

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**ROADS AND PUBLIC PLACES (AMENDMENT) BILL 1998**

**EXPLANATORY MEMORANDUM**

**Circulated by authority of**

**Brendan Smyth MLA  
Minister for Urban Services**

## **Roads and Public Places (Amendment) Bill 1998**

### **General Outline**

The Bill amends the *Roads and Public Places Act 1937* (the Principal Act) to provide a simple process to regulate placement of movable advertising signs in public places, while at the same time strengthening the statutory powers of Rangers to remove movable signs and other objects from public places where appropriate. There are no direct financial impacts associated with the amendments.

### **Clause 11. Display of movable signs**

The main types of sign being regulated are—

- sandwich board and other movable advertising signs displayed by businesses ('business signs');
- Real Estate sale and directional signs ('Real Estate signs'); and
- temporary event signs displayed by charities, schools and community groups ('community signs')

The Principal Act (section 12) currently prohibits a person from exhibiting, by any means whatsoever, an advertisement or notice upon any property of the Territory in or adjoining any public place without the permission of the Minister or a Roads and Public Places Officer. A person wishing to place a sign in a public place could apply for a permit under the provisions of section 15(A-R) which relate to granting of a permit to place an object in a public place, but in practice this system has never been used for signs. Current practice is that movable and temporary advertising signs in public places are being accepted by the Department if they comply with a published guideline which was developed about three years ago in consultation with the business community.

The disparity between the law (which prohibits placing signs without permission) and current practice (where enforcing the statutory requirement for permission has been eschewed in favour of use of an administrative guideline) means that prosecutions for unauthorised advertising are problematical and that the Territory, the public and the person who places a sign are deprived of some of the legal protection inherent in the permit system. The option of properly enforcing the law as it stands, by either a blanket prohibition or by issuing permits on a case by case basis, is considered both undesirable and impractical.

**Clause 11, in relation to display of movable advertising signs,—**

- Establishes a Code of Practice (as a disallowable instrument) for placement of movable signs in public places (proposed sections 12A and 12B). The basis for the proposed Code of Practice is an existing operational guideline which was developed in consultation with the ACT Chamber of Commerce and Industry and the Mitchell-Gungahlin Chamber of Commerce about three years ago, and which has been widely circulated and made publicly available since that time.

- Prohibits placing a movable sign in a public place other than in accordance with the Code of Practice. The fine for contravention of the Code in relation to public risk insurance is set five times higher than for contravention of other aspects of the code (proposed section 12C), and
- Makes a person who places or keeps a sign in a public place liable to indemnify the Territory against claims for damages, injury, loss etc arising from the placement of the sign (proposed section 12D). Specific requirements for public risk insurance will be stipulated in the code of practice.

#### **Clause 11. Statutory powers to remove movable signs and objects**

Where a person places a sign or other object in a public place without authorisation, the Territory must currently rely on common law powers to remove it. The Principal Act does presently contain a statutory power for removal of objects from a public place but it is part of the permit procedure in sections 15 (A-R) and is linked to the expiry, surrender or cancellation of a permit to place the object in a public place. It does not apply to objects placed without authorisation.

#### **Clause 11, in relation to a statutory power to remove signs and objects—**

- Enables Roads and Public Places Officers to impound **movable signs** which do not comply with the code of practice (proposed section 12F);
- Enables the Minister to prescribe (by disallowable instrument) **objects** which may be impounded if placed in a public place without approval (proposed section 12G). The purpose of prescribing objects is to clarify the situations in which the power will be used and to ensure that they are objects which can be handled by the procedures in the *Uncollected Goods Act 1996*. The power is intended to cover movable objects which have been inappropriately stored or left in a public place, or are associated with an unauthorised use of a public place.
- Enables Roads and Public Places Officers to impound **prescribed objects** which are not authorised by a permit to be in a public place. Objects may be removed immediately if they create a hazard or obstruction. Otherwise, impounding of an object must be preceded by a direction to the owner to within 7 days either apply for a permit or remove the object (proposed section 12F);
- Provides a procedure for disposal of **impounded signs or objects** in accordance with Part III of the *Uncollected Goods Act 1996* (proposed section 12F). The method and the timing of disposal depends on the value of the goods, ranging from immediate destruction at one end of the scale to public auction after three months at the other. Owners who collect impounded goods before disposal may be required to pay reasonable costs of removal and storage. The powers for impounding and disposing of objects or signs replace powers formerly contained in section 10 of the *Protection of Lands Act 1937*, and repealed when the *Uncollected Goods Act 1996* was passed.

### **Clauses 1, 2 and 3. Formal requirements.**

Formal requirements relating to short title, commencement arrangements and definition of the Principal Act. The amendments will commence not later than 6 months after gazettal of the Act.

### **Clause 4. Interpretation**

- Definition of 'public place' has been amended by inserting 'unleased' before 'Territory Land'. The Roads and Public Places Act is not intended to apply to leased land. Signs on leased land are regulated by the Land Act and the Signs Policies of the Territory Plan and the National Capital Plan.
- 'Code of practice' defined so that the full title does not have to be used in subsequent references.
- 'Object' defined to create a relationship between 'object' in the Bill and 'goods' in the *Uncollected Goods Act 1996*.
- 'Retention area' defined to link it with the same term in the *Uncollected Goods Act 1996*.
- 'Sign' defined to create a relationship between 'sign' in the Bill and 'advertisement or notice' in the Principal Act.

### **Clauses 5, 6, 7, 8, 9, 10, 12 and 13**

These amendments update the form of penalty provisions in the Principal Act, by introducing corporate penalties at five times the quantum of the fines applying to a natural person. The existing penalties will continue to apply to natural persons.

### **Clause 14. Removal of requirement for development approval**

Removes an unintended feature of the *Land (Planning and Environment) Act 1991* (the Land Act) which is that placement of a movable sign in a public place technically requires development approval because displaying a sign or advertising material on land falls within the definition of 'development'. The technical requirement for development approval for movable signs on unleased land has never been enforced. The Land Act provides a mechanism for formally exempting them through the Regulations.