



Australian Capital Territory

Litter Act 1977 (repealed)

A1977-27

Republication No 6

Effective: 30 September 2004

Republication date: 30 September 2004

As repealed by A2004-47 s 28

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Litter Act 1977* (repealed) (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)). It also includes any commencement, amendment, repeal or expiry affecting the republished law to 30 September 2004.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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):

- 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 Act 2001*, part 11.3 authorises 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 Act 2001*, s 115 and s 117). 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.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

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Australian Capital Territory

Litter Act 1977 (repealed)

An Act relating to litter

1 Short title

This Act may be cited as the *Litter Act 1977*.

2 Definitions for Act

In this Act:

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

administrative charge means—

- (a) the amount determined as the administrative charge by the Minister under section 12 (Determination of fees); or
- (b) if the Minister has not determined such an amount—\$25.

authorised officer means a person appointed under section 8 (2) to be an authorised officer.

commercial waste means—

- (a) waste resulting from institutional, commercial or industrial activities; or
- (b) waste collected and transported in the course of business.

court means the Magistrates Court.

dangerous container means a vessel, container or receptacle (other than a vehicle or a part of a vehicle or a bin or other receptacle ordinarily used to hold garbage or refuse) comprising or containing a compartment that—

- (a) has a capacity of not less than 40L; and
- (b) has an opening of not less than 120mm in both width and height; and
- (c) is fitted with a door or lid capable of being fastened and capable of closing that opening.

garden waste means waste or soil or landscaping material, that contains plant material capable of propagating.

inspector means an inspector appointed under section 8 (1).

litter includes—

- (a) refuse, garbage, rubble and waste of any description; and
- (b) any other matter or thing of a like nature that, whilst in or on a public place, causes or contributes to the defacement or defilement of that place.

littering offence means an offence against this Act (other than section 9).

occupier includes the person having the charge, management or control of premises.

police force means police force of the Territory.

public place means a road, road related area or any other unleased Territory land.

public tip means a tip conducted by the Territory for use by members of the public.

road means a road within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*, section 42 (Regulations about parking).

road related area means a road related area within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999* section 42.

3 Littering generally

A person shall not deposit litter in or on a public place.

Maximum penalty:

- (a) if the litter is likely to cause injury to persons or damage to property—50 penalty units;
- (b) in any other case—10 penalty units.

3A Depositing commercial waste or garden waste

A person shall not deposit commercial waste or garden waste in or on a public place.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

4 Transport of refuse etc

A person who—

- (a) transports household or garden refuse, commercial waste or garden waste; or
- (b) transports rubble or other waste material from a construction site;

shall not fail, without reasonable excuse, to so arrange, contain, fasten or cover it as to prevent any part of the refuse, waste, rubble or material falling or being blown from the vehicle in or upon which it is being transported into or onto a public place.

Maximum penalty: 50 penalty units.

5 Litter from commercial etc premises

The occupier of commercial, industrial or business premises shall take reasonable steps to prevent litter from the premises being deposited in or on a public place.

Maximum penalty: 50 penalty units.

7 Application

Nothing in this Act, other than section 7A, applies to or in relation to a person who—

- (a) in a public place, deposits litter in a receptacle provided for the purpose; or
- (b) places a receptacle containing litter in or on a public place in order that the litter may be removed by a garbage collection service; or
- (c) deposits litter in or on a public place in response to an invitation from a public servant, where the public servant issues the invitation in the performance of his or her duties; or
- (d) deposits litter at a public tip.

7A Depositing or abandoning dangerous containers

- (1) A person shall not deposit or abandon a dangerous container in a public place (including a public tip).

Maximum penalty: 50 penalty units.

- (2) A person does not commit an offence against subsection (1) if he or she adduces evidence that he or she took reasonable steps to prevent children gaining access to the relevant compartment and that evidence is not rebutted by the prosecution.

7B Placing advertising leaflets etc on motor vehicles

- (1) A person shall not place in or on a motor vehicle in a public place an unsolicited leaflet, handbill or other document publicising or promoting a product, service, event, cause or belief, or otherwise conveying a message or information.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply in relation to a document—
- (a) placed in or on a motor vehicle in accordance with a law of the Territory; or
 - (b) containing a message—
 - (i) of a personal nature; and
 - (ii) directed only to the owner, or the driver or rider, of a particular motor vehicle.
- (3) A leaflet, handbill or other document placed in or on a motor vehicle in a public place shall be presumed to be unsolicited unless the contrary is proved.

8 Appointment of inspectors and authorised officers

- (1) The Minister may appoint such inspectors as he or she considers necessary for this Act.
- (2) The Minister may, by instrument in writing, appoint such persons as he or she considers necessary to be authorised officers for this Act.
- (3) The Minister shall issue to each person appointed under subsection (1) a certificate certifying that the person is an inspector for this Act.

9 Powers of inspectors

- (1) Where a member of the police force or an inspector has reason to believe that a person has committed an offence against this Act,

upon the production of the certificate issued to him or her if he or she is an inspector he or she may require the person to furnish his or her name and usual address and to produce evidence of his or her identity.

- (2) A person shall not, without reasonable excuse—
 - (a) refuse or fail to furnish his or her name or address; or
 - (c) refuse to produce evidence of his or her identity.
- (3) A person shall not furnish a false name or address.

Maximum penalty: 5 penalty units.

10 First litter notices

- (1) Where a member of the police force or an inspector has reason to believe that a littering offence has been committed, he or she may serve a litter notice in accordance with section 10C.
- (2) A litter notice must—
 - (a) clearly show on its face the full name, or surname and initials, and address of the person on whom it is served; and
 - (b) clearly specify the nature of the alleged littering offence; and
 - (c) clearly specify the day, time and place of the alleged littering offence; and
 - (d) contain a notification to the person on whom it is served that—
 - (i) if the person pays the prescribed penalty for the alleged littering offence within 28 days after the date of the notice, no further action will be taken in respect of the alleged littering offence; and
 - (ii) if the person fails to pay the prescribed penalty for the alleged littering offence within 28 days after the date of the notice, he or she will incur a liability for the

administrative charge in addition to the prescribed penalty; and

- (e) clearly specify the place at which, and the manner in which, the prescribed penalty may be paid;

and may contain such other particulars (if any) as the chief executive considers necessary.

Note If a form is approved under s 13 (Approved forms) for a notice, the form must be used.

- (3) Nothing in this section shall be construed as requiring the serving of a notice under subsection (1).

10A Final litter notices

- (1) Where—

- (a) a notice has been served on a person under section 10; and
- (b) the person fails to pay the prescribed penalty for the alleged littering offence in accordance with the notice;

the chief executive or an authorised officer may serve on the person a notice in accordance with section 10C.

- (2) A notice under subsection (1) must contain a notification to the person on whom it is served that—

- (a) the person has not paid the prescribed penalty for the alleged littering offence to which the notice relates; and
- (b) if the person pays the sum of the prescribed penalty for the alleged littering offence and the administrative charge within 14 days after the date of the notice, no further action will be taken against the person in respect of the alleged littering offence; and
- (c) if the person fails to pay the sum of the prescribed penalty for the alleged littering offence and the administrative charge

within 14 days after the date of the notice, he or she may be prosecuted for the alleged littering offence;

and may contain such other particulars (if any) as the chief executive considers necessary.

Note If a form is approved under s 13 (Approved forms) for a notice, the form must be used.

- (3) Nothing in this section shall be construed as requiring the serving of a notice under subsection (1).

10B Withdrawal of litter notices

- (1) Where a notice has been served on a person under section 10 or 10A, the chief executive or an authorised officer may serve on that person a notice withdrawing the firstmentioned notice.
- (2) A notice under subsection (1) shall state—
- (a) that a specified notice under section 10 or 10A is withdrawn; and
 - (b) that no further proceedings will be taken against the person on whom the specified notice was served, in respect of the alleged littering offence to which the specified notice relates.

10C Service of litter notices

- (1) A notice under section 10, 10A or 10B may be served on a person—
- (a) by delivering the notice to the person personally; or
 - (b) by sending the notice to the person by post addressed to the person at his or her last-known place of residence or business; or
 - (c) by leaving the notice at the last-known place of residence or business of the person with a person apparently over the age of 16 years and apparently resident or employed at that place.

- (2) Evidence of service of a notice under section 10, 10A or 10B may be given by affidavit.

10D Liability

- (1) This section applies—
 - (a) where a notice under section 10 has been served on a person and the prescribed penalty is paid in accordance with the notice before the expiration of the period of 28 days after the date of the notice; or
 - (b) where a notice under section 10A has been served on a person and the sum of the prescribed penalty and the administrative charge is paid in accordance with the notice before the expiration of the period of 14 days after the date of the notice.
- (2) Where this section applies—
 - (a) any liability of a person in respect of the alleged littering offence to which the notice relates shall be discharged; and
 - (b) no further proceedings shall be taken in respect of the alleged littering offence to which the notice relates; and
 - (c) no person shall be regarded as having been convicted of the alleged littering offence to which the notice relates.
- (3) Where a notice under section 10B has been served on a person, no further proceedings shall be taken against the person in respect of the alleged littering offence to which the withdrawn notice relates.
- (4) It is sufficient for the application of this section to a person on whom more than 1 notice under section 10 in respect of the same alleged littering offence has been served for that person to pay the prescribed penalty in accordance with any 1 of those notices.
- (5) It is sufficient for the application of this section to a person on whom more than 1 notice under section 10A in respect of the same alleged littering offence has been served for that person to pay the

sum of the prescribed penalty and the administrative charge in accordance with any 1 of those notices.

- (6) Where the prescribed penalty or the sum of the prescribed penalty and the administrative charge is paid by cheque, payment shall be deemed not to be made unless and until the cheque is honoured upon presentation.

10E Option to prosecute

Nothing in section 10 or 10A shall be construed as—

- (a) affecting the liability of a person to be prosecuted in the court in respect of an alleged littering offence in relation to which a notice under section 10 or 10A has not been served; or
- (b) prejudicing or affecting the institution or prosecution of proceedings in respect of an alleged littering offence; or
- (c) limiting the amount of the fine that may be imposed by the court in respect of a littering offence.

11 Court may order payment of costs of removal of litter

- (1) In a prosecution for an offence against this Act, the court may, in addition to any penalty it may impose, make an order that the person convicted of the offence pay to the Territory such sum as the court thinks just in respect of the expenses of removing the litter the subject of the offence.
- (2) Where the court makes an order under subsection (1), the order is enforceable in the same manner as if it were an order of the court made after the hearing of proceedings instituted by a claim under the *Magistrates Court (Civil Jurisdiction) Act 1982*.

11A Evidence

- (1) For this Act a document that purports to have been signed by the chief executive or an authorised officer shall be taken to have been so signed unless the contrary is proved.

- (2) Where a notice is served under section 10 in respect of an alleged littering offence, a certificate signed by the chief executive or an authorised officer stating that the prescribed penalty was not paid in accordance with the notice within 28 days after the date of the notice is evidence of the matters so stated.
- (3) Where a notice is served under section 10A in respect of an alleged littering offence, a certificate signed by the chief executive or an authorised officer stating that the sum of the prescribed penalty and the administrative charge was not paid in accordance with the notice within 14 days after the date of the notice is evidence of the matters so stated.

12 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act, including an administrative charge.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

13 Approved forms

- (1) The chief executive may, in writing, approve forms for this Act.
- (2) If the chief executive approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

14 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

- (2) The regulations may prescribe offences for contraventions of the regulations and prescribe maximum penalties for offences against this Act or the regulations of not more than 10 penalty units.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

| | |
|---|---|
| am = amended | ord = ordinance |
| amdt = amendment | orig = original |
| ch = chapter | par = paragraph/subparagraph |
| cl = clause | pres = present |
| def = definition | prev = previous |
| dict = dictionary | (prev...) = previously |
| disallowed = disallowed by the Legislative Assembly | pt = part |
| div = division | r = rule/subrule |
| exp = expires/expired | reg = regulation/subregulation |
| Gaz = Gazette | renum = renumbered |
| hdg = heading | reloc = relocated |
| IA = Interpretation Act 1967 | R[X] = Republication No |
| ins = inserted/added | RI = reissue |
| LA = Legislation Act 2001 | s = section/subsection |
| LR = legislation register | sch = schedule |
| LRA = Legislation (Republication) Act 1996 | sdiv = subdivision |
| mod = modified/modification | sub = substituted |
| o = order | SL = Subordinate Law |
| om = omitted/repealed | <u>underlining</u> = whole or part not commenced or to be expired |

3 Legislation history

The *Litter Act 1977* was originally the *Litter Ordinance 1977*. It became an ACT Act on self-government (11 May 1989).

Before 11 May 1989, ordinances commenced on notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

After 11 May 1989 and before 10 November 1999, Acts commenced on notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 25).

Legislation before self-government

Litter Act 1977 No 27

notified 1 July 1977

commenced 1 July 1977

as amended by

Litter (Amendment) Ordinance 1979 No 18

notified 5 July 1979

commenced 5 July 1979

Litter (Amendment) Ordinance 1985 No 45

notified 13 September 1985

commenced 13 September 1985

Magistrates Court Ordinance 1985 No 67 sch pt 1

notified 19 December 1985

sch pt 1 commenced 1 February 1986 (Gaz 1986 No G3)

Magistrates Court (Amendment) Ordinance (No 3) 1986 No 74 s 91

notified 14 November 1986

14 November 1986

Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch 1

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

Legislation after self-government

Litter (Amendment) Act 1991 No 121

notified 10 January 1992 (Gaz 1991 No S162)
10 January 1992

Litter (Amendment) Act 1993 No 67

notified 27 September 1993 (Gaz 1993 No S195)
27 September 1993 (s 2)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 54

notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 54 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Land (Planning and Environment) (Amendment) Act 1997 No 7 s 11

notified 22 April 1997 (Gaz 1997 No S92)
ss 1-3 commenced 22 April 1997 (s 2 (1))
s 11 commenced 24 June 1997 (s 2 (2))

Litter (Amendment) Act 1998 No 49

notified 16 November 1998 (Gaz 1998 No S205)
ss 1-4 commenced 16 November 1998 (s 2 (1))
remainder (s 5) commenced 1 January 1999 (s 2 (2) and Gaz 1998 No S213)

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1998 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Road Transport Legislation Amendment Act 1999 No 79 sch 3

notified 23 December 1999 (Gaz 1999 No S65)
s 1, s 2 commenced 23 December 1999 (IA S10B)
sch 3 commenced 1 March 2000 (see s 2 and Gaz 2000 No S5)

Statute Law Amendment Act 2001 No 11 sch 1

notified 29 March 2001 (Gaz 2001 No 13)
commenced 29 March 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 227

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 227 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

as repealed by

Litter Act 2004 A2004-47 s 28

notified LR 16 August 2004

s 1, s 2 commenced 16 August 2004 (LA s 75 (1))

s 28 commenced 30 September 2004 (s 2 and CN2004-22)

4 Amendment history**Definitions for Act**

s 2

def **administrative charge** ins 1993 No 67 s 4

am 2001 No 44 amdt 1.2672

def **authorised officer** ins 1979 No 18 s 3

sub 1993 No 67 s 4

def **commercial waste** ins 1993 No 67 s 4def **court** am 1985 No 67 sch pt 1def **dangerous container** ins 1985 No 45 s 3def **Department** om 1989 No 38 sch 1def **garden waste** ins 1997 No 7 s 11def **inspector** am 1979 No 18 s 3def **littering offence** sub 1993 No 67 s 4def **public place** sub 1998 No 49 s 4; 1999 No 79 sch 3;
2001 No 11 amdt 1.3def **public street** om 1998 No 49 s 4def **public tip** am 1994 No 38 sch 1 pt 54def **road** ins 2001 No 11 amdt 1.4def **road related area** ins 2001 No 11 amdt 1.4def **Secretary** om 1989 No 38 sch 1**Littering generally**

s 3

am 1991 No 121 s 3; 1993 No 67 s 5; 1998 No 54 sch

Depositing commercial waste or garden waste

s 3A

ins 1993 No 67 s 6

sub 1997 No 7 s 11

am 1998 No 54 sch

Transport of refuse etc

s 4

am 1993 No 67 s 7; 1997 No 7 s 11; 1998 No 54 sch

Endnotes

4 Amendment history

Litter from commercial etc premises

s 5 am 1993 No 67 s 8; 1998 No 54 sch

Depositing of garbage

s 6 om 1993 No 67 s 9

Application

s 7 am 1985 No 45 s 4; 1989 No 38 sch 1

Depositing or abandoning dangerous containers

s 7A ins 1985 No 45 s 5
am 1993 No 67 s 10; 1998 No 54 sch; 2001 No 11 amdt 1.5

Placing advertising leaflets etc on motor vehicles

s 7B ins 1998 No 49 s 5

Appointment of inspectors and authorised officers

s 8 am 1979 No 18 s 4; 1993 No 67 s 11; R5 LA

Powers of inspectors

s 9 am 1993 No 67 s 12; 1998 No 54 sch

First litter notices

s 10 am 1979 No 18 s 5; 1989 No 38 sch 1; 1993 No 67 s 13; 1994
No 38 sch 1 pt 54; 2001 No 44 amdts 1.2673-1.2675

Final litter notices

s 10A ins 1993 No 67 s 14
am 1994 No 38 sch 1 pt 54; 2001 No 44 amdt 1.2676, amdt
1. 2677

Withdrawal of litter notices

s 10B ins 1993 No 67 s 14
am 1994 No 38 sch 1 pt 54

Service of litter notices

s 10C ins 1993 No 67 s 14

Liability

s 10D ins 1993 No 67 s 14

Option to prosecute

s 10E ins 1993 No 67 s 14

Court may order payment of costs of removal of litter

s 11 am 1986 No 74 s 91; 1989 No 38 sch 1

Evidence

s 11A ins 1993 No 67 s 15
am 1994 No 37 sch 1 pt 54

Corporations—penalties

s 11B ins 1993 No 67 s 15
om 1998 No 54 sch

Determined amount

s 11C ins 1993 No 67 s 15
om 2001 No 44 amdt 1.2678

Determination of fees

s 12 am 1989 No 38 sch 1; 1993 No 67 s 16; 1998 No 54 sch
sub 2001 No 44 amdt 1.2678

Approved forms

s 13 ins 2001 No 44 amdt 1.2678

Regulation-making power

s 14 ins 2001 No 44 amdt 1.2678

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

| Republication No | Amendments to | Republication date |
|------------------|----------------|--------------------|
| 1 | Act 1989 No 38 | 31 July 1991 |
| 2 | Act 1993 No 67 | 30 September 1993 |
| 3 | Act 1994 No 38 | 1 July 1996 |
| 4 | Act 2001 No 11 | 29 March 2001 |
| 5 | A2001-44 | 13 December 2001 |

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