



Australian Capital Territory

# **Protection of Lands Act 1937**

**A1937-33**

**Republication No 5**

**Effective: 9 December 1998 – 29 February 2000**

Republication date: 19 July 2012

Last amendment made by A1998-54

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Protection of Lands Act 1937* effective 9 December 1998 to 29 February 2000.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.
- The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation (Republication) Act 1996*, part 3, division 2 authorised the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation (Republication) Act 1996*, s 14 and s 16). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.



## Australian Capital Territory

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# PROTECTION OF LANDS ACT 1937

This consolidation has been prepared by the ACT Parliamentary Counsel's Office

Updated as at 9 December 1998

### TABLE OF PROVISIONS

#### Section

- |      |  |
|------|--|
| 1.   | Short title  |
| 2.   | Interpretation                                     |
| 2AA. | Position of Crown                                  |
| 2A.  | Application  |
| 2B.  | Protection of Lands Officer                        |
| 3.   | Sand, gravel etc. not to be taken without permit   |
| 4.   | Power to grant permits                             |
| 5.   | Terms and conditions of permits                    |
| 6.   | Fees for permits                                   |
| 6A.  | Sand and gravel pits                               |
| 7.   | Substances etc. not to be placed on lands          |
| 8.   | Excavations or obstructions on lands to be lighted |



Australian Capital Territory

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## PROTECTION OF LANDS ACT 1937

An Act to provide for the protection of Territory Land

**1. Short title**

This Act may be cited as the *Protection of Lands Act 1937*.<sup>1</sup>

**2. Interpretation**

In this Act, unless the contrary intention appears—

“carriageway”, in relation to a public street, includes the gutter, if any, of the public street;

“lands” means Territory Land;

“Motor Traffic Act” means the *Motor Traffic Act 1936*;

“off-street parking area” has the same meaning as in the Motor Traffic Act;

“permit” means a permit issued under this Act;

“Protection of Lands Officer” means a Protection of Lands Officer under section 2B;

“public street” has the same meaning as in the Motor Traffic Act;

“retention area” means an area declared under section 9 to be a retention area;

“vehicle” has the same meaning as in the Motor Traffic Act.

**2AA. Position of Crown**

The following provisions do not bind the Territory Crown:

Subsections 3 (1), 6A (3) and 7 (1).

**2A. Application**

This Act does not apply to or in relation to any lands placed under the control of the Commissioner for Housing for the Australian Capital Territory pursuant to the *Housing Assistance Act 1987*.

**2B. Protection of Lands Officer**

- (1) There shall be 1 or more Protection of Lands Officers.
- (2) The Chief Executive shall create and maintain 1 or more offices in the Government Service the duties of which include performing the functions of a Protection of Lands Officer.
- (3) A Protection of Lands Officer shall be any public servant for the time being performing the duties of a Government Service office referred to in subsection (2).

**3. Sand, gravel etc. not to be taken without permit**

- (1) A person shall not, without a permit in that behalf issued under this Act, take from any lands any stone, shell, sand, gravel, clay or earth.

Penalty:

- (a) if the offender is a natural person—30 penalty units;
  - (b) if the offender is a body corporate—150 penalty units.
- (2) The Minister may, for such period as he or she thinks fit, by notice published in the *Gazette*, suspend the operation of this section in respect of any substance or in respect of any lands, and this section shall thereupon cease to apply in respect of that substance or those lands, as the case may be, until the expiration of the period of suspension, or until the suspension is sooner revoked, whichever first happens.
- (3) The Minister may, at any time, by notice published in the *Gazette*, revoke any such suspension.

**4. Power to grant permits**

- (1) The Minister or a Protection of Lands Officer may issue permits to go upon any lands and to take any substance referred to in section 3.

*Protection of Lands Act 1937*

- (2) A permit may be limited to any particular substance, and to any particular lands, district or locality.
- (3) A permit shall continue in force for the period specified and no longer, and shall not be issued for any period exceeding 12 months.
- (4) A permit shall only be granted over lands included in a lease in cases where the substances are reserved to, or are the property of, the Crown.
- (5) A permit issued under this section shall not extend to authorise the taking from any lands any substance which is, or appears to be, metalliferous.

**5. Terms and conditions of permits**

- (1) The terms and conditions on which a permit may be issued shall be as determined by the Minister, and any permit may be cancelled by the Minister or a Protection of Lands Officer for non-compliance by the holder of the permit with any term or condition of the permit.
- (2) Where the Minister or a Protection of Lands Officer cancels any permit, the Minister or the officer shall forward by post to the person whose permit has been cancelled, at his or her address as stated in that permit, notice of the cancellation of the permit and the cancellation shall be deemed to take effect at the time the notice would have been delivered in the ordinary course of post.

**6. Fees for permits**

The fee payable for a permit shall be at the rate of \$5 per month or portion of a month for each vehicle to be used for taking any substance in pursuance of the permit.

**6A. Sand and gravel pits**

- (1) The Minister may, by notice in the *Gazette*, declare any lands to be a sand and gravel pit and may by like notice revoke any such declaration.
- (2) Notwithstanding anything contained in sections 3 and 4, the Minister may, by notice published in a newspaper circulating in the Territory—
  - (a) declare, with respect to any sand and gravel pit, that any stone, shell, sand, gravel, clay or earth may, notwithstanding anything contained in sections 3 and 4, be taken on payment of such charges and subject to such conditions as are set out in the notice; and
  - (b) vary from time to time any such charge or condition;

and any such substance may be taken from the sand and gravel pit on payment of the charges and subject to the conditions declared by the Minister in pursuance of this section.

*Protection of Lands Act 1937*

(3) Any person who takes any stone, shell, sand, gravel, clay or earth from any sand and gravel pit without paying the charges, and complying with the conditions set out in a notice referred to in subsection (2) shall be guilty of an offence and liable to a penalty of—

- (a) if the offender is a natural person—50 penalty units; or
- (b) if the offender is a body corporate—250 penalty units;

and, in addition to any penalty that may be imposed, the Court may order the defendant to pay the charges payable under this section in respect of any such substance so taken and the like proceedings may be taken upon the order as if the order had been a judgment of the Court in favour of the Territory.

(4) A certificate by the Minister or a Protection of Lands Officer specifying the charges owing to the Territory in respect of any such substance so taken, shall be *prima facie* evidence of the matters stated.

**7. Substances etc. not to be placed on lands**

(1) A person shall not, without the authority of the Minister or a Protection of Lands Officer (proof of which shall lie upon the person accused), deposit, or cause to be deposited, on any unleased lands, any substance, material or thing.

Penalty:

- (a) if the offender is a natural person—30 penalty units;
- (b) if the offender is a body corporate—150 penalty units.

(2) A person who, in pursuance of a permit in force under the *Roads and Public Places Act 1937*, places an object in, over or across a public place does not, by reason of so placing the object, commit an offence against subsection (1).

**8. Excavations or obstructions on lands to be lighted**

Where any excavation or obstruction is made, or any substance or material is placed, on any unleased lands with the authority of the Minister or a Protection of Lands Officer, or any work is being carried on on any unleased lands entailing the opening up or breaking of the surface thereof, the person making, or permitting or causing to be made, the excavation or obstruction, or placing the substance or material, or permitting or causing the substance or material to be placed, on the lands, or carrying out the works, shall cause sufficient lights to be affixed in a proper place to indicate clearly the excavation, obstruction, substance, material or works, and continue those lights every night from sunset to sunrise while the excavation, obstruction, substance, material or works continue, and shall during all that time at his or her own expense cause the place on which they are continued to be sufficiently fenced or enclosed to prevent any danger or inconvenience to any person.

*Protection of Lands Act 1937*

**Penalty:**

- (a) if the offender is a natural person—30 penalty units;
  - (b) if the offender is a body corporate—150 penalty units.
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*Protection of Lands Act 1937*

**NOTES**

1. The *Protection of Lands Act 1937* as shown in this reprint comprises Act No. 33, 1937 amended as indicated in the Tables below.

Citation of Laws—The *Self-Government (Citation of Laws) Act 1989* (No. 21, 1989) altered the citation of most Ordinances so that after Self-Government day they are to be cited as Acts. That Act also affects references in ACT laws to Commonwealth Acts.

2. The *Legislation (Republication) Act 1996* (No. 51, 1996) authorises the Parliamentary Counsel in preparing a law for republication, to make certain editorial and other formal amendments in accordance with current legislative drafting practice. Those amendments make no change in the law. Amendments made pursuant to that Act do not appear in the Table of Amendments but details may be obtained on request from the Parliamentary Counsel's Office.

Table 1

**Table of Ordinances**

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Protection of Lands Ordinance 1937</i>	33, 1937	23 Dec 1937	23 Dec 1937	
<i>Protection of Lands Ordinance 1944</i>	4, 1944	3 Feb 1944	3 Feb 1944	—
<i>Ordinances Revision Ordinance 1959</i>	21, 1959	23 Dec 1959	31 Dec 1959	—
<i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>	19, 1966	23 Dec 1966	23 Dec 1966	—
<i>Protection of Lands Ordinance 1976</i>	8, 1976	24 Feb 1976	24 Feb 1976	—
<i>Protection of Lands (Amendment) Ordinance 1976</i>	73, 1976	30 Dec 1976	30 Dec 1976	—
<i>Protection of Lands (Amendment) Ordinance 1980</i>	11, 1980	2 May 1980	2 May 1980	—
<i>Magistrates Court Ordinance 1985</i>	67, 1985	19 Dec 1985	1 Feb 1986 (see <i>Gazette</i> 1986, No. G3, p. 265)	—
<i>Housing Assistance Ordinance 1987</i>	36, 1987	29 July 1987	19 Aug 1987 (see <i>Gazette</i> 1987, No. S213)	—
<i>Self-Government (Consequential Amendments) Ordinance 1989</i>	38, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S1)	—

**Self-Government day 11 May 1989**

Table 2

*Protection of Lands Act 1937*

**NOTES—continued**

**Table of Acts—continued**

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
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**Table of Acts**

Act	Number and year	Date of notification in <i>Gazette</i>	Date of commencement	Application, saving or transitional provisions
<i>Self-Government (Consequential Amendments) Act 1991</i>	53, 1991	2 Oct 1991	2 Oct 1991	—
<i>Acts Revision (Position of Crown) Act 1993</i>	44, 1993	27 Aug 1993	27 Aug 1993 (see s. 2)	—
<i>Public Sector Management (Consequential and Transitional Provisions) Act 1994</i>	38, 1994	30 June 1994	Ss. 1 and 2: 30 June 1994 Remainder: 1 July 1994 (see <i>Gazette</i> 1994, No. S142, p. 2)	Ss. 3, 5-12, 15 and 19
<i>Statute Law Revision (Penalties) Act 1994</i>	81, 1994	29 Nov 1994	Ss. 1 and 2: 29 Nov 1994 Remainder: 29 Nov 1994 (see <i>Gazette</i> 1994, No. S269, p. 2)	—
<i>Statutory Offices (Miscellaneous Provisions) Act 1994</i>	97, 1994	15 Dec 1994	Ss. 1 and 2: 15 Dec 1994 Remainder: 15 Dec 1994 (see <i>Gazette</i> 1994, No. S293)	Part III (ss. 4-9)
<b>(Reprinted as at 28 February 1995)</b>				
<i>Uncollected Goods (Consequential Provisions) Act 1996</i>	87, 1996	20 Dec 1996	Ss. 1 and 2: 20 Dec 1996 Remainder: 19 Mar 1997 (see s. 2 (2) and <i>Gazette</i> 1997, No. S71)	Part III (ss. 7-10)
<b>(Reprinted as at 31 March 1997)</b>				
<i>Statute Law Revision (Penalties) Act 1998</i>	54, 1998	27 Nov 1998	Ss. 1 and 2: 27 Nov 1998 Remainder: 9 Dec 1998 (see <i>Gazette</i> 1998, No. 49, p. 1078)	—

**Table of Amendments**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

*Protection of Lands Act 1937*

**NOTES—continued**

**Table of Amendments—continued**

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision	How affected
Title .....	am. No. 38, 1989
S. 2 .....	am. Nos. 8 and 73, 1976; No. 38, 1989; Act No. 97, 1994
S. 2AA.....	ad. Act No. 44, 1993
S. 2A .....	ad. No. 36, 1987
S. 2B .....	ad. Act No. 97, 1994
S. 3 .....	am. No. 19, 1966; Act No. 81, 1994; No. 54, 1998
Ss. 4, 5.....	am. Act No. 97, 1994
S. 6 .....	am. No. 19, 1966; No. 11, 1980
S. 6A .....	ad. No. 4, 1944
	am. No. 21, 1959; No. 19, 1966; No. 38, 1989; Act No. 97, 1994; No. 54, 1998
S. 7 .....	am. No. 19, 1966; Nos. 8 and 73, 1976; Acts Nos. 81 and 97, 1994; No. 54, 1998
S. 8 .....	am. No. 19, 1966; Acts Nos. 81 and 97, 1994; No. 54, 1998
S. 9 .....	ad. No. 8, 1976
	rep. Act No. 87, 1996
S. 10 .....	ad. No. 8, 1976
	am. No. 73, 1976; Act No. 97, 1994
	rep. No. 87, 1996
S. 11 .....	ad. No. 8, 1976
	rep. Act No. 87, 1996
S. 12 .....	ad. No. 8, 1976
	am. No. 67, 1985; Act No. 97, 1994
	rep. No. 87, 1996
S. 13 .....	ad. No. 8, 1976
	am. No. 67, 1985; Act No. 53, 1991
	rep. No. 87, 1996
S. 14 .....	ad. No. 8, 1976
	am. No. 67, 1985; No. 38, 1989
	rep. Act No. 87, 1996
S. 15 .....	ad. No. 8, 1976
	am. No. 38, 1989
	rep. Act No. 87, 1996
S. 16 .....	ad. No. 8, 1976
	am. No. 38, 1989; Act No. 38, 1994
	rep. No. 87, 1996