

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1986, No. 38*

The Palmerston Town 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 the twenty-sixth day of September, 1986, hereby makes the following By-laws.

AMENDMENTS OF PALMERSTON (TRAFFIC) BY-LAWS

1. INTERPRETATION

By-law 2 of the Palmerston (Traffic) By-laws is amended -

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

"'overlength vehicle' means -

- (a) a motor vehicle; or
(b) a trailer,

the length of which is greater than 6 m;" and

- (b) by omitting the definition of "traffic sign" and substituting the following:

"'traffic sign' includes:

- (a) a parking sign within the meaning of section 36D of the *Traffic Act*;
(b) a traffic sign within the meaning of that Act; and
(c) any other notice, sign or device marked, placed or erected on or at the side of a road or in a public place in the municipality, by authority of the Council, for the purpose of regulating traffic or guiding, directing or warning persons in charge of motor vehicles;"

* Notified in the *Northern Territory Government Gazette* on 10th October, 1986.

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2. PARKING FEES, &c.

By-law 6 of the Palmerston (Traffic) By-laws is amended by omitting "in the Schedule" and substituting "in the Schedule or as the Council, from time, by resolution determines".

3. RESTRICTION ON OVERWEIGHT, OVERLENGTH AND OVERWIDTH VEHICLES AND MOTOR LORRIES

By-law 19 of the Palmerston (Traffic) By-laws is amended -

- (a) by omitting from clause (1) all words after "overwidth vehicle" and substituting "or a motor lorry or class of motor lorries on a road or a part of a road as specified in the notice.";
- (b) by omitting from clause (2) "an overweight, overlength or overwidth vehicle" and substituting "a vehicle specified in the notice"; and
- (c) by omitting from clause (7) all words after "drives or parks" and substituting "a vehicle specified in a notice under clause (1) on a road or part of a road in respect of which the notice is in force is guilty of an offence."

4. REPEAL AND SUBSTITUTION

By-laws 26 and 27 of the Palmerston (Traffic) By-laws are repealed and the following substituted:

"26. REGULATORY OFFENCE

"A person who contravenes or fails to comply with these By-laws is guilty of a regulatory offence and where, under these By-laws, it is an offence to park or stop a motor vehicle for a period longer than the period indicated on a traffic sign or as otherwise prescribed under these By-laws, a person who contravenes or fails to comply with these By-laws shall be guilty of a separate regulatory offence for each period indicated or prescribed during which he contravenes or fails to comply with these By-laws.

"27. OFFENCES CONCERNING MOTOR VEHICLES

"(1) Subject to this by-law, where an offence concerning a motor vehicle is committed, the owner of the motor vehicle shall be deemed to have committed the offence.

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"(2) For the purpose of proving an offence concerning a motor vehicle, evidence that the name and address of a person -

- (a) was shown painted on or affixed to the outside of a motor vehicle; or
- (b) purporting to be the name and address of the registered owner of a motor vehicle was shown in any manner in or on that vehicle,

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

"(3) The owner of a motor vehicle shall not be deemed to have committed an offence if he was not in control of the motor vehicle at the time the offence was committed and -

- (a) not later than 14 days after the day on which he is served with a notice of infringement under by-law 27A in relation to the offence he furnishes to the clerk a statutory declaration in which he states facts which prove to the satisfaction of the clerk that -
 - (i) some other person was in control 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) he sold the motor vehicle before the offence was committed and 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) 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 of the truth of the matters of which he has made a statutory declaration under sub-clause (a).

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"27A. INFRINGEMENT NOTICE

"(1) Where these By-laws create an offence concerning a motor vehicle and an authorized officer believes that such an offence has been committed, he may -

- (a) hand to the owner of the motor vehicle or the person in apparent charge thereof a notice in writing in accordance with clause (2); or
- (b) fix such a notice in a conspicuous position on the motor vehicle.

"(2) A notice referred to in clause (1) shall -

- (a) be identified by a serial number;
- (b) be addressed to the person who is the owner of the motor vehicle or the person apparently in charge of it, by his name or, if the authorized officer does not know his name, by his designation as the owner of the motor vehicle or person apparently in charge of it identifying the motor vehicle by the number plate affixed to it or, where there is no number plate, by other sufficient description;
- (c) identify the motor vehicle concerned by the number plate affixed to it or, where there is no number plate, by other sufficient description;
- (d) allege that the owner of the motor vehicle or the person apparently in charge of it committed an offence at a time, date and place specified in the notice;
- (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 subclause (g) but to have the alleged offence prosecuted in the court of summary jurisdiction where he -
 - (i) desires to contest the question whether the offence alleged was in fact committed;
 - (ii) desires to submit to the court any matter in mitigation of penalty; or
 - (iii) elects for any other reason to have the offence prosecuted in the 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 the court of summary jurisdiction -

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- (i) complete the form attached to or written on the notice; and
- (ii) on or before a date, being a date not less than 14 days after the date on which the notice is given, and within such hours as are specified in the notice, deliver or cause it to be delivered to the clerk or an officer specified in the notice as a person authorized by the clerk to receive the form and sums by way of penalty together with the sum of -
 - (A) \$20 for any offence involving parking or standing a vehicle for longer than the prescribed time; or
 - (B) \$50 for any other offence under these By-laws; and
- (h) set out in general terms by-law 27(3).

"(3) Where an authorized officer informs the clerk that -

- (a) an offence against these By-laws concerning a motor vehicle has been committed; and
- (b) no notice has been handed to the owner of the motor vehicle or the person in apparent charge thereof or affixed to the motor vehicle in accordance with clause (1),

the clerk may give to the owner of the motor vehicle notice in writing in accordance with clause (2).

"(4) Subject to by-law 27(3), where -

- (a) in relation to an offence, notice has been given under clause (1) or (3); 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 on the complaint of the clerk or a person authorized by him to make such a complaint against the owner of the motor vehicle or any other person alleged to have committed the offence.

"(5) The signature of the clerk shall be judicially noticed for the purpose of a prosecution for an offence."

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The common seal of the Palmerston Town Council was affixed hereto on the twenty-sixth day of September, 1986 in pursuance of a resolution of the Council authorizing the seal to be so affixed, passed on the twenty-fifth day of September, 1986 1986 in the presence of

MICHAEL TING
Mayor

ROGER TEAGUE
Town Clerk
