



Australian Capital Territory

# **Trespass on Territory Land Act 1932**

**A1932-20**

**Republication No 6**

**Effective: 13 April 2008 – 30 June 2011**

Republication date: 13 April 2008

Last amendment made by A2007-3  
(republication for commenced expiry)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Trespass on Territory Land Act 1932* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 13 April 2008. It also includes any amendment, repeal or expiry affecting the republished law to 13 April 2008.

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](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 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

# Trespass on Territory Land Act 1932

## Contents

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	Page
1 Name of Act	2
2 Dictionary	2
3 Notes	2
3A Inspectors	2
4 Trespass on Territory land	3
4A Animals straying etc on Commonwealth land	3
4B Grazing stock on Commonwealth land in city area	3
5 Damage to fences	4
6 Leaving gates open	4
7 Damaging trees etc	4
8 Persons authorised to prevent trespassing etc	4
8A Camping etc on Territory land	5
8B Permits to occupy unleased land	8
8C Evidence	8
9 Persons reasonably suspected to give name and address	9

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13/04/08

Trespass on Territory Land Act 1932  
Effective: 13/04/08-30/06/11

contents 1

Contents

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		Page
<b>Dictionary</b>		10
<b>Endnotes</b>		
1	About the endnotes	11
2	Abbreviation key	11
3	Legislation history	12
4	Amendment history	15
5	Earlier republications	18



Australian Capital Territory

# Trespass on Territory Land Act 1932

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An Act relating to trespass on Territory land

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## **1 Name of Act**

This Act is the *Trespass on Territory Land Act 1932*.

## **2 Dictionary**

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition ‘*vehicle*—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.’ means that the term ‘vehicle’ is defined in that dictionary and the definition applies to this Act.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see Legislation Act, s 155 and s 156 (1)).

## **3 Notes**

A note included in this Act is explanatory and is not part of this Act.

*Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

## **3A Inspectors**

- (1) The chief executive may appoint a public servant as an inspector.

*Note 1* For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

*Note 2* In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) A police officer is also an inspector.

#### **4 Trespass on Territory land**

- (1) The Minister may cause to be placed on unleased Territory land or land occupied by the Territory a notice prohibiting trespass on the land.
- (2) A person who, without reasonable excuse, trespasses or enters—
  - (a) unleased Territory land or land occupied by the Territory—
    - (i) about which any notice is posted on it prohibiting trespass; or
    - (ii) that is in the city area and is delineated on any of the subdivisional plans held by the Territory, and has on it a dwelling house; or
  - (b) any garden, plantation or afforestation area on unleased Territory land or land occupied by the Territory;

commits an offence.

Maximum penalty: 5 penalty units.

#### **4A Animals straying etc on Commonwealth land**

- (1) The owner of any animal that is found straying, wandering, or at large on any road or on any unleased land belonging to the Commonwealth commits an offence.

Maximum penalty: 5 penalty units.

- (2) For this section the owner of an animal includes—
  - (a) any person who has the care, custody or control of the animal; and
  - (b) any person on whose premises the animal is kept or agisted.

#### **4B Grazing stock on Commonwealth land in city area**

Any person who turns loose, or suffers any animal belonging to him or her or under his or her charge to be tethered or depastured, on any

road or unleased land belonging to the Commonwealth in the city area commits an offence.

Maximum penalty: 5 penalty units.

**5 Damage to fences**

Any person who without lawful excuse (proof of which shall lie on him or her) damages any fence commits an offence.

Maximum penalty: 10 penalty units.

**6 Leaving gates open**

A person who, without reasonable excuse, leaves open any gate—

- (a) on which the words ‘Shut gate—By order Minister’ or words to the like effect appear; or
- (b) that is adjacent to any unleased land belonging to the Commonwealth or any road, thereby permitting or causing any animal to trespass on the land or road;

commits an offence.

Maximum penalty: 5 penalty units.

**7 Damaging trees etc**

A person shall not, without reasonable excuse, damage or destroy trees, plant, garden, plantation or afforestation area on unleased Territory land or land occupied by the Territory.

Maximum penalty: 20 penalty units.

**8 Persons authorised to prevent trespassing etc**

An inspector other than a police officer or any person authorised in writing by the Minister may, if need be by force and with the assistance that he or she considers necessary—



- (a) prevent any person, animal or vehicle from trespassing or going on any land, garden, plantation or afforestation area referred to in section 4 (2) without lawful excuse; and
- (b) prevent any person from damaging or destroying any tree, plant, garden, plantation or afforestation area referred to in section 7; and
- (c) remove any person found so trespassing or going on any such land.

## **8A Camping etc on Territory land**

- (1) In this section:

*immobilised vehicle* means a vehicle that has been rendered incapable, whether or not by the removal of parts, of being moved as a vehicle.

*structure* includes a tent, booth, stall and an immobilised vehicle.

*unleased land* means—

- (a) unleased Territory land; or
- (b) land occupied by the Territory.

- (2) A person shall not—

- (a) camp, whether under cover or in the open, on unleased land; or
- (b) erect a structure on unleased land; or
- (c) occupy or be in a structure on unleased land, other than a structure that belongs to the Territory and is for the time being open to the public;

unless—

- (d) that land is land specified in a permit issued under section 8B, the person is the person to whom the permit has been granted or is a person to whom the permit is expressed to apply and the permit is in force; or

- (e) that person camps, erects a structure, or occupies or is in a structure, on that land in the performance of his or her duties as a public servant or an officer or employee of a Territory authority or in the discharge of an obligation on his or her part, or on the part of his or her employer, to the Territory or that authority.

Maximum penalty: 5 penalty units.

- (3) A person shall not park or leave a vehicle on unleased land that is within an area of unleased land that is declared, in writing, by the Minister to be an area of unleased land to which this subsection applies unless—
  - (a) that land is specified in a permit issued under section 8B, the person is the person to whom the permit has been issued or a person to whom the permit is expressed to apply and the permit is in force; or
  - (b) that person parks or leaves the vehicle on a road or road related area, and the parking or leaving does not constitute an offence against any other law in force in the ACT; or
  - (c) that person parks or leaves the vehicle on that land in the performance of his or her duties as a public servant or an officer or employee of a Territory authority or in the discharge of an obligation on his or her part, or on the part of his or her employer, to the Territory or that authority; or
  - (d) the parking or the leaving of the vehicle on that land could not have been avoided by any reasonable efforts on the part of that person.

Maximum penalty: 5 penalty units.

- (5) If an inspector has requested a person who is in occupation of, or has apparent control of—
  - (a) a structure that is on unleased land; or

(b) a vehicle that is on unleased land that is within an area of unleased land to which subsection (3) applies;

to remove the structure and all articles in, about, attached to, or apparently being used in connection with, the structure, or to remove the vehicle, to a place that is not unleased land and—

(c) immediate steps are not taken to comply with the request; or

(d) the structure and the articles or the vehicle are not removed within a reasonable time after the making of the request;

an inspector may remove the structure and all articles in, about, attached to, or apparently being used in connection with, the structure, or the vehicle.

(6) If—

(a) a structure is on unleased land and, for not less than 2 hours—

(i) the structure has remained unoccupied; and

(ii) there has been no person in apparent control of the structure; or

(b) a vehicle is on unleased land that is within an area of unleased land to which subsection (3) applies and, for not less than 2 hours, there has been no person in apparent control of the vehicle;

an inspector may remove the structure and all articles in, about, attached to, or apparently being used in connection with, the structure, or the vehicle.

(7) A structure, article or vehicle removed by an inspector under subsection (5) or (6) shall be kept in the custody that the chief police officer directs.

(8) If a structure, article or vehicle is kept in accordance with subsection (7), a person who, apart from that subsection, would be entitled to the custody of the structure, article or vehicle may request the chief

police officer to give that article to him or her, and, subject to subsection (9), the chief police officer shall, as soon as practicable, comply with that request.

- (9) If a request is made under subsection (8) for the giving to a person of an article kept under subsection (7) and that article is required by the prosecution to be tendered in evidence in proceedings for an offence against this section, the chief police officer shall give to the person making the request written notice to that effect specifying the proceedings in relation to which the article is so required, and may keep that article until the conclusion of the proceedings specified in the notice.
- (10) A declaration under subsection (3) is a notifiable instrument.

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

## **8B Permits to occupy unleased land**

- (1) A public servant authorised in writing by the Minister may, on an application by a person who wishes to conduct a festival, show, fair, circus or carnival, grant to that person a permit to occupy for that purpose a specified area of unleased Territory land or land occupied by the Territory that is in the city area, and the permit applies to that person and to all other persons to whom the permit is expressed to apply.
- (2) A permit shall be in force for the period, and subject to the conditions, specified in the permit.

## **8C Evidence**

- (1) A public servant authorised in writing by the Minister may, by instrument, certify that land described in the instrument or by reference to a plan on, or annexed to, the instrument—
- (a) is unleased Territory land or land occupied by the Territory; and
  - (b) is within the city area; and

- (c) is not within an area to which a declaration in force under section 8A (3) applies.
- (2) In proceedings for an offence against this Act, a document that purports to be an instrument referred to in subsection (1) shall, unless the contrary is proved, be taken to be such an instrument and is evidence of the matters stated in the instrument.

**9 Persons reasonably suspected to give name and address**

- (1) An inspector, or any forest overseer employed by the Territory or any person authorised in writing by the Minister, may require any person reasonably suspected of having committed, or of being about to commit an offence against this Act to give his or her name in full and place of abode.
- (2) Any person who, after being so required and on production of the necessary authority, fails to give his or her real name or place of abode, commits an offence.

Maximum penalty: 5 penalty units.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- chief police officer
- Commonwealth
- land
- Minister (see s 162)
- police officer
- territory land.

***animal*** means any horse, mare, gelding, colt, filly, foal, ass, mule, bull, cow, ox, heifer, steer, calf, ram, ewe, wether, sheep, lamb, goat or pig.

***city area***—see the *City Area Leases Act 1936* as in force on 1 April 1992.

***inspector*** means an inspector under section 3A.

***road*** means 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.

***vehicle***—see *Road Transport (Vehicle Registration) Act 1999*, dictionary.

## 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
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
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

## Endnotes

3 Legislation history

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### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Trespass on Commonwealth Lands Ordinance 1932* No 20 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances 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).

The Ordinance was renamed *Trespass on Territory Land Ordinance 1932* by the *Self-Government (Consequential Amendments) Ordinance 1989* No 38 (see sch 1).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their 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 their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before becoming Territory enactment

##### **Trespass on Territory Land Act 1932 No 20**

notified 10 November 1932  
commenced 10 November 1932

as amended by

##### **Trespass on Commonwealth Lands Ordinance 1937 No 10**

notified 22 July 1937  
commenced 22 July 1937

##### **Trespass on Commonwealth Lands Ordinance 1939 No 6**

notified 10 August 1939  
commenced 10 August 1939



**Trespass on Commonwealth Lands Ordinance 1940 No 15**

notified 11 July 1940  
commenced 11 July 1940

**Trespass on Commonwealth Lands Ordinance 1942 No 20**

notified 10 December 1942  
commenced 10 December 1942

**Trespass on Commonwealth Lands Ordinance 1943 No 6**

notified 13 May 1943  
commenced 27 May 1944

**Trespass on Commonwealth Lands Ordinance 1944 No 2**

notified 3 February 1944  
commenced 3 February 1944

**Trespass on Commonwealth Lands Ordinance (No 2) 1944 No 5**

notified 23 March 1944  
commenced 3 February 1944 (s 2)

**Ordinances Revision (Decimal Currency) Ordinance 1966 No 19**

notified 23 December 1966  
commenced 23 December 1966

**Trespass on Commonwealth Lands Ordinance 1972 No 20**

notified 20 July 1972  
commenced 20 July 1972

**Trespass on Commonwealth Lands Ordinance 1973 No 8**

notified 15 March 1973  
commenced 15 March 1973  
disallowed by Senate 7 June 1973

**Magistrates Court Ordinance 1985 No 67 sch pt 1**

notified 19 December 1985  
commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

## Endnotes

3 Legislation history

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### **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 becoming Territory enactment**

#### **Acts Revision (Arrest Without Warrant) Act 1989 No 23 s 13**

notified 1 December 1989 (Gaz 1989 No S38)  
commenced 1 December 1989

#### **Statute Law Revision Act 1994 No 26 sch**

notified 31 May 1994 (Gaz 1994 No S93)  
commenced 31 May 1994 (s 2)

#### **Statute Law Revision (Penalties) Act 1994 No 81 sch**

notified 29 November 1994 (Gaz 1994 No S253)  
s 1, s 2 commenced 29 November 1994 (s 2 (1))  
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

#### **Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1**

notified 15 December 1994 (Gaz 1994 No S280)  
s 1, s 2 commenced 15 December 1994 (s 2 (1))  
sch pt 1 commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

#### **Statute Law Revision Act 1995 No 46 sch**

notified 18 December 1995 (Gaz 1995 No S306)  
amds commenced 18 December 1995 (s 2)

#### **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**

notified 23 December 1999 (Gaz 1999 No S65)  
commenced 1 March 2000 (s 2 and see Gaz 2000 No S5)

**Statute Law Amendment Act 2000 No 80 sch 3**

notified 21 December 2000 (Gaz 2000 No S69)  
commenced 21 December 2000 (s 2 (1))

**Legislation (Consequential Amendments) Act 2001 No 44 pt 394**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 394 commenced 12 September 2001 (s 2 and see Gaz 2001  
No S65)

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.107**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.107 commenced 12 April 2007 (s 2 (1))

**4 Amendment history****Title**

title am 1989 No 38 sch 1

**Name of Act**

s 1 am 1989 No 38 sch 1

**Dictionary**

s 2 om 2001 No 44 amdt 1.4098  
ins A2007-3 amdt 3.529

**Notes**

s 3 sub 1973 No 8 s 2 (disallowed 7 June 1973)  
am 2000 No 80 amdt 3.27  
defs reloc to dict A2007-3 amdt 3.528  
sub A2007-3 amdt 3.529  
def **carriageway** ins A1972-20 s 2  
om A1999-79 sch 3  
def **city area** am A1940-15 s 2  
om A1972-20 s 2  
def **Commissioner of Police** ins A1972-20 s 2  
om A1994-26 sch  
def **Motor Traffic Act** ins A1972-20 s 2  
am A1994-26 sch  
om A2000-80 amdt 3.26  
def **off-street parking area** ins A1972-20 s 2  
om A1999-79 sch 3  
def **Police Act** ins A1972-20 s 2  
am A1994-26 sch  
om A1994-97 sch

## Endnotes

### 4 Amendment history

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def **public street** ins A1972-20 s 2  
om A1999-79 sch 3

#### **Inspectors**

s 3A ins 1943 No 6  
am 1994 No 26 sch  
sub 1994 No 97 sch; A2007-3 amdt 3.530  
(3)-(5) exp 12 April 2008 (s 3A (5) (LA s 88 declaration  
applies))

s 3B ins 1943 No 6  
sub 1944 No 2  
am 1944 No 5; 1966 No 19  
om 1989 No 38 sch 1

s 3C ins 1943 No 6  
am 1944 No 2; 1966 No 19  
om 1989 No 38 sch 1

#### **Trespass on Territory land**

s 4 am 1940 No 15; 1966 No 19; 1989 No 38 s 51, sch 1; 1994  
No 26 sch; 1994 No 81 sch; 1995 No 46 sch

#### **Animals straying etc on Commonwealth lands**

s 4A ins 1937 No 10  
am 1939 No 6; 1966 No 19; 1994 No 81 sch; 1995 No 46 sch

#### **Grazing stock on Commonwealth land in city area**

s 4B ins 1942 No 20  
am 1966 No 19; 1994 No 26 sch; 1994 No 81 sch; 1995  
No 46 sch

#### **Damage to fences**

s 5 am 1966 No 19; 1994 No 81 sch; 1995 No 46 sch

#### **Leaving gates open**

s 6 am 1966 No 19; 1989 No 38 sch 1; 1994 No 26 sch; 1994  
No 81 sch; 1995 No 46 sch

#### **Damaging trees etc**

s 7 am 1940 No 15; 1966 No 19; 1989 No 38 sch 1; 1994  
No 26 sch; 1994 No 81 sch

#### **Persons authorised to prevent trespassing etc**

s 8 am 1940 No 15; 1943 No 6; 1994 No 26 sch; 1994 No 97 sch

**Camping etc on Territory land**

s 8A ins 1972 No 20  
 om 1973 No 8 s 3  
 disallowed 7 June 1973  
 am 1989 No 38 s 52, sch 1; 1994 No 26 sch; 1994 No 81 sch;  
 1994 No 97 sch; 1998 No 54; 1999 No 79 s 5 sch 3; 2001  
 No 44 amdt 1.4099, amdt 1.4100; A2007-3 amdt 3.531

**Permits to occupy unleased land**

s 8B ins 1972 No 20  
 om 1973 No 8 s 3  
 disallowed 7 June 1973  
 am 1989 No 38 sch 1; 1994 No 26 sch

**Evidence**

s 8C ins 1972 No 20  
 om 1973 No 8 s 3  
 disallowed 7 June 1973  
 am 1989 No 38 sch 1; 1994 No 26 sch; 2001 No 44  
 amdt 1.4101

**Persons reasonably suspected to give name and address**

s 9 am 1943 No 6; 1966 No 19; 1985 No 67; 1989 No 38 sch 1;  
 1989 No 23 s 13; 1994 No 26 sch; 1994 No 81 sch; 1994  
 No 97 sch

**Schedule**

sch om 2001 No 44 amdt 1.4102

**Dictionary**

dict ins A2007-3 amdt 3.532  
 def **animal** reloc from s 3 A2007-3 amdt 3.528  
 def **city area** ins A1994-26 sch  
 reloc from s 3 A2007-3 amdt 3.528  
 def **inspector** ins A1994-97 sch  
 reloc from s 3 A2007-3 amdt 3.528  
 def **road** sub A1999-79 sch 3  
 reloc from s 3 A2007-3 amdt 3.528  
 def **road related area** ins A1999-79 sch 3  
 reloc from s 3 A2007-3 amdt 3.528  
 def **vehicle** ins A1999-79 sch 3  
 reloc from s 3 A2007-3 amdt 3.528

## Endnotes

5 Earlier republications

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### 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. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1989 No 23	31 August 1993
2	Act 1994 No 97	28 February 1995
3	Act 1998 No 54	31 March 1999
4	A2001-44	28 August 2002
5	A2007-3	12 April 2007

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