

NORTHERN TERRITORY OF AUSTRALIA

Regulations 1983, No. 15*

By-laws under the *Local Government Act*

The Darwin City Council, in pursuance of the powers conferred upon it by the *Local Government Act* and in accordance with section 350(3) of the Act, at a meeting held on the twenty-second day of February, 1983, hereby makes the following By-laws.

DARWIN (PRIVATE SWIMMING POOL) BY-LAWS 1983

1. CITATION

These By-laws may be cited as the Darwin (Private Swimming Pool) By-laws 1983.

2. COMMENCEMENT

These By-laws shall come into effect on the 22nd day of March, 1983.

3. DEFINITIONS

In these By-laws, unless the contrary intention appears -

"fence" includes a hedge or other barrier of growing vegetation;

"private swimming pool" means a place, structure, building or excavation installed, constructed or maintained for the purpose of swimming, wading or similar activities, other than such a place, structure, building or excavation installed, constructed or maintained by the Council for use by the public;

"small child" means an infant who has not attained the age of 5 years.

* Notified in the *Northern Territory Government Gazette* on 21 March, 1983.

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4. APPLICATION

Subject to by-law 9, these By-laws apply to and in relation to every private swimming pool in the municipality of Darwin, other than a private swimming pool -

- (a) the surface of the water in which, when filled, is less than 5 square metres in area;
- (b) that cannot be filled with water to a depth greater than 300 mm; and
- (c) that is of a portable nature.

5. REGISTRATION OF PRIVATE SWIMMING POOLS

(1) Where on the commencement of these By-laws there is a private swimming pool on any land, the owner of the pool shall, within 30 days after that commencement, apply to the Council for the registration of the pool.

(2) For the purpose of clause (1), the owner of a private swimming pool means -

- (a) where the pool is so designed that it can be dismantled and reconstructed elsewhere - the occupier of the land or, where there is no person in occupation, the owner of the land; and
- (b) where the pool is not of a type referred to in sub-clause (a) - the owner of the land,

on which it is situated.

(3) Where a person proposes to install or construct a private swimming pool on land owned or occupied by him or have a private swimming pool installed or constructed for him on that land, he shall apply to the Council for the registration of the proposed pool and shall not commence or allow to be commenced that installation construction unless a certificate of registration in relation to the proposed pool has been issued under clause (5).

Penalty: \$200.

(4) An application under clause (1) or (3) shall be in writing in a form approved by the Council and shall be accompanied by a fee of \$10.

(5) Where an application is made under clause (1) or (3) to the Council and the fee referred to in clause (4) is paid, the Council shall register the private swimming pool or proposed private swimming pool and issue a certificate of registration to the applicant.

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(6) Where a certificate of registration has been issued under clause (5), the person to whom it has been issued shall give notice in writing to the Council within 30 days after -

- (a) the private swimming pool to which it relates is removed from the land on which it was or is to be situated or is dismantled;
- (b) the title to the land on which it is situated is transferred; or
- (c) where the certificate of registration was issued in respect of a proposed private swimming pool, the pool is first filled to a depth not less than 300 mm at its deepest point.

(7) A person required by this by-law to comply with clause (1), (3) or (6) who fails to so comply is guilty of an offence.

Penalty: \$200.

6. FENCING OF PRIVATE SWIMMING POOLS

(1) Subject to clause (3), the owner of a private swimming pool shall cause that pool to be enclosed by a fence, wall or building, or any combination thereof, of such a construction or nature as to provide a reasonably effective barrier against a small child gaining access to the pool.

Penalty: \$200.

(2) For the purposes of clause (1), a private swimming pool is enclosed if the whole, or the relevant part, of the land on which it is situated is enclosed as required by that sub-section.

(3) No portion of a fence, wall or building used to enclose a private swimming pool shall be less than 1.2 metres in height above the surface on which it is constructed and every gate or door that is incorporated in the fence, wall or building through which access to the pool may be gained shall be fitted with -

- (a) an efficient self-closing mechanism; and
- (b) a positive self-latching mechanism that is situated not less than 1.1 metres from the ground or floor above which it is suspended,

which shall be maintained in good working order.

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7. POWER OF ENTRY

The Council may authorize an employee of the Council to enter land on which that employee believes, on reasonable grounds, there is installed or constructed a private swimming pool and that employee may enter that land accordingly and inspect the land and private swimming pool, if any, to ensure that these By-laws are being complied with.

8. NOTICES TO FENCE

(1) Without prejudice to any proceedings which the Council may initiate in respect of a contravention of, or failure to comply with, these By-laws, the Council may -

- (a) where, in its opinion, a private swimming pool has not been enclosed in accordance with by-law 6, serve on the owner of the private swimming pool or, where the owner of the pool is not after reasonable enquiry known to the Council, the owner of the land on which it is situated a notice in writing requiring him to erect, within 30 days after service of the notice, such fencing as is necessary to ensure compliance with by-law 6; and
- (b) where a person on whom a notice under sub-clause (a) has been served fails to comply with the notice within the 30 days or such further time as the Council, in writing, allows, the Council may carry out or cause to be carried out the necessary work and for that purpose may enter upon the land with such workmen and machinery as are or is reasonably necessary and do all things reasonably necessary to be done.

(2) The costs and expenses reasonably incurred by the Council in exercising its powers under clause (1) shall be a debt due and payable to the Council by the owner of the private swimming pool or the owner of the land as the case may be.

(3) No action, civil or criminal, shall lie against the Council, an employee of the Council or a person acting with the authority of the Council in respect of a thing done or suffered to be done by it or him, in good faith, in the exercise or purported exercise of its or his powers under, or for the purposes of, this by-law.

9. EXEMPTIONS

The Council may, by resolution, declare a person or class of persons to be exempt from the requirements of these By-laws and the person or the person who is a member of a class of persons so declared, is exempted accordingly.

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The common seal of the Darwin City Council was affixed hereto on the first day of March, 1983, in pursuance of a resolution of the Council authorizing the seal to be so affixed, passed on the twenty-second day of February, 1983, in the presence of

C.A. BLACK
Mayor

G.R. STORCH
Town Clerk
