



Australian Capital Territory

Truck Act 1900 No 55

Republication No 3

Republication date: 7 August 2002

Last amendment made by Act 2001 No 56

Amendments incorporated to 5 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Truck Act 1900* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 7 August 2002. It also includes any amendment, repeal or expiry affecting the republished law to 5 September 2001.

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 includes 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.

Amendments incorporated to
5 September 2001



Australian Capital Territory

Truck Act 1900

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Amendments incorporated to
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Australian Capital Territory

Truck Act 1900

An Act to regulate contracts made in relation to, and the payment of, wages; to prohibit payment of wages being made in goods or otherwise than in money; and to regulate the service of legal process

1A Name of Act

This Act is the *Truck Act 1900*.

1B Definitions for Act

In this Act:

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

contract includes any agreement, understanding, device, contrivance, collusion, or arrangement whatsoever on the subject of wages, whether written or oral, direct or indirect, to which the employer and worker are parties, or are assenting, or by which they are mutually bound to each other, or where either of them shall have endeavoured to impose an obligation on the other of them.

employer includes any master, manager, supervisor, clerk, or other person engaged in the hiring, employment or superintendence of the service, work or labour of any worker.

money means currency of Australia provided for by the *Currency Act 1965* Cwlth, Australian notes within the meaning of the *Reserve Bank Act 1959* Cwlth, part 5, or postal orders issued by the Australian Postal Corporation.

wages includes any money or thing had, or contracted to be paid, delivered or given, as a recompense, reward or remuneration for any service, work or labour done, or to be done, whether within a certain time, to a certain amount or for a time or amount uncertain.

worker means any person in any manner employed in work of any kind or in manual labour, whether under 21 years old or over that age.

1 Wages payable in money

- (1) In every contract made with any worker, the wages of the worker shall be made payable in money only, and not otherwise; and if by agreement, custom, or otherwise, a worker is entitled to receive, in

anticipation of the regular period of the payment of his or her wages, an advance as part, or on account, the wages, it shall not be lawful for the employer to withhold the advance, or make any deduction in relation to the advance, on account of poundage, discount or interest, or any similar charge.

Maximum penalty: 50 penalty units.

- (2) If, in any such contract, the whole, or any part, of such wages shall be made payable in any way other than in money, or shall provide for any deduction or charge as aforesaid in relation to any advance of the whole, or part, of the wages of the worker, the contract shall be, and is declared, illegal and void so far as any promise or consideration made or given by, or arising out of, the contract relates to the payment of the wages otherwise than in money, or as to making any such deduction or charge as mentioned in subsection (1); and the promise or consideration shall be deemed to be severable from the other part of the contract, which shall otherwise be and remain in force.

2 Stipulation about way of spending wages

No employer shall, directly or indirectly, by himself or herself or his or her agent, impose as a condition, express or implied, in or for the employment of any worker, any terms about the place where, how or the person with whom any wages, or part of wages, paid to the worker are or is to be expended, or any terms requiring the worker to reside on the lands of the employer; and no employer shall, by himself or herself or his or her agent, dismiss any worker from his or her employment on account of the place where, how or the person with whom any wages, or part of wages, paid by the employer to the worker were or was expended, or were or was not expended, or on account of the worker not residing on the lands of the employer.

Maximum penalty: 50 penalty units.

3 Payment of wages

The entire amount of the wages earned by, or payable to, any worker shall be actually paid to the worker in money, and not otherwise, at intervals of not more than 14 days, if demanded, any contract to the contrary notwithstanding; and every payment made to any worker by his or her employer of, or in relation to, any such wages by the delivering to him or her of goods, or otherwise than in money, except as mentioned in this Act, shall be, and is declared, illegal and void; and every worker shall be entitled to recover from his or her employer, in any court of competent jurisdiction, the whole, or so much, of the wages earned by the worker as shall not have been actually paid to him or her by his or her employer in money.

Maximum penalty: 20 penalty units.

4 No set-off to be allowed for goods supplied to worker by employer

In any action brought or begun by any worker against his or her employer for the recovery of any sum of money due to the worker as his or her wages—

- (a) the defendant shall not be allowed to make any set-off, nor to claim any reduction of the plaintiff's demand, because of, or in relation to, any goods had or received by the plaintiff as or on account of his or her wages, or because of, or in relation to, any goods sold, delivered or supplied at any shop, store, house, or premises kept by or belonging to the employer, or in the profits of which the employer shall have any share or interest; and
- (b) the defendant shall not be entitled to any set-off in relation to any goods supplied to the plaintiff by any person under any order or direction of the defendant or his or her agent.

5 Employer not to have action for goods supplied to worker

No employer shall have, or be entitled to maintain, any action in any court against any worker for, or in relation to, any goods sold, delivered or supplied to the worker by the employer while in his or

her employment as, or on account of, his or her wages, or for, or in relation to, any goods sold, delivered or supplied to the worker at any shop, store, house or premises kept by, or belonging to, the employer, or in the profits of which the employer shall have any share or interest.

6 Sharpening and repairing tools

No deduction shall be made from the wages of a worker for sharpening or repairing tools, except by agreement.

Maximum penalty: 5 penalty units.

7 Payment of wages may be made by cheque

- (1) Nothing contained in this Act shall be construed to prohibit the making of, or render invalid, any contract for the payment, or any actual payment, to any worker of the whole or any part of his or her wages in a cheque or draft, payable to the bearer on demand and drawn on any bank, credit union or building society carrying on business in the ACT or in an order in writing for the payment of money to the bearer on demand drawn on any person, company or association carrying on business in the ACT, other than a retail shopkeeper, or publican, if the worker shall freely consent to receive the cheque, draft, or order, but all payments so made with consent, shall, for this Act, be as valid as if made in money.
- (2) However, if wages shall be paid to any worker by a cheque, draft, or order in writing mentioned in subsection (1), and it shall be dishonoured, the worker shall be entitled to recover from his or her employer, in addition to any wages due or payable to the worker, such reasonable damages as he or she may have sustained in consequence of the dishonour of the cheque, draft, or order in writing, and the damages shall be recoverable in any court of competent jurisdiction.

8 Service of legal process

- (1) Service of any legal process for, or incidental to, the recovery of wages, or damages for nonpayment of wages, or in relation to the dishonour of any cheque, draft, or order given in relation to wages, may be effected on the employer by leaving the process with, or delivering it to, the manager or overseer for the time being of the works at, or in relation to which, the wages shall have been earned.
- (2) This section shall not affect any other method of service allowed by law.

9 Illegal contracts and payments

An employer shall not enter a contract or make a payment declared under this Act to be illegal and void (whether wholly or in part).

Maximum penalty: 50 penalty units.

10 Cases to which this Act does not apply

- (1) This Act shall not extend or apply—
 - (a) if an employer or his or her agent supplies or contracts to supply, to any worker, any medicine or medical attendance, or any fuel, materials, tools, appliances, or implements to be, by the worker, employed in his or her trade, labour or occupation; or
 - (b) if an employer or his or her agent supplies, or contracts to supply, to any worker who has engaged with him or her to fell bush, to ringbark trees or to clear land of bush the necessary outfit and means of support and materials or tools required for beginning his or her engagement, to any amount, not exceeding, in any case, the amount of 2 months wages, to be earned by the worker in such engagements; or
 - (c) if the employer or his or her agent supplies, or contracts to supply, to any worker any hay, corn or other provender to be consumed by any horse or other beast of burden employed by the worker in his or her trade, labour or occupation; or

- (d) if the employer or his or her agent allows the worker the use of a tenement as part of his or her wages, or in addition to his or her wages, or any other allowance or privilege in addition to money wages as a remuneration for his or her services; or
 - (e) to prevent any employer from advancing any money for the relief of a worker and his or her spouse or family in sickness, or from advancing any money to any member of the family of a worker by his or her order, nor from deducting or contracting to deduct any such sum or sums of money from the wages of the worker; or
 - (f) to mariners or domestic servants or to persons employed in or in connection with agricultural or pastoral pursuits.
- (2) However, no deduction, or stoppage of wages, shall exceed the amount of money advanced, or the value of any fuel, tools, implements, hay, corn, provender, victuals, drink or materials supplied to the worker.

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.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

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

3 Legislation history

This Act was originally a NSW Act—the *Truck Act 1900* No 55 (NSW).

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former NSW laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

Under the *Interpretation Act 1967* (repealed), s 65 all former NSW Acts in force in the ACT immediately before 10 November 1999 (including this Act) became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former NSW Acts fully into ACT laws.

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

NSW legislation

Truck Act 1900 No 55

assented to 22 November 1900

commenced 1 January 1901

as amended by

Truck Amendment Act 1901 No 49

assented to 19 November 1901

commenced 19 November 1901

Commonwealth legislation

New South Wales Acts Ordinance 1986 No 91 sch 2 pt 7

notified 12 January 1987

commenced 12 January 1987

Endnotes

4 Amendment history

Legislation after becoming Territory enactment

Truck (Amendment) Act 1990 No 35

notified 30 October 1990 (Gaz 1990 No S72)
ss 1-3 commenced 30 October 1990 (s 2 (1))
remainder commenced 1 December 1990 (s 2 (2) and see Gaz 1990 No 46)

Financial Institutions (Removal of Discrimination) Act 1997 No 88 sch

notified 1 December 1997 (Gaz 1997 No S380)
s 1, s 2 commenced 1 December 1997 (s 2 (1))
sch commenced 31 December 1997 (s 2 (2) and Gaz 1997 No S442)

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
sch commenced 9 December 1998 (s 2 and Gaz 1998 No 49)

Statute Law Amendment Act 2001 (No 2) No 56 pt 3.48

notified 5 September 2001 (Gaz 2001 No S65)
s 1, s 2 commenced 5 September 2001 (IA s 10B)
pt 3.48 commenced 5 September 2001 (s 2 (1))

4 Amendment history

The *New South Wales Acts Act 1986*, sch 2, pt 7 sets out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT. This endnote, therefore, only details amendments made after the enactment of the 1986 Act.

Name of Act

s 1A ins 2001 No 56 amdt 3.482

Definitions for Act

s 1B (prev s 12) reloc 2001 No 56 amdt 3.486
def **contract** am 1990 No 35 sch
def **employer** am 1990 No 35 sch
def **worker** am 1990 No 35 sch

Wages payable in money

s 1 am 1990 No 35 s 4, sch; 1998 No 54 sch; 2001 No 56
amdt 3.483

Stipulation about way of spending wages

s 2 am 1990 No 35 s 5, sch; 1998 No 54 sch; 2001 No 56
amdt 3.483

Payment of wages

s 3 am 1990 No 35 s 6, sch; 1998 No 54 sch; 2001 No 56
amdt 3.484

No set-off to be allowed for goods supplied to worker by employer

s 4 am 1990 No 35 sch

Employer not to have action for goods supplied to worker

s 5 am 1990 No 35 sch

Sharpening and repairing tools

s 6 am 1990 No 35 s 7, sch; 1998 No 54 sch; 2001 No 56
amdt 3.485

Payment of wages may be made by cheque

s 7 am 1990 No 35 sch; 1997 No 88 sch; R2 LRA

Service of legal process

s 8 am R2 LRA

Illegal contracts and payments

s 9 sub 1990 No 35 s 8
am 1998 No 54 sch; 2001 No 56 amdt 3.483

Cases to which this Act does not apply

s 10 am 1990 No 35 sch; R2 LRA

Definitions for Act

s 12 reloc as s 1B

Short title

s 13 om 2001 No 56 amdt 3.487

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 1990 No 35	30 November 1994
2	Act 1998 No 54	31 July 1999

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