

**LOCAL GOVERNMENT (FURTHER AMEND-
MENT) ACT.**

New South Wales



ANNO UNDEVICESIMO

ELIZABETHÆ II REGINÆ

Act No. 42, 1970.

An Act to prohibit the depositing of litter on public places and public reserves; to confer on certain persons the right to object to the carrying out of certain development; for these and other purposes to amend the Local Government Act, 1919; and for purposes connected therewith. [Assented to, 30th September, 1970.]

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No. 42, 1970 **B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title. **1.** This Act may be cited as the "Local Government (Further Amendment) Act, 1970".

Amendment of Act No. 41, 1919. **2.** The Local Government Act, 1919, is amended—

Sec. 249C. (Broken bottles, etc.) (a) by inserting at the end of section 249C the following new subsection:—

(3) A person who contravenes any of the provisions of this section is guilty of an offence under this Act and liable to a penalty not exceeding three hundred dollars.

Sec. 278. (Application.) (b) by omitting from subsection two of section two hundred and seventy-eight the word "This" and by inserting in lieu thereof the words "Except as expressly provided by this Part, this";

New Division 5A of Part X. (c) by inserting next after Division 5 of Part X the following new Division:—

DIVISION 5A.—Depositing Litter Prohibited.

Interpretation. 289A. (1) In this Division—

"authorised person" means—

(a) a servant appointed by the council to be an authorised person for the purposes of this Division;

(b) a special constable appointed under Part IV of the Police Offences Act, 1901, whose employer is the Crown,

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a statutory body representing the No. 42, 1970
 Crown or the Forestry Commission
 of New South Wales; and

(c) a member of the police force;

“litter” includes any kind of rubbish, refuse, or garbage and any article or matter that when left, deposited, dropped or thrown, or caused to be deposited, left, dropped or thrown, on or on to a public place or public reserve causes, contributes to, or tends to lead to the defacement or defilement of that public place or public reserve;

“public place” includes a State forest or a flora reserve within the meaning of the Forestry Act, 1916, a national park, state park, historic site or aboriginal area within the meaning of the National Parks and Wildlife Act, 1967, and a nature reserve within the meaning of the Fauna Protection Act, 1948.

(2) A reference in this Division to depositing litter on any place includes a reference to leaving, dropping or throwing litter on or on to that place.

(3) A reference—

(a) in section six hundred and thirty-five of this Act to a servant of the council includes a reference to an authorised person referred to in paragraph (b) of the definition of “authorised person” in subsection one of this section;

(b) in section six hundred and forty of this Act—

(i) to the council is, in relation to proceedings instituted or commenced by or under the direction or

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on behalf or for the benefit of the employer of such an authorised person, a reference to that employer; and

(ii) to the appropriate fund is, in relation to any such proceedings, a reference to such fund in the accounts of the employer as he thinks fit; and

(c) in subsection one of section six hundred and forty-four of this Act to a servant of the council who finds a person committing an offence under this Act includes a reference to such an authorised person who finds a person committing an offence under this Division or any ordinance made for the purposes of this Division; and

(d) in paragraph (b) of that subsection to the council is, where such an authorised person finds a person committing such an offence, a reference to the employer of that authorised person.

Littering
prohibited.

289B. (1) A person shall not deposit any litter on a public place or public reserve.

(2) Subsection one of this section does not operate to prohibit a person—

(a) from depositing litter in any receptacle provided for the depositing of litter in a public place or public reserve;

(b) from placing a receptacle containing litter on a public place or public reserve for the purpose of its being removed in the course of a service for the removal of litter provided by, or with the approval of, the council;

(c)

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- (c) from depositing litter on a public place or public reserve in accordance with an invitation contained in a notification published by the council notifying that it will remove the litter and with any conditions specified in the notification;
- (d) from depositing litter on a public place or public reserve with the consent of the person in whom the public place or public reserve is vested or who has the care, control or management of the public place or public reserve; or
- (e) from depositing litter on a public place or public reserve pursuant to a power conferred by or under any Act.

(3) A person who contravenes subsection one of this section is guilty of an offence under this Act and—

- (a) where no penalty is prescribed for an offence arising under this section, is liable to the penalty provided by section six hundred and thirty-three of this Act; or
- (b) where a penalty is so prescribed, is liable to a penalty not exceeding the penalty so prescribed.

(4) For the purposes of subsection three of this section, an ordinance may be made prescribing penalties, not exceeding three hundred dollars, for offences arising under this section, differing according to any one or more of the following factors :—

- (a) the kind of litter deposited;
- (b) the quantity of litter deposited;
- (c) the circumstances in which litter is deposited;

(d)

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- (d) the place where litter is deposited; or
- (e) such other factors as may be specified in the ordinance.

Penalty notices for littering.

289c. (1) Where it appears to an authorised person—

- (a) that another person has committed an offence under section 289B of this Act; and
- (b) that, having regard to the kind and quantity of the litter deposited, and the place where and the circumstances in which it was deposited, it is proper for a notice to be served on that other person under this subsection,

the authorised person may serve a notice on that other person to the effect that if that other person does not desire to have the matter determined by a court, that other person may pay to a person (in this section referred to as “the collector”), being a servant or employee of the employer of the authorised person, specified in the notice, at a place and within a time so specified, an amount of penalty prescribed for the offence if dealt with under this section and so specified.

(2) Any notice under subsection one of this section may be served personally or by post.

(3) Any person served with a notice under subsection one of this section—

- (a) shall have the right to decline to be dealt with under this section; and
- (b) shall be deemed to have declined to be so dealt with if he fails to pay the amount of penalty specified in the notice to the collector so specified within the time so specified

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specified or within such further time as No. 42, 1970 may in any particular case be allowed, either before or after the expiration of that specified time, by that collector.

(4) Where the amount of any prescribed penalty for an alleged offence is paid pursuant to this section, no person shall be liable for any further proceedings under section 289B of this Act for the alleged offence.

(5) Payment of a penalty pursuant to this section shall not be regarded as an admission of liability for the purpose of any action or proceeding, or in any way affect or prejudice any civil claim, action or proceeding arising out of the same occurrence.

289D. (1) The court by whom a person is convicted of any offence arising under this Division, may, in addition to imposing a penalty for the offence, make an order, upon application made by the informant, ordering the person convicted to pay to the council, to the Crown, to the statutory body representing the Crown, or to the Forestry Commission of New South Wales, as the case may be, by whom or under whose direction or on whose behalf or for whose benefit the prosecution for the offence was instituted or commenced, the expenses incurred in removing the litter the subject of the charge. Additional powers of courts.

(2) Any such order shall operate as an order for the payment of money under the Small Debts Recovery Act, 1912, and be enforceable as such an order under the provisions of that Act.

(3) For the purpose of enforcing any such order, the order may be entered in the records of the Small Debts Court exercising jurisdiction at the place where the order was made in such

manner

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 manner as may be prescribed by rules made under the Small Debts Recovery Act, 1912.

Sec. 303.
 (Ordinances.) (d) by inserting at the end of subsection one of section three hundred and three the following new paragraph :—

(r) prescribing the amount (not exceeding twenty-five dollars) of the penalty to be specified in a notice served under section 289c of this Act;

Sec. 644.
 (Demanding name of offender.) (e) by inserting in subsection one of section six hundred and forty-four after the words “of this Act” the words “or in respect of any offence under Division 5A of Part X of this Act or any ordinance made for the purposes of that Division”.

Further amendment of Act No. 41, 1919.
 New Division 7A of Part XIIA.
 3. The Local Government Act, 1919, is further amended by inserting next after Division 7 of Part XIIA the following new Division :—

DIVISION 7A.—Objections to certain development.

Objections to residential flat buildings and certain other development.

342ZA. (1) Notwithstanding any other provision of this Act, where an application is made under a prescribed scheme or an interim development order within the meaning of Division 7 of this Part for the consent of the responsible authority or the council to the carrying out on any land of development, being the erection of a residential flat building within the meaning of Part XI of this Act, or being development of such other kind as may be proclaimed for the purposes of this section, the responsible authority or the council, as the case may be, shall—

(a) serve written notice of the application on such persons as appear to it to own the land adjoining that land, and on such other persons as appear to it to own land the enjoyment of which, in the opinion of the responsible authority or the council,

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council, as the case may be, may be detrimentally affected if the development the subject of the application is carried out; No. 42, 1970

- (b) cause notice, in such form as may be prescribed, to be exhibited in the prescribed manner on the land to which the application relates; and
- (c) after doing so, cause notice of such application to be published in a newspaper circulating in the area in which the land is situated.

(2) Without limiting the generality of paragraph (a) of subsection one of this section land adjoins other land if it is a lot, within the meaning of the Conveyancing (Strata Titles) Act, 1961, shown on a strata plan the land comprised in which adjoins that other land.

(3) A notice referred to in subsection one of this section shall contain a statement to the effect that the application referred to in the notice, and any plans and specifications relating to the development to which the application refers and in the custody of or the responsible authority or the council may be inspected at the office of the responsible authority or the council, as the case may be, at any time during the hours specified in the notice, being the business hours of the responsible authority or of the council, for a period of twenty-one days from the day on which notice of the application is published in the newspaper in accordance with paragraph (c) of that subsection.

(4) The responsible authority or the council, as the case may be, during the period referred to in subsection three of this section shall permit any person to inspect the application and any plans and specifications relating to the development referred to in the notice and in the custody of the responsible authority or the council and to make extracts or copies therefrom.

(5) At any time within the period during which an application may be inspected under subsection four of this section, objection to the granting of the application

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application may be made in writing to the responsible authority or the council by any person (in this section referred to as an "objector")—

- (a) on whom the notice of the application has been served in accordance with paragraph (a) of subsection one of this section; or
- (b) who owns land and who contends that his enjoyment of the land will be detrimentally affected if the development the subject of the application is carried out.

(6) The responsible authority or the council to which any such application has been made—

- (a) shall not deal with the application until after the expiration of the period during which an objection to the granting of the application may be made under subsection five of this section;
- (b) shall, where it deals with the application after the expiration of that period, in doing so consider any objection to the granting of the application so made and forthwith after dealing with the application notify, in writing, any objector of its decision on the application; and
- (c) shall, where it does not so deal with the application and the applicant is entitled to have his application dealt with on appeal or the application is deemed to have been refused, notify, in writing, any objector of the fact that the applicant is entitled to have his application so dealt with or that the application is deemed to have been refused.

(7) On an appeal under this Part relating to any application referred to in subsection one of this section any objector to the granting of the application may apply for and be granted leave to appear and be heard as if he were a party to the appeal.