

Western Australia

Aboriginal Communities Act 1979

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Aboriginal Communities Act 1979

An Act to assist certain Aboriginal communities to manage and control their community lands and for related purposes.

1. Short title

This Act may be cited as the *Aboriginal Communities Act 1979*¹.

2. Commencement

This Act shall come into operation on a date to be fixed by proclamation¹.

3. Interpretation

In this Act —

Aboriginal community means a community or association wholly or principally composed of persons who are of Aboriginal descent within the meaning of the *Aboriginal Affairs Planning Authority Act 1972*;

section means section of this Act;

the council in relation to a community means the council of management or other governing body of that community.

4. Communities to which Act applies

(1) Subject to section 5, this Act applies to —

- (a) the Aboriginal communities incorporated as the Bidyadanga Aboriginal Community La Grange Incorporated and the Bardi Aborigines Association Inc.;
- and

s. 5

- (b) any incorporated Aboriginal community that the Governor, on the advice of the Minister, declares by proclamation to be a community to which this Act applies.
- (2) The Minister may advise the Governor to make a declaration under subsection (1)(b) in relation to an Aboriginal community if the Minister is of the opinion —
 - (a) that there are provisions in the constitution or rules of the community under which the council of the community will have to consult with the members of the community and take proper account of their views before making, amending or revoking by-laws pursuant to this Act;
 - (b) that the provisions mentioned in paragraph (a) will be complied with by the council of the community; and
 - (c) that in all other respects the community is one to which the application of this Act would be appropriate.

5. Governor may declare that Act no longer applies to a community

- (1) Notwithstanding section 4, this Act shall cease to apply to a community if the Governor, on the advice of the Minister, declares by proclamation that the community is no longer a community to which this Act applies.
- (2) The Minister may advise the Governor to make a declaration under subsection (1) in relation to a community if the Minister is of the opinion —
 - (a) that neither the constitution nor the rules of the community contain provisions under which the council of the community has to consult with the members of the community and take proper account of their views before making, amending or revoking by-laws pursuant to this Act;
 - (b) that provisions of the kind mentioned in paragraph (a) contained in the constitution or rules of the community are not being satisfactorily complied with by the council of the community; or

- (c) that, for any other reason, the application of this Act to the community is no longer appropriate.
- (3) Upon the making of a declaration under subsection (1) in relation to a community any by-laws made by the community under this Act shall, by force of that declaration, be revoked.

6. Community lands

- (1) For the purposes of this Act the community lands of a community to which this Act applies shall be the lands declared by the Governor by proclamation to be the community lands of that community.
- (2) The Governor may by subsequent proclamation amend a proclamation made under subsection (1) by altering a description of community lands contained in that proclamation for either or both of the following purposes, that is to say —
 - (a) adding any lands to or excising any lands from those community lands; or
 - (b) redescribing those community lands in a more precise or more informative manner.

7. By-laws

- (1) The council of a community to which this Act applies may make by-laws relating to the community lands of the community for or with respect to —
 - (a) the prohibition or regulation of the admission of persons, vehicles, and animals to the community lands or a part of the community lands;
 - (b) the prohibition or regulation of the use of vehicles on the community lands, including provisions as to speed, manner of driving, class of vehicles, routes, entrances and exits, one-way traffic, noise, parking or standing, the removal of vehicles by a person authorised under the by-laws, and for the control of traffic generally;

- (c) the prevention of damage to or interference with the grounds of the community lands and the trees, shrubs, bushes, flowers, gardens and lawns on or in those lands;
 - (d) the use, safety and preservation of buildings, structures, erections, fixtures, fittings and chattels on the community lands;
 - (e) the regulation of the conduct of meetings and the interruption of meetings by noise, unseemly behaviour or other means;
 - (f) the prohibition of nuisances, or any offensive, indecent or improper act, or disorderly conduct, language or behaviour;
 - (g) the prohibition, restriction or regulation of the possession, use or supply of alcoholic liquor or deleterious substances;
 - (h) the prohibition or regulation of the possession or use of firearms or other offensive weapons or of dangerous materials;
 - (i) the depositing of rubbish and the leaving of litter on community lands;
 - (j) the prohibition of the obstruction of any person acting in the execution of his duty under the by-laws or in the exercise and enjoyment by him of any lawful activity on the community lands;
 - (k) the prescribing of any other matter that it is necessary or convenient to prescribe for the purpose of securing decency, order and good conduct on the community lands.
- (2) By-laws made by the council of a community under subsection (1) —
- (a) may empower a member of the police force —
 - (i) to apprehend any persons guilty of a breach of any by-law and to remove such a person from the community lands;

- (ii) to remove any vehicle, animal or other thing from the community lands;
 - (iii) to request the name and address of any other person who, in the reasonable belief of the member of the police force, is on the community lands in breach of any by-law or has committed a breach of a by-law;
 - (iv) to take proceedings for any breach of a by-law; and
 - (v) generally to enforce the provisions of the by-laws;
- (b) may be limited in their application to time, place or circumstance;
 - (c) may provide that any act or thing shall be done subject to the approval or to the satisfaction of the council or a specified person or class of persons and may confer a discretionary authority on the council or a specified person or class of persons;
 - (d) may impose as the penalty for a breach of a by-law a fine not exceeding \$5 000;
 - (e) may empower a court to order a person to pay compensation not exceeding \$250 to the community or another person where the court has convicted him under the by-laws of an offence and, in the course of committing that offence, he has caused damage to property of the community or that other person.
- (3) Nothing in this Act affects the power of a community or its council to make other by-laws, rules or regulations under and in accordance with the constitution of the community.

[Section 7 amended by No. 78 of 1995 s. 147.]

8. Procedure for making by-laws

- (1) The provisions of the *Interpretation Act 1918*² apply in respect of by-laws made, and the making of by-laws, under this Act.

- (2) By-laws shall be made by resolution passed by an absolute majority of all the persons for the time being holding office as members of the council of a community and, when so made, shall be —
 - (a) sealed with the common seal of the community;
 - (b) delivered to the Minister.
- (3) If the Minister is satisfied that the by-laws are necessary and desirable he shall submit them to the Governor for his approval.
- (4) If the Governor approves of the by-laws the Minister shall cause them to be published in the *Government Gazette* and to be laid before both Houses of Parliament as required by section 36 of the *Interpretation Act 1918*².
- (5) The production of a copy of a by-law under the official seal of a community, or of a copy of the *Government Gazette* purporting to contain a reprint or copy of a by-law, shall in all proceedings be sufficient evidence of the by-law.

9. Application of by-laws

- (1) By-laws made by the council of a community apply only within the boundaries of the community lands of the community but apply to all persons within those boundaries whether members of the community or not.
- (2) In proceedings for any contravention of a by-law made by the council of a community the allegation in the charge that any place was within the boundaries of the community lands of the community shall be sufficient evidence of the fact alleged in the absence of proof to the contrary.

[Section 9 amended by No. 84 of 2004 s. 80.]

10. Limitation period for prosecutions

A prosecution for an offence against a by-law must be commenced within 6 months after the date on which the offence was allegedly committed.

[Section 10 inserted by No. 84 of 2004 s. 80.]

[11. Deleted by No. 59 of 2004 s. 141.]

12. Appropriation of fines

All pecuniary penalties recovered in respect of any breach of a by-law made by the council of a community shall, be appropriated and paid to the council for the use of the community.

[Section 12 amended by No. 78 of 1995 s. 3.]

13. Effect of by-laws in relation to other laws

- (1) No by-law takes away or restricts any liability, civil or criminal, arising under any other statutory provision or at common law.
- (2) No by-law shall render unlawful any act done by a person lawfully acting in pursuance of a power, duty or function conferred or imposed by or under any other statutory provision or in the exercise of any right conferred by or under any other statutory provision.
- (3) In this section *statutory provision* means a provision of any other Act or of a regulation, by-law or rule in force under any other Act.

Notes

- ¹ This is a compilation of the *Aboriginal Communities Act 1979* 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

Short title	Number and year	Assent	Commencement
<i>Aboriginal Communities Act 1979</i>	8 of 1979	17 May 1979	15 Feb 1980 (see s. 2 and <i>Gazette</i> 15 Feb 1980 p. 456)
<i>Sentencing (Consequential Provisions) Act 1995 Pt. 2 and s. 147</i>	78 of 1995	16 Jan 1996	4 Nov 1996 (see s. 2 and <i>Gazette</i> 25 Oct 1996 p. 5632)
<i>Statutes (Repeals and Minor Amendments) Act 1997 s. 15</i>	57 of 1997	15 Dec 1997	15 Dec 1997 (see s. 2(1))
Reprint 1: The <i>Aboriginal Communities Act 1979</i> as at 7 Mar 2003 (includes amendments listed above)			
<i>Courts Legislation Amendment and Repeal Act 2004 s. 141</i>	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004 s. 80</i>	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))

- ² Repealed by the *Interpretation Act 1984*.