

LITTER ORDINANCE 1976

867

No. 51 of 1976

An Ordinance to amend the *Litter Ordinance*

[Assented to 12 November 1976]

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

1. This Ordinance may be cited as the *Litter Ordinance* 1976. Short title
2. The *Litter Ordinance* is in this Ordinance referred to as the Principal Ordinance. Principal Ordinance
3. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.* Commencement
4. Section 3 of the Principal Ordinance is amended by omitting paragraph (b) from the definition of "officer" and substituting:
" (b) employed by—
 - (i) the Northern Territory Reserves Board;
 - (ii) the Northern Territory Port Authority; or
 - (iii) the council of a municipality,for the purpose of enforcing by-laws made by that Board or Authority or the council of that municipality;" Definitions
5. Section 5 of the Principal Ordinance is amended by adding at the end the following sub-section:
" (3) No officer appointed under this section shall be empowered to issue notices under section 9A unless, on appointment by the Administrator, he is specifically authorized so to do." Offences
6. The Principal Ordinance is amended by inserting after section 9 the following section:
"9A. (1) Where an officer has reason to believe that an offence has been committed against section 6, he may serve or cause to be served a notice in accordance with this section. Notices
" (2) A notice under sub-section (1) may be served—
 - (a) by handing the notice personally to the person who appears to have committed the offence; or

* The date fixed was 17 December 1976 (see *Northern Territory Government Gazette* No. 51 of 17 December 1976, page 1497).

- (b) in a case where section 8(1) applies—
- (i) by handing it personally to the driver of the motor vehicle or boat;
 - (ii) by securely placing or affixing the notice upon the motor vehicle or boat in a conspicuous position;
 - (iii) by handing the notice personally to the owner of the motor vehicle or boat or by leaving it at his last-known place of residence or business with a person apparently over the age of 16 years and apparently an occupant of or employed at that place;
 - (iv) by sending it by prepaid post to the owner of the motor vehicle or boat addressed to him—
 - (A) at his last-known place of residence or business; or
 - (B) in the case of the owner of a motor vehicle or boat registered under a law of a State or of the Australian Capital Territory—at the latest address of the owner in the record of registration of the motor vehicle or boat; or
 - (v) where the owner of a motor vehicle or boat has furnished a statutory declaration in accordance with section 8(7)—by handing the notice personally to, or by sending it by prepaid post addressed to, the person whose name is specified in the statutory declaration as being in charge of the motor vehicle or boat at the time of the alleged offence or by leaving it at his last-known place of residence or business with a person apparently over the age of 16 years and apparently an occupant of or employed at that place.

“(3) A notice under this section shall—

- (a) clearly specify the date, time and place of the alleged offence;
- (b) if it is served—
 - (i) by being placed upon or affixed to a motor vehicle or boat—be addressed to ‘the owner’ of the motor vehicle or boat without further description of the owner; and
 - (ii) in any other manner clearly show on its face the full name, or surname and initials, and the address of the person on whom it is served;
- (c) clearly indicate the nature of the offence;
- (d) contain an indication to the person on whom it is served that, if he does not wish the matter to be dealt with by the Court, he may make a signed statement to that effect in the manner

specified in the notice and pay the amount of the prescribed penalty within the period of 14 days after the date of the notice;

- (e) clearly specify the place at which, and the manner in which, the amount of the prescribed penalty may be so paid; and
- (f) contain such other particulars, if any, as the Administrator considers necessary.

“(4) Where a notice under this section has been served and, before the expiration of the specified period of 14 days or, where the person in authority so allows, at any time before the service of a summons in respect of the alleged offence, the amount of the prescribed penalty is paid in accordance with the notice and a statement, signed by the person on whom the notice was served or by the owner of the motor vehicle, to the effect that he does not wish the matter to be dealt with by a court is received by the person in authority—

- (a) the liability of a person in respect of the alleged offence shall be deemed to be discharged;
- (b) no further proceedings shall be taken in respect of the alleged offence; and
- (c) no person shall be regarded as having been convicted for the alleged offence.

“(5) Nothing in this section—

- (a) prevents the service of more than one notice in respect of the same offence, but it is sufficient for the application of sub-section (4) to a person on whom more than one such notice has been served for that person to pay the amount of the prescribed penalty and to make the statement referred to in that sub-section in accordance with any notice so served on him;
- (b) prevents or affects (except as provided by sub-section (4)) the institution of prosecution or proceedings in respect of an alleged offence or limits the amount of the fine that may be imposed by a court in respect of an offence under this Ordinance; or
- (c) shall be construed—
 - (i) as requiring the serving of a notice before a person is prosecuted under this Ordinance; or
 - (ii) as affecting the liability of a person to be prosecuted in a court in respect of an alleged offence in relation to which a notice has not been served.

“(6) Where the amount of the prescribed penalty in respect of an offence is paid by cheque, payment is to be deemed not to be made unless and until the cheque is cleared upon presentation.

“(7) For the purposes of this section, the prescribed penalty for an offence is 20 dollars.

“(8) All moneys paid pursuant to the issue and service of a notice under this section shall—

- (a) if the notice is issued by an officer employed by the Northern Territory Reserves Board in respect of an offence which occurs in or on an area under the control of that Board—belong to that Board;
- (b) if the notice is issued by an officer employed by the Northern Territory Port Authority in respect of an offence which occurs in or on an area under the control of that authority—belong to that authority; and
- (c) if the notice is issued by an officer employed by the council of a municipality in respect of an offence which occurs in or on an area within that municipality—belong to that council;”.

“(9) For the purpose of sub-section (4), ‘the person in authority’ is the person named in the notice as being the person in authority.”.

7. The Principal Ordinance is amended by inserting after section 11 the following section:

“11A.(1) Subject to sub-section (2), where, pursuant to section 399 of the *Local Government Ordinance*, this Ordinance has been prescribed to be a prescribed law within the meaning of that section with regard to a municipality, no prosecution for a breach of this Ordinance shall be commenced except by the town clerk of that municipality, or a person authorized by him in writing.

“(2) Sub-section (1) does not apply to an area situated within a municipality which area is vested in, or under the control of, the Northern Territory Reserves Board or the Northern Territory Port Authority.

“(3) A written document purporting—

- (a) to be signed by a town clerk of a municipality; and
- (b) to be an authority in accordance with sub-section (1),

in a prosecution under this Ordinance, evidence of the authorization of the person named in the document to commence a prosecution under this Ordinance.”.