

# NATIONAL PARKS AND GARDENS ORDINANCE 1959.\*

1687

An Ordinance to provide for the Development,  
Control and Management of certain Reserves.

1 This Ordinance may be cited as the *National Parks and Gardens Ordinance 1959*.\* Short title.

2.—(1.) The *National Parks and Gardens Ordinance 1955* is repealed. Repeal and savings.

(2.) Notwithstanding the repeal effected by the last preceding sub-section—

(a) every exercise by the Administrator of a power conferred on him by the *National Parks and Gardens Ordinance 1955* shall, if the power is conferred on the Administrator by this Ordinance, be deemed to be an exercise by the Administrator of a power conferred on him by this Ordinance; and

(b) every exercise by the Northern Territory Reserves Board established by the *National Parks and Gardens Ordinance 1955* of a power conferred on it by that Ordinance shall, if the power is conferred on the Northern Territory Reserves Board continued in existence by this Ordinance, be deemed to be an exercise by the Board of a power conferred on it by this Ordinance.

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

4 In this Ordinance, unless the contrary intention appears— Definitions.

“Chairman” means Chairman of the Board;

“Deputy Chairman” means Deputy Chairman of the Board;

“member” means member of the Board, and includes the Chairman and the Deputy Chairman;

“reserve” means land committed to the care, control and management of the Board in pursuance of section thirteen of this Ordinance;

“the Board” means the Northern Territory Reserves Board continued in existence by this Ordinance.

\* No. 11, 1959; Governor-General's assent notified in *Northern Territory Government Gazette* on 10th June, 1959.

† The date fixed was 19th June, 1959.

Northern  
Territory  
Reserves  
Board.

5 The Northern Territory Reserves Board constituted immediately before the commencement of this Ordinance, under the *National Parks and Gardens Ordinance 1955*, is, by force of this section and subject to this Ordinance, continued in existence for the purposes of this Ordinance.

Incorporation  
of the Board.

6.—(1.) The Board continues to be a body corporate with perpetual succession and a common seal, and may acquire, hold and dispose of real and personal property and is capable of suing and being sued in its corporate name.

(2.) All courts, judges and persons acting judicially shall take judicial notice of the seal of the Board affixed to a document and shall presume that it was duly affixed.

Constitution of  
the Board.

7.—(1.) The Board consists of five members who shall be appointed by the Administrator by notice in the *Gazette*.

(2.) The Administrator shall appoint one of the members of the Board to be the Chairman of the Board and one other member to be the Deputy Chairman of the Board.

(3.) Subject to this Ordinance, a member of the Board—

(a) holds office for a period of three years from the date of his appointment by the Administrator; and

(b) may, by notice in writing to the Administrator, resign from office as a member of the Board.

(4.) Subject to this Ordinance, the Chairman and the Deputy Chairman—

(a) hold office as Chairman and Deputy Chairman, respectively, for a period of three years from the date of their respective appointments by the Administrator; and

(b) may, by notice in writing to the Administrator, resign from office as Chairman or Deputy Chairman, as the case may be.

(5.) A Deputy Chairman who is appointed to be Chairman ceases to be Deputy Chairman immediately before the date of his appointment as Chairman.

(6.) In the event of a member, or the Chairman or Deputy Chairman, ceasing to hold office prior to the termination of his period of appointment, another member, Chairman or Deputy Chairman, as the case requires, may be appointed in his place for the remainder of that period.

(7.) A member of the Board shall be paid a fee of Five pounds five shillings for each day on which he attends or is deemed to have attended a meeting of the Board, or is otherwise engaged at the direction of the Board on the business of the Board.

(8.) A member shall be deemed to have attended a meeting of the Board on any day upon which he is necessarily absent from the town or other place where he ordinarily resides for the purpose of attending, or as a result of having attended, a meeting, except on a day upon which he leaves that town or place after midday or returns to that town or place before midday.

(9.) Where a member is absent from his home overnight for the purpose of his attendance at a meeting of the Board or for the purpose of attending at the direction of the Board to other business of the Board, he shall—

- (a) either be paid the cost of his accommodation; or
- (b) if accommodation is not available, be provided with sustenance by the Board,

and, in addition, be paid a travelling allowance at the rate of Fifteen shillings per day.

(10.) The Board may pay such transport expenses as, in the opinion of the Board, are reasonably incurred by a member in travelling for, or as a result of, the business of the Board to and from a place at which a meeting of the Board is held or a place at which he is otherwise engaged at the direction of the Board on the business of the Board.

(11.) Fees, expenses and allowances payable under this section to members of the Board shall be paid by the Board from the funds of the Board.

8.—(1.) Subject to the next succeeding sub-section, the Board shall meet at such times and places as the Chairman or, during a vacancy in the office of Chairman or when the Chairman is absent from the Territory or unable by reason of illness or incapacity to perform his duties, the Deputy Chairman, considers necessary for the efficient conduct of its affairs but so that the period between any two successive meetings does not exceed six months.

Calling of meetings.

(2.) The Chairman or, when the Chairman is absent from the Territory or unable by reason of illness or incapacity to perform his duties, the Deputy Chairman shall, within seven days of the receipt of a written request signed by not less than two members, call a meeting of the Board.

(3.) A meeting of the Board shall be deemed not to have been duly called unless—

- (a) at least seven days' notice of the meeting has been given to each member either by telegram or in writing served personally or by post; or
- (b) at least three members, of whom one is the Chairman or the Deputy Chairman, consent to a less period of notice of the meeting.

Procedure at  
meetings.

**9 —(1.) At a meeting of the Board—**

- (a) three members, of whom one is the Chairman or the Deputy Chairman, form a quorum;
- (b) the Chairman or, in his absence, the Deputy Chairman, shall preside;
- (c) all questions shall be decided by a majority of votes of the members present; and
- (d) the Chairman or, in his absence, the Deputy Chairman has a deliberative vote and, in the event of an equality of votes, has also a casting vote.

**(2.) The Board shall keep a record of its proceedings.**

Vacation of  
office.

**10. A member of the Board shall be deemed to have vacated his office—**

- (a) if he becomes bankrupt, applies to take the benefit of a law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his salary or fees for their benefit;
- (b) if he is absent, except on leave granted by the Board, from three consecutive meetings of the Board;
- (c) if the member, or the spouse or a child of the member, becomes the holder of, or acquires, a beneficial interest in a lease of, or licence in respect of, land included in a reserve;
- (d) if the member, or the spouse or a child of the member, becomes a director of a company which is a holder of, or has a beneficial interest in, a lease of, or licence in respect of, land included in a reserve; or
- (e) if the member is of unsound mind.

Vacancy does  
not affect  
exercise of  
rights, &c.

**11. The exercise of the rights, powers, authorities and functions, or the performance of the duties and obligations, of the Board is not affected by reason only of there being a vacancy in the membership of the Board.**

Certain  
persons not  
eligible for  
membership of  
Board.

**12. A person—**

- (a) who is the holder of, or has a beneficial interest in, a lease of, or licence in respect of, land included in a reserve;
- (b) whose spouse or child is the holder of, or has a beneficial interest in, such a lease or licence;

(c) who is a director of a company which is the holder of, or has a beneficial interest in, such a lease or licence; or

(d) whose spouse or child is such a director,  
is not eligible to be appointed a member of the Board.

13.—(1.) The Administrator may, by notice in the *Gazette*, commit to the care, control and management of the Board land which has been reserved in pursuance of section one hundred and three of the *Crown Lands Ordinance* 1931-1959 for a place for the recreation or amusement of the public, a national park, a monument, a botanical garden, a zoological garden, a reserve or sanctuary for the protection of flora or fauna or for any similar purpose.

Placing of reserved land under control of Board.

(2.) Subject to this section, the Board may grant a lease of land so committed to its care, control and management.

(3.) A lease so granted shall be for a period not exceeding fifty years, but may be renewed.

14.—(1.) The Board may accept a gift, devise or bequest of any property, whether real or personal.

Power of Board to accept and control bequests and gifts.

(2.) Subject to this section and to any conditions attached to the gift, devise or bequest by which the Board obtains title to any property accepted by the Board under the last preceding sub-section, the Board may—

(a) sell any property so accepted if the property is not required for the purposes of this Ordinance and apply or invest the proceeds of the sale for the purposes of this Ordinance; or

(b) grant a lease of land comprised in property so accepted.

(3.) A lease so granted shall be for a period not exceeding fifty years, but may be renewed.

15. No succession duty shall be payable upon any property given, devised or bequeathed to the Board.

Property given, &c., to Board not subject to succession duty.

16. Subject to this Ordinance, the functions of the Board are—

Functions of the Board.

(a) in the case of land committed to its care, control and management under section thirteen of this Ordinance, to control, manage and develop the land in accordance with the purposes for which the land has been reserved;

(b) in the case of property comprised in or converted from a gift, devise or bequest accepted by the Board under section fourteen of this Ordinance,

- to control, manage and develop the property in accordance with any conditions attached to the gift, devise or bequest, or, if there are no conditions so attached, as the Board thinks fit for the purposes of this Ordinance; and
- (c) subject to the last preceding paragraph, in the case of land specified in paragraph (a) of this sub-section or included in property specified in the last preceding paragraph, to encourage and promote the public use and enjoyment of the land.

**Powers of the Board.**

**17.—**(1.) Subject to this Ordinance, the Board has such powers as are necessary or convenient for, or incidental to, the performance of its functions.

(2.) Without limiting the generality of the powers of the Board under the last preceding sub-section, the Board may, in the performance of its functions—

- (a) preserve and protect natural features of interest or beauty;
- (b) fence in or otherwise enclose, clear, level, drain, plant, and form walks and drives through and over, reserves or parts of reserves;
- (c) construct dams and reservoirs for the retention and formation of expanses of water on reserves;
- (d) establish and maintain zoological gardens on reserves;
- (e) introduce to, or remove from, reserves any flora or fauna;
- (f) permit and assist zoological and botanical research on reserves;
- (g) construct banks, drains or other works, and do all other acts and things, necessary to prevent soil erosion and damage by fire on reserves;
- (h) construct, maintain and manage, or authorize persons to construct, maintain or manage, camps, caravan parks, kiosks, refreshment rooms, hostels, hotels, places of entertainment and facilities for games or amusements on reserves for the use of the public and of youth groups approved by the Board;
- (i) grant a licence or other right to use and occupy—
  - (i) a camp, caravan park, kiosk, hostel, hotel or place of entertainment; or
  - (ii) refreshment rooms or facilities for amusement,

on a reserve or on land accepted by the Board under section fourteen of this Ordinance;

- (j) demand and receive rents, fees or charges for a licence or right granted under the last preceding paragraph; and
- (k) do any other thing calculated to improve or ornament reserves, or to adapt reserves to the purposes of public recreation, health or enjoyment.

(3.) The last preceding sub-section does not authorize the Board to do, or permit to be done, an act or thing in relation to a reserve that is inconsistent with the purpose for which the land included in the reserve has been reserved.

18.—(1.) The Board may make a recommendation to the Governor-General through the Administrator that land specified in the recommendation be reserved under section one hundred and three of the *Crown Lands Ordinance* 1931-1959 for a place for the recreation and amusement of the public, a national park, a monument, a botanical garden, a zoological garden, a reserve or sanctuary for the protection of flora or fauna or for any similar purpose.

Entry on land  
to investigate  
sites for future  
reserves.

(2.) Subject to this section, a member may, with such assistants as he thinks necessary—

- (a) enter upon any land in respect of which he thinks that the Board should give consideration to the making of a recommendation under the last preceding sub-section; and
- (b) if the land is fenced, open a fence in order to enter upon the land,

for the purpose of making such inspections, investigations and inquiries on the land as he thinks appropriate for obtaining information relevant to such consideration by the Board.

(3.) The member shall ensure that, when he leaves the vicinity of the place of entry, any fence opened under the last preceding sub-section is closed and, if broken in the entry, adequately repaired.

(4.) A member is liable for any damage he commits or causes to be committed in the exercise of the powers conferred by sub-section (2.) of this section.

(5.) A member shall not exercise, in respect of land which is occupied, the powers conferred by sub-section (2.) of this section except after giving reasonable notice by letter or telegram to the occupier of the land upon which he proposes to enter.

(6.) The letter or telegram shall be addressed to the occupier at his usual or last known place of address and shall indicate the land upon which it is proposed to enter, the position of the proposed place of entry and the time of the proposed entry; but the right of entry given by this section is not affected by reason only of the fact that entry is made at a place or time not indicated in the letter or telegram.

(7.) A member shall not enter upon the land or open a fence on the land until after the day on which the letter or telegram would ordinarily be received by the occupier.

(8.) A person shall not obstruct a member, or an assistant to whom sub-section (2.) of this section applies, in the exercise of a power conferred on the member by that sub-section.

Penalty: Five pounds for each day during which the offence continues.

(9.) This section does not apply to or in relation to land the entry upon which is prohibited by a law of the Commonwealth or so prohibited except in accordance with such a law.

Employment  
of persons by  
the Board.

19.—(1.) Subject to this section, the Board may employ such persons as it thinks necessary to assist the Board in exercising its powers and performing its functions and duties under this Ordinance.

(2.) The terms and conditions of employment (including remuneration) of persons employed under this section shall be such as are determined by the Board.

Moneys to be  
paid to the  
Board, &c.

20.—(1.) There shall be paid to the Board such sums of money as are appropriated by the Parliament, from time to time, for the purposes of the Board.

(2.) The Board may expend moneys received by it, whether pursuant to the last preceding sub-section or otherwise, for the purpose of exercising its powers and fulfilling its functions under this Ordinance.

By-laws.

21.—(1.) The Board may make by-laws, not inconsistent with this Ordinance or the regulations, for the control and management of reserves and, in particular, providing for or in relation to—

- (a) the times at which reserves shall be open and closed;
- (b) the conduct of persons when on reserves;
- (c) the days on which, and the limits within which, sports and games, or training for sports and



- games, may be permitted on reserves and otherwise regulating or prohibiting sports and games, or training for sports and games, on reserves;
- (d) the prevention or the regulation of the admission of vehicles, horses, dogs, asses, mules, goats, camels, sheep and cattle to reserves, and for their destruction if trespassing on reserves;
  - (e) the prevention or the regulation of shooting over or on reserves;
  - (f) the prevention or the regulation of the trapping of birds or animals on reserves;
  - (g) the prevention or the regulation of the destruction or removal of the eggs of birds on or from reserves;
  - (h) the control of fishing within reserves;
  - (i) the impounding or confiscation within reserves of firearms, traps, nets, snares, lines, hooks, lures, poisons, baits, enticements, cages and other articles capable of being used, in contravention of the by-laws, for luring, holding, taking or destroying animals, birds, reptiles or fish;
  - (j) the prevention or the regulation of racing, or training for racing, with horses or dogs on reserves;
  - (k) the prohibition or the regulation of the sale or exposal for sale of goods, wares or merchandise on reserves;
  - (l) the prevention of damage or injury to, or destruction of, trees, shrubs, plants and flowers on reserves;
  - (m) the prevention of damage or injury to, or destruction or defacement of, buildings, structures or erections or natural features on reserves;
  - (n) the prevention of nuisances on reserves and of the fouling of water on reserves;
  - (o) the charging of fees by the Board, and for regulating the charging of fees by other persons, for admission to reserves, or any part of a reserve;
  - (p) the authorization of persons to demand the names and places of abode of persons who are believed on reasonable grounds to have contravened or failed to comply with a by-law, and requiring persons to comply with such a demand made by a person so authorized;

- (q) the removal from reserves of persons who are believed on reasonable grounds to have contravened or failed to comply with a by-law; and
- (r) the imposition of penalties, not exceeding Fifty pounds, for the contravention of, or failure to comply with, a by-law.

(2.) In this section, "reserve" includes land accepted, or otherwise acquired, and held by the Board in pursuance of the powers conferred by section fourteen of this Ordinance.

By-laws to be signed, notified and laid before Legislative Council.

22.—(1.) When the Board makes by-laws under the last preceding section—

(a) the by-laws shall be—

- (i) signed by the Chairman, or, if the Chairman is not present at the meeting of the Board at which the by-laws are made, by the Deputy Chairman; and
- (ii) notified in the *Gazette*; and

(b) a copy of the by-laws shall be forwarded forthwith to the Administrator.

(2.) The Administrator shall cause the copy so forwarded to be laid before the Legislative Council for the Territory at its first meeting after the date on which he receives the copy.

(3.) By-laws made under this Ordinance take effect from the date on which they are notified in the *Gazette*, but if the Legislative Council passes a resolution, of which notice has been given at any time within fifteen sitting days after the copy specified in the last preceding sub-section is laid before the Council, disallowing any by-law, that by-law shall thereupon cease to have effect.

(4.) For the purposes of the *Regulations Publication Ordinance* 1940-1952, all by-laws made by the Board shall be deemed to be regulations.

Inconsistency betw en by-laws and other law.

23. Subject to this Ordinance, the laws of the Northern Territory in existence immediately before the commencement of this Ordinance apply to and in relation to matters in respect of which the Board may make by-laws, but where the Board makes a by-law, which is in force, pursuant to and in accordance with this Ordinance, and there is an inconsistency between the provisions of that by-law and those laws, the provisions of the by-law prevail.

Offender may be ordered to pay for damage he does.

24. Where a person is convicted of an offence against this Ordinance, the Court before which the person is convicted may, in addition to imposing a penalty, order the person to pay the

amount of any damage, or the cost of restoring, removing or repairing any damage, done by him in committing the offence, and the amount so ordered to be paid shall be recoverable as if it were part of the penalty so imposed, notwithstanding that the total amount of the penalty and damage, or the cost of restoring, removing, or repairing any damage, exceeds the maximum penalty which may be imposed.

**25** The Board shall keep accounts of all moneys received and expended by the Board. Board to keep accounts.

**26.** The accounts of the Board are subject to audit by the Auditor-General for the Commonwealth. Audit.

**27** The Board shall, as soon as practicable after the thirtieth day of June in each year, prepare and forward to the Administrator for laying before the Legislative Council a report on the operations of the Board during the year ending on that date, together with financial accounts, including statements as to receipts and expenditure and as to assets and liabilities, in respect of that year. Board to furnish report.

**28.** Notwithstanding anything contained in any other law of the Territory, a lease of, or licence in respect of, land included in a reserve or other land accepted, or otherwise acquired, and held by the Board in pursuance of the powers conferred by section fourteen of this Ordinance, shall not be granted under any such other law, unless the Board, after such enquiry as it thinks fit, recommends that the lease or licence be granted. Restriction of grant of leases, &c., of land in reserves.

**29.—(1.)** A prosecution for a contravention of, or failure to comply with a provision of, a by-law may be instituted in a court of summary jurisdiction by a person authorized for that purpose, either generally or in a particular case, by the Board. Prosecutions and averments.

**(2.)** In a prosecution for a contravention of, or failure to comply with, a provision of this Ordinance or a by-law, an averment of the prosecutor contained in the complaint is evidence of the matter averred.

**(3.)** This section applies to a matter so averred although—

**(a)** evidence in support or rebuttal of the matter averred or of any other matter is given; or

**(b)** the matter averred is a mixed question of law and fact,

but where the matter averred is a mixed question of law and fact, the averment is evidence of the fact only.

**(4.)** Evidence given in support or rebuttal of the matter so averred shall be considered on its merits and the credibility and probative value of that evidence shall be neither increased nor diminished by reason of this section.

(5.) This section does not apply to an averment of the intention of the defendant.

(6.) This section does not lessen or affect any burden of proof otherwise falling on the defendant.

Restriction on  
use of  
averments.

**30.**—(1.) An averment shall not be made under this section unless the Crown Law Officer is satisfied that the averment is reasonably necessary for the administration of justice and will not impose hardship upon, or occasion injustice to, the defendant, and certifies in writing to that effect on the complaint, or on a separate certificate referring to the complaint.

(2.) An averment is not evidence for the purposes of the last preceding section unless a copy of the paper containing the averment has been served on the defendant in the same manner as the process requiring his attendance before the Court.

(3.) Service of the copy of the paper containing the averment may be proved in the same manner as the service of the process requiring the attendance of the defendant before the Court.

(4.) Upon the hearing of a complaint in respect of an offence against a provision of this Ordinance or a by-law, the court may, if the amendments can be made without hardship or injustice to the defendant, allow such amendments to be made in the writing containing an averment as appear to the court to be necessary or desirable to enable the real question in dispute to be determined.

(5.) Where the court considers that a defendant has been misled by the form of an averment, it may refuse to allow an amendment of the averment or may adjourn the hearing of the case for such period as it thinks fit.

(6.) Upon an adjournment under the last preceding subsection, the court may make such order as to the costs of the adjournment as it thinks fit.

Regulations.

**31.** The Administrator may make regulations, not inconsistent with this Ordinance, prescribing all matters which by this Ordinance are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance.

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