



Western Australia

Aboriginal Communities Act 1979

**Ngaanyatjarra Council (Aboriginal
Corporation) By-laws**

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Western Australia

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at 3 December 2004

Aboriginal Communities Act 1979

Ngaanyatjarra Council (Aboriginal Corporation) By-laws

Part A — General

1. Citation

These by-laws shall be called the *Ngaanyatjarra Council (Aboriginal Corporation) By-laws* and shall come into operation when approved by the Governor and published in the *Government Gazette*¹.

2. Interpretation

In these by-laws —

Act means the *Aboriginal Communities Act 1979*.

Community means Ngaanyatjarra Council (Aboriginal Corporation).

Community Land means that land from time to time declared by the Governor under section 6 of the Act to be the community lands of Ngaanyatjarra Council (Aboriginal Corporation).

Member of the Community means a member for the time being of the Ngaanyatjarra Council (Aboriginal Corporation). Whether a person is or is not a member for the time being of Ngaanyatjarra Council (Aboriginal Corporation) is a question of

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fact to be determined according to the customs of Ngaanyatjarra Council (Aboriginal Corporation).

Committee means the Governing Committee of the Community.

liquor means liquor as defined in the *Liquor Licensing Act 1988*.

deleterious substance means glue or any volatile liquid containing hydrocarbons.

Road means the Warburton-Giles Road and includes such parts of the Laverton-Warburton Road and Giles-Docker River Road as lie within the Community Land.

These by-laws shall apply —

- (a) on all Community Land; and
- (b) to all persons on Community Land.

Part B — Land

3. Entry onto Community Land

- (1) Except as provided in any Act or regulation to the contrary, no person other than a Member of the Community shall come onto or remain on Community Land without the prior permission of the Committee which may, in its discretion, grant permission subject to such terms and conditions and restrictions as it sees fit, or refuse permission.
- (2) The permission referred to in paragraph (1) shall be given in writing and may be revoked by the Committee at any time.

4. Unauthorised entry an offence

Except as provided in any Act or regulation to the contrary, any person who comes onto Community Land without permission of the Committee or who, having been given permission on terms and conditions to come onto Community Land, breaks a term or condition of that permission commits an offence.

5. Signs regulating entry

Subject to the provision of any Act or regulation to the contrary —

- (a) the Committee may place signs on Community Land for the purpose of prohibiting entry to the part of the land on which the sign is placed or to such part of the Community Land indicated by the inscription on the sign;
- (b) an inscription on such a sign operates and has effect according to its tenor and any person who fails to obey the directions on the inscription on such a sign commits an offence.

Part C — Liquor

6. Bringing of liquor onto Community Land

- (1) Subject to this Part, no person shall bring liquor onto Community Land without permission of the Committee.
- (2) The Committee may, in its discretion and subject to such terms, conditions and restrictions as it sees fit, permit any person to bring, possess, use or supply liquor on Community Land.
- (3) In exercising its discretion under paragraph (2), the Committee shall have regard to the welfare of the Community as the paramount consideration.
- (4) The permission referred to in paragraph (2) shall be given in writing and may be revoked by the Committee at any time.

7. Unauthorised possession of liquor an offence

Any person who brings possesses or uses liquor on Community Land without the permission of the Committee, or who supplies it to others on Community Land without the permission of the Committee, or who, having been given permission in relation thereto subject to terms and conditions, breaks such terms or conditions commits an offence.

8. Liquor permitted for religious or medicinal purposes

- (1) It shall not be an offence under clause 7 where a person brings, possesses, uses or supplies liquor on Community Land —
 - (a) for the purpose of a sacramental or other like observance in the course of constituting part of any religious service; or
 - (b) as a medicine or for specific medical purposes and that liquor has been duly prescribed or administered by or pursuant to a direction of a legally qualified medical practitioner, registered nurse or a registered pharmaceutical chemist.

- (2) It shall not be an offence under clause 7 where a person who is travelling through the Community Land on the Road has liquor in his or her possession or under his or her control for the purpose only of transporting the liquor to a destination outside the Community Land.
- (3) In any proceedings for an offence under clause 7 the onus of establishing a purpose of a nature referred to in this clause shall be on the accused.

Part D — Deleterious substance

9. Possession of deleterious substances an offence

A person shall not be in possession of a deleterious substance on Community Land for the purpose of inhalation.

10. Sale or supply of deleterious substance

A person shall not sell or supply a deleterious substance to another person on Community Land if there are reasonable grounds for suspecting that the other person —

- (a) intends to use the deleterious substance for the purpose of inhalation; or
- (b) intends to sell or supply the deleterious substance for the purpose of inhalation.

Part E — Confiscation and proceedings

11. Liquor etc. may be confiscated

- (1) Any liquor brought onto any part of the Community Land by any person contrary to clause 7 is liable to confiscation.
- (2) A member of the police force may —
 - (a) seize any liquor and any receptacle containing such liquor that he or she reasonably suspects to be liable to confiscation under these by-laws;
 - (b) if he or she has a reasonable suspicion the liquor is kept on any premises or vehicle in contravention of these by-laws, enter and search those premises or that vehicle using such force as is reasonably necessary for the purpose;
 - (c) stop any vehicle for the purpose of carrying out a search in pursuance of subparagraph (b);
 - (d) upon confiscating any liquor, decant or dispose of the contents of any receptacle containing such liquor if he or she is of the opinion that such action is necessary or conducive to the preservation of good order on the Community Land or the prevention of any offence under these by-laws or under any law of the State of Western Australia;
 - (e) subject to subparagraph (d), keep any confiscated liquor in his or her custody or control for such period of time as may be necessary in the interests of the administration of justice;
 - (f) confiscate and dispose of any deleterious substance that he or she reasonably suspects is to be used or has been used for the purpose of inhalation and any container that contains or has contained such deleterious substance.

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12. Powers of police

A member of the police force may —

- (a) take proceedings against any person for a breach of these by-laws;
- (b) where any person has committed or is committing an offence against these by-laws and it appears likely that injury to persons (including injury to the person committing the offence) or damage to property will be caused by that person, apprehend that person and may remove that person from Community Land.

13. Proceedings to be taken under *Justices Act 1902*

Subject to the *Child Welfare Act 1947*, proceedings for an offence against a by-law shall be commenced by way of complaint and summons under and in accordance with the *Justices Act 1902* and shall be commenced within 6 months after the offence was committed.

14. Offence and penalty

- (1) Any person who breaks these by-laws is guilty of an offence and is liable to a fine of not more than the maximum provided for from time to time in the Act.
- (2) In addition to the penalties provided under paragraph (1), the Court may order any person convicted of an offence under these by-laws to pay compensation to the Community or other body corporate or person where, in the course of committing the offence, the person convicted has caused damage to property of the Community or of that other body corporate or person, but no compensation so ordered to be paid shall exceed the maximum provided for from time to time in the Act.

[By-law 14 amended: Gazette 14 May 2004 p. 1456.]

Notes

- ¹ This reprint is a compilation as at 3 December 2004 of the *Ngaanyatjarra Council (Aboriginal Corporation) By-laws* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Ngaanyatjarra Council (Aboriginal Corporation) By-laws</i>	28 Jul 1989 p. 2317-18	28 Jul 1989 (see bl. 1)
<i>Sentencing Legislation (Short Sentences - Aboriginal Community By-Laws) Amendment Regulations 2004</i> r. 15	14 May 2004 p. 1451-8	15 May 2004 (see r. 2 and <i>Gazette</i> 14 May 2004 p. 1445)
Reprint 1: The Ngaanyatjarra Council (Aboriginal Corporation) By-laws as at 3 Dec 2004 (includes amendments listed above)		

Defined terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined term	Provision(s)
Act	2
Committee.....	2
Community	2
Community Land	2
deleterious substance	2
liquor.....	2
Member of the Community.....	2
Road.....	2