upon a council causing estimates to be made in accordance with section one hundred and fifty-five of this Ordinance, the mayor shall sign the estimates and certify them to be the budget of the council for the financial year that commenced on the last preceding first day of July. Budget

“(2.) The clerk shall cause a copy of the estimates, signed and certified in accordance with the last preceding sub-section, to be forwarded to the Administrator.

“(3.) Where, before estimates are made in any financial year, a council authorizes expenditure, that expenditure shall be included in the budget for that year.”

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- The general fund**
- 24.** Section 216 of the Principal Ordinance is amended—
 (a) by omitting from paragraph (a) the words “or receivable”; and
 (b) by omitting from paragraph (b) the words “or receivable”.
- Application of general fund**
- 25.** Section 217 of the Principal Ordinance is amended—
 (a) by adding at the end of paragraph (d) the word “and”;
 (b) by omitting from paragraph (e) the word “and”; and
 (c) by omitting paragraph (f).
- Special funds**
- 26.** Section 220 of the Principal Ordinance is amended—
 (a) by omitting from paragraph (a) the words “or receivable”;
 (b) by omitting from paragraph (b) the words “or receivable”; and
 (c) by omitting from paragraph (d) the words “or receivable”.
- Local funds**
- 27.** Section 223 of the Principal Ordinance is amended—
 (a) by omitting from paragraph (a) the words “or receivable”;
 (b) by omitting from paragraph (b) the words “or receivable”; and
 (c) by omitting from paragraph (d) the words “or receivable”.

28. Section 288B of the Principal Ordinance is repealed and the following sections inserted in its stead:—

Audit

“288B.—(1.) The Auditor-General shall inspect and audit the accounts and records of the financial transactions and of other property, including trust moneys or property, of a council and shall forthwith draw the council’s and the Administrator’s attention to any irregularity revealed by the inspection and audit which, in the opinion of the Auditor-General, is of sufficient importance to justify his so doing.

“(2.) The Auditor-General shall, at least once in each year, report to the council and the Administrator the results of the inspection and audit carried out under the last preceding subsection.

“(3.) The Auditor-General or a person authorized by the Auditor-General is entitled at all reasonable times to full and free access to all accounts, records, documents and papers of a council relating directly or indirectly to the receipt or payment of moneys by the council or to the acquisition, receipt, custody or disposal of assets of the council.

“(4.) The Auditor-General or a person authorized by the Auditor-General may make copies of or take extracts from any such accounts, records, documents or papers.

“(5.) The Auditor-General or a person authorized by the Auditor-General may require a member of a council or an officer or employee of a council to furnish him with such information in the possession of that member, officer or employee or to which that member, officer or employee has access as the Auditor-General or authorized person considers necessary for the purposes of an inspection or audit under this Ordinance, and that member, officer or employee shall comply with the requirements.

“288c.—(1.) A council shall, as soon as practicable after each thirtieth day of June, furnish to the Administrator financial statements in respect of the year ended on that date prepared in accordance with section two hundred and four of this Ordinance.

Annual financial statements

“(2.) Before furnishing the financial statements to the Administrator, the council shall submit them to the Auditor-General who shall report to the council and the Administrator—

- (a) whether the statements are based on proper accounts and records;
- (b) whether the statements are in agreement with the accounts and records;
- (c) whether the receipt, expenditure and investment of moneys and the acquisition and disposal of assets by the council during the year have been in accordance with this Ordinance; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported to the council and the Administrator.

“(3.) The Administrator shall lay the financial statements of the council, together with the report of the Auditor-General, before the Legislative Council for the Northern Territory at the meeting of the Legislative Council next succeeding the date on which the Administrator receives the report.”.

29. Section 337 of the Principal Ordinance is amended—

Charge for certain improvements

- (a) by omitting from sub-section (1.) the word “where” and inserting in its stead the words “Subject to the next succeeding sub-section, where”; and
- (b) by inserting after sub-section (1.) the following sub-section:—

“(1A.) The last preceding sub-section does not apply to or in relation to a rail, pipe, wire, post, pole, cable, tunnel or structure laid, suspended, erected, constructed or placed upon, under or over a public place in a municipality—

- (a) for the purpose of or in connexion with the provision of a water supply, an electricity supply, a sewerage system or a drainage system; or
- (b) by the Postmaster-General’s Department.”.

Charges for
services

30. Section 362A of the Principal Ordinance is amended by adding at the end the following sub-section:—

“(7.) Notwithstanding the preceding provisions of this section, where a person is liable to pay a charge in respect of a service provided or to be provided during the year commencing on the first day of July last preceding the making of the charge and that person is also liable to pay a rate that applies for that year, particulars of the charge may, in the discretion of the council, in lieu of being made the subject of a notice referred to in this section, be included in a rate notice served on that person in accordance with section one hundred and fifty-six of this Ordinance, and where those particulars are so included that person is liable to pay the charge in accordance with this section and the terms of those particulars as if a notice referred to in this section had, in accordance with this section, been served on him in respect of that charge.”

By-laws

31. Section 349 of the Principal Ordinance is amended by omitting paragraph (4).

32.—(1.) Sections 351 and 352 of the Principal Ordinance are repealed and the following section inserted in their stead:—

By-law making
procedure

“351. A by-law made by a council under section three hundred and forty-nine of this Ordinance—

- (a) shall be signed by the mayor or the clerk;
- (b) has no effect as a law of the Territory unless it is confirmed by the Administrator in Council;
- (c) comes into operation on the seventh day after notice of its confirmation by the Administrator in Council is published in the *Gazette* or, where a later day is, in by-laws confirmed at the same time as that by-law, specified as the day on which it comes into operation, on that later day;
- (d) shall, if confirmed by the Administrator in Council, be laid before the Legislative Council on the first sitting day of the Legislative Council after notice that it is so confirmed is published in the *Gazette*; and
- (e) ceases to have effect as a law of the Territory—
 - (i) if it is not so laid before the Legislative Council; or
 - (ii) if notice of a resolution that it be disallowed is given within fifteen sitting days after the by-law is laid before the Legislative Council and the Legislative Council passes the resolution.

“(2.) Notwithstanding the repeal effected by the last preceding sub-section, all by-laws in force under the Principal Ordinance immediately prior to the commencement of this

Ordinance continue in force but may be amended or repealed as if they were by-laws in force under the Principal Ordinance as amended by this Ordinance.”.

33. Section 360 of the Principal Ordinance is amended by omitting paragraphs (a) and (b) and inserting in their stead the words “act as mayor or alderman of a municipality.”. Minors and aliens

34. After section 360 of the Principal Ordinance the following section is inserted:—

“361. A person shall not wilfully make a false statement in an application to be enrolled as an elector for a municipality or ward. False statement
in application
for enrolment

Penalty: One hundred dollars.”.

35. Section 409 of the Principal Ordinance is amended by omitting the words “the *Statutory Declarations Act 1911-1950*” and inserting in their stead the words “the *Statutory Declarations Act 1959-1966*”. Proof of service
of notices, &c.

36. Section 422 of the Principal Ordinance is amended— Regulations
(a) by inserting, after the word “Administrator”, the words “in Council”; and
(b) by inserting, after the word “particular”, the words “prescribing the practice and procedure to be followed in relation to the conduct of the financial and business affairs of a council and other operations and activities of a council and”.

37. The Principal Ordinance is amended as set out in the Schedule to this Ordinance. Miscellaneous
amendments

THE SCHEDULE

Section 37

<i>Provisions amended</i>	<i>Omit</i>	<i>Insert</i>
Section 26 (e)	of (third occurring)	or
Section 37 (a)	a alderman	an alderman
Section 39 (a)	a alderman	an alderman
Section 39 (b)	a councillor	an alderman
Section 40 (2.)	a alderman	an alderman
Section 49 (3.)	or (first occurring)	of
Section 88	councillor	alderman
Section 166	One pound	Two dollars
Section 166	Ten shillings	One dollar
Section 211	a alderman	an alderman
Section 212	Two pounds	Four dollars
Section 213 (1.)	Two pounds	Four dollars
Section 265 (1.)	One hundred pounds	Two hundred dollars
Section 345 (2.)	annual elections	three yearly elections
Section 357 (1.)	Fifty pounds	One hundred dollars
Section 357 (2.)	Ten pounds	Twenty dollars
Section 357 (3.)	Ten pounds	Twenty dollars
Section 358	Fifty pounds	One hundred dollars
Section 359 (1.)	Fifty pounds	One hundred dollars
Section 359 (2.)	Ten pounds	Twenty dollars
Section 359 (3.)	Ten pounds	Twenty dollars
Section 360	councillor	alderman
Section 360	Ten pounds	Twenty dollars
Section 362 (1.)	Two pounds	Four dollars
Section 363	Twenty pounds	Forty dollars
Section 364	Fifty pounds	One hundred dollars
Section 365	Two hundred pounds	Four hundred dollars
Section 366	Two hundred pounds	Four hundred dollars
Section 367	Two hundred pounds	Four hundred dollars
Section 368	Four hundred pounds	Eight hundred dollars
Section 368	Two hundred pounds	Four hundred dollars
Section 369	Fifty pounds	One hundred dollars
Section 370	Ten pounds	Twenty dollars
Section 371	Fifty pounds	One hundred dollars
Section 372	Twenty pounds	Forty dollars
Section 374 (1.)	Fifty pounds	One hundred dollars
Section 375 (1.)	Ten pounds	Twenty dollars
Section 376	Twenty pounds	Forty dollars
Section 377	Twenty pounds	Forty dollars
Section 378	One hundred pounds	Two hundred dollars
Section 379	Twenty pounds	Forty dollars
Section 380 (1.)	Twenty pounds	Forty dollars
Section 381	Ten pounds	Twenty dollars
Section 382 (1.)	Ten pounds	Twenty dollars
Section 383 (1.)	Ten pounds	Twenty dollars
Section 384 (1.)	Fifty pounds	One hundred dollars
Section 385	Five pounds	Ten dollars
Section 386	Twenty pounds	Forty dollars
Section 387	Twenty pounds	Forty dollars
Section 388	Five pounds	Ten dollars
Section 389	Ten pounds	Twenty dollars
Section 390	Fifty pounds	One hundred dollars
Section 391	Ten pounds	Twenty dollars
Section 393	Fifty pounds	One hundred dollars
Section 394	Fifty pounds	One hundred dollars
Section 395 (1.)	Twenty pounds	Forty dollars
Section 395 (2.)	Twenty pounds	Forty dollars
Section 396	Fifty pounds	One hundred dollars
Section 397	One hundred pounds	Two hundred dollars
Section 420 (4.)	Five pounds	Ten dollars