



Australian Capital Territory

Roads and Public Places Act 1937

A1937-24

Republication No 9

Effective: 9 March 2005 – 1 June 2005

Republication date: 9 March 2005

Last amendment made by A2004-57

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Roads and Public Places Act 1937* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 March 2005. It also includes any amendment, repeal or expiry affecting the republished law to 9 March 2005.

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

Roads and Public Places Act 1937

Contents

	Page
1 Name of Act	2
2 Dictionary	2
2AA Offences against Act—application of Criminal Code etc	2
2A Notes	3
2B Application of Act to Territory	3
2C Road and public places officers	3
3 Level of roads	3
4 Temporary closing of roads	4
5 Temporary roads	5
6 Drains for surface water	5
7 Damage to or interference with public places and property on them	6
8 Construction of culverts etc in public places	6
9 Permission to place culverts etc across, and to interfere with the surfaces of, public places	7
9A Determination of fees	7

R9
09/03/05

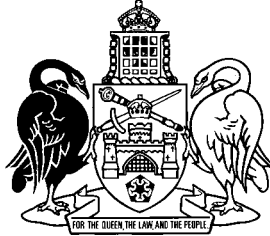
Roads and Public Places Act 1937
Effective: 09/03/05-01/06/05

contents 1

Contents

	Page	
10	Excavations etc on public places to be lighted	7
11	Alignment marks etc	8
12	Exhibition of advertisements or notices	8
12A	Code of practice for removable signs	8
12B	Contents of code of practice	8
12C	Failure to comply with code	9
12D	Indemnification of Territory	9
12E	Removal of abandoned vehicles from public places	9
12F	Failure to provide information about abandoned vehicles	11
12G	Removal of signs and other items from public places	11
12H	Disposal of items removed under sections 12E and 12G	12
12I	Prescribed objects—s 12G (4), def of <i>prescribed object</i>	13
13	Trees etc overhanging public places	13
14	Repair of damage to public places	14
14A	Graffiti removal on leased land	14
14B	Graffiti removal—liability of the Territory	15
15A	Objects in public places	16
15B	Application for permit	16
15BA	Placement of objects affecting heritage significance	17
15C	Grant or refusal of permit	18
15D	Permit may be subject to conditions	19
15E	Grant of permit	20
15F	Cancellation of permit	20
15G	Review of decisions of Minister	21
15H	Rights of holder of permit	22
15J	Term of permit	22
15K	Renewal of permit	22
15L	Loss or destruction of permit	23
15M	Notice to remove object	23
15N	Removal of objects by Territory	23
15P	Disposal of objects by Territory	25
15R	Change of address	25
15S	Approved forms	26
15T	Occupation etc of public land under Land Act licence	26
15U	Occupation etc of public land under Hawkers Act licence	26

16	Regulation-making power	Page 27
Dictionary		28
Endnotes		
1	About the endnotes	30
2	Abbreviation key	30
3	Legislation history	31
4	Amendment history	33
5	Earlier republications	38



Australian Capital Territory

Roads and Public Places Act 1937

An Act relating to roads and other public places

1 Name of Act

This Act is the *Roads and Public Places Act 1937*.

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 words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*retention area*—see the *Uncollected Goods Act 1996*, section 4.' means that the expression 'retention area' is defined in that section 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 2001*, s 155 and s 156 (1)).

2AA Offences against Act—application of Criminal Code etc

Other legislation applies in relation to an offence against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to the following offence against this Act (see Code, pt 2.1):

- s 12F (1) (Failure to provide information about abandoned vehicles).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

2A Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

2B Application of Act to Territory

- (1) The following sections do not bind the Territory:
 - section 6 (Drains for surface water)
 - section 7 (Damage to or interference with public places and property on them).
- (2) This section has effect despite the *Legislation Act 2001*, section 121 (Binding effect of Acts).

2C Road and public places officers

The chief executive may appoint a public servant as a roads and public places officer for this Act.

Note 1 For the making of appointments (including acting appointments), see *Legislation Act 2001*, pt 19.3.

Note 2 In particular, a person may be appointed for a particular provision of a law (see *Legislation Act 2001*, s 7 (3)) and an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

3 Level of roads

- (1) Subject to this section, the Minister may fix or alter the level of any public road.
- (2) The level of any public road proposed to be fixed or altered may only be fixed or altered after an opportunity is given to people interested in the proposal to be heard about the proposal.
- (3) At least 30 days before fixing or altering of the level of any public road, the Minister shall publish notice of his or her intention to fix or alter the level twice in a newspaper circulating in the ACT.

- (4) The notice shall specify—
 - (a) the name and situation of the road or part of the road the level of which it is intended to fix or alter; and
 - (b) the place where plans of the intended level may be inspected; and
 - (c) the place where and the time when any person interested may be heard by a roads and public places officer.
- (5) The roads and public places officer shall at the time and place mentioned in the notice hear all persons interested and shall give a report of the hearing to the Minister.
- (6) The Minister may, on receiving the report, in his or her discretion, adopt or abandon or make any alterations in the intended level as he or she considers appropriate.

4 Temporary closing of roads

- (1) The Minister may, subject to this section, temporarily close any public road against vehicular or other traffic.
- (2) Except in cases of urgency, the Minister shall not close any public road against vehicular or other traffic unless—
 - (a) notice of his or her intention to close the road has been published in a newspaper circulating in the ACT at least 7 days before the date when it is intended to close the road; and
 - (b) a notice indicating that the road is closed is displayed in some conspicuous place on the road.
- (3) Any person who, without the permission of a roads and public places officer, uses any road so closed commits an offence.

Maximum penalty: 5 penalty units.

5 Temporary roads

- (1) If a road is closed under section 4 and it is necessary, in the opinion of the Minister or a roads and public places officer, to make a temporary road for use while the road is so closed, the Minister or a roads and public places officer may make a temporary road.
- (2) If the land where it is intended to make the road is fenced, the Minister or officer shall give notice of his or her intention to make the road to the occupier or owner of the land at least 24 hours before the making of the road is begun.
- (3) However, it shall not be necessary for the notice to be given if the Minister or officer is of opinion that it is essential that a temporary road should be made immediately.
- (4) Any person who obstructs or hinders the Minister, a roads and public places officer or his or her assistants in making a road under this section commits an offence.

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

6 Drains for surface water

- (1) If surface water from any land overflows into and damages any public place, the Minister may, by written notice, require the owner of the land to repair any of the damage and to construct the drains and in the situations specified in the notice within 1 month after service on him or her of the notice.
- (2) The owner shall maintain the drains in good order and condition.
- (3) If the owner fails to comply with the notice or to maintain the drains in good order and condition, the Minister may enter on the land mentioned in the notice with the assistants that he or she considers necessary and construct or maintain the drains and may recover in any court of competent jurisdiction from the owner the cost of the construction and maintenance and, in addition, the cost of repairing the damage to the public place.

7 Damage to or interference with public places and property on them

Any person who—

- (a) wilfully or negligently damages or suffers or causes damage to be done to; or
- (b) without the written permission of the Minister or a roads and public places officer (proof of which shall lie on the person accused), interferes with;

any public place or any kerbstone, watertable, gutter, footpath or other work on it or any fence, post, lamp, lamp post, structure or other property of the Territory in any public place, commits an offence.

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

8 Construction of culverts etc in public places

Any person who, without the permission of the Minister or a roads and public places officer (proof of which shall lie on the person accused)—

- (a) makes or places any culvert, bridge, crossing or drain across any watertable, watercourse or footpath in any public place; or
- (b) makes an excavation in a public place;

commits an offence.

Maximum penalty: 30 penalty units.

9 Permission to place culverts etc across, and to interfere with the surfaces of, public places

- (1) The Minister or a roads and public places officer may give permission to a person to make or place a culvert, bridge, crossing or drain across a watertable, watercourse or footpath in, or to open up or break the surface of, any public place.

Note A fee may be determined under s 9A (Determination of fees) for this section.

- (2) The permission may be given subject to the conditions the Minister decides.

9A Determination of fees

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

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*.

10 Excavations etc on public places to be lighted

If any excavation is made, or any substance or material is placed, on any public place, or any work is being carried on, on any public place entailing the opening up or breaking of the surface of the public place, the person making, or permitting or causing to be made, the excavation, or placing the substance or material, or permitting or causing the substance or material to be placed, on the public place, or carrying out the works, shall cause sufficient lights to be affixed in a proper place to indicate clearly the excavation, substance, material or works, and continue those lights every night from sunset to sunrise while the excavation, substance, material or works continue, and shall during all that time at his or her own expense cause the place where they are continued to be sufficiently

fenced or enclosed to prevent any danger or inconvenience to any person.

Maximum penalty: 30 penalty units.

11 Alignment marks etc

Any person who, without lawful authority, pulls down, pulls up, destroys or damages any alignment or boundary mark, or any stone, notice board, public notice or other erection in or on any public place commits an offence.

Maximum penalty: 30 penalty units.

12 Exhibition of advertisements or notices

Any person who, without the permission of the Minister or a roads and public places officer, exhibits, in any way, on any property of the Territory in or adjoining any public place, any advertisement or notice commits an offence.

Maximum penalty: 10 penalty units.

12A Code of practice for removable signs

- (1) The Minister may, in writing, approve a code of practice about the placement and keeping of moveable signs in public places.
- (2) An approval is a disallowable instrument.

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

12B Contents of code of practice

The code of practice may include, but is not limited to, matters relating to—

- (a) the materials from which, and the methods by which, a sign may be constructed; and
- (b) the sizes of signs; and

- (c) the locations where a sign may be placed; and
- (d) the words or images that may be displayed on a sign; and
- (e) how the person responsible for a sign may be identified; and
- (f) the number of signs that a person may place or keep in a public place; and
- (g) the requirements relating to insurance that a person who places or keeps a sign in a public place must satisfy.

12C Failure to comply with code

A person shall not, without reasonable excuse, place or keep a movable sign in, over or across a public place, except in accordance with the code of practice.

Maximum penalty:

- (a) for a contravention of the code relating to insurance—50 penalty units; or
- (b) in any other case—10 penalty units.

12D Indemnification of Territory

A person who places or keeps a movable sign in a public place is liable to indemnify the Territory for any liability the Territory incurs as a result of the sign being so kept or placed.

12E Removal of abandoned vehicles from public places

- (1) This section applies if a roads and public places officer suspects, on reasonable grounds, that a vehicle in a public place has been abandoned.

Examples of grounds that might indicate vehicle is abandoned

- 1 the vehicle's registration has expired
- 2 the vehicle is in a state of disrepair

3 the general appearance of the vehicle, including any build-up of dust or debris

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The vehicle may be removed and placed in a retention area.
- (3) However, if the vehicle is a vehicle for which there is a registered operator, the vehicle may be removed and placed in a retention area only if a roads and public places officer has given a registered operator a written notice under subsection (4) and the vehicle has not been removed within 2 days after the day the person was given the notice.
- (4) The notice must require the person—
 - (a) if the person is an owner of the vehicle—to remove the vehicle within 2 days after the day the notice is given to the person; or
 - (b) if the person is not an owner of the vehicle—to tell a roads and public places officer, within 7 days after the day the person is given the notice—
 - (i) that the person is not an owner of the vehicle; and
 - (ii) the name and address of anyone that the person believes is an owner of the vehicle.
- (5) The notice must include information about how the person may contact a roads and public places officer, including, for example, a telephone number.
- (6) In this section:

owner, of a vehicle, includes anyone who has a legal right to move the vehicle.

registered operator—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

12F Failure to provide information about abandoned vehicles

- (1) A person commits an offence if—
 - (a) the person is the registered operator of a vehicle; and
 - (b) the person is given a notice under section 12E (3) in relation to the vehicle; and
 - (c) the person is not an owner of the vehicle; and
 - (d) the person fails to tell a roads and public places officer, within 7 days after the day the notice is given to the person—
 - (i) that the person is not an owner of the vehicle; and
 - (ii) the name and address of anyone the person believes is an owner of the vehicle.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.
- (3) In this section:
owner, of a vehicle—see section 12E (6).
registered operator—see section 12E (6).

12G Removal of signs and other items from public places

- (1) If a movable sign has been placed, or is being kept, in a public place otherwise than in accordance with the code of practice, a roads and public places officer may remove the sign and place it in a retention area.
- (2) If—
 - (a) a prescribed object is in, over or across a public place; and
 - (b) the object is not authorised by a permit granted under this Act or any other law of the Territory to be there;a roads and public places officer may—

- (c) if the object—
 - (i) creates a hazard for people using the public place or any premises adjacent to the public place; or
 - (ii) restricts the movement of people or vehicles in the public place;
remove the object from the public place and place it in a retention area; or
- (d) in any case—give the owner of the object a direction in writing to—
 - (i) apply for a permit authorising the object to remain in, over or across the public place; or
 - (ii) remove the object from the public place;
within 7 days after the direction is given.

- (3) If a roads and public places officer gives the owner of an object a notice under subsection (2) (d) and—
 - (a) the owner does not comply with the notice; or
 - (b) the owner makes, within the period of 7 days specified in the notice, an application for a permit to allow the object to remain in, over or across the public place and that application is refused;

a roads and public places officer may remove the object from the public place and place it in a retention area.

- (4) In this section:

prescribed object means an object prescribed under section 12I.

12H Disposal of items removed under sections 12E and 12G

If an object, sign or vehicle is placed in a retention area under section 12E or section 12G—

- (a) the object, sign or vehicle is taken to be uncollected goods for the *Uncollected Goods Act 1996*; and
- (b) the Minister is taken to be the possessor of the goods for that Act; and
- (c) the Minister may dispose of the goods in accordance with that Act, part 3; and
- (d) for that Act, section 26 (2) (a) and section 30 (1) (a) the reasonable costs incurred by the Minister in complying with that Act are taken to include the cost of removing the object, sign or vehicle from the public place to the retention area.

12I Prescribed objects—s 12G (4), def of *prescribed object*

- (1) The Minister may, in writing, prescribe objects.
- (2) An instrument under subsection (1) is a disallowable instrument.

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

13 Trees etc overhanging public places

- (1) If any tree, sapling, plant, shrub or timber on any land overhangs any public place so as to obstruct or inconvenience passers by, a roads and public places officer may, by written notice, require the occupier of the land, within the time specified in the notice, so to cut the tree, sapling, plant, shrub or timber that it will not obstruct or inconvenience passers by.
- (2) An occupier of land who is served with a notice under subsection (1) shall comply with the notice.

Maximum penalty: 5 penalty units.

- (3) If any tree, sapling, plant, shrub or timber, or part of such a thing, on any land adjoining any public place is in such a condition or situation as to endanger the safety of any person using the place, whether by obstructing the vision or otherwise, a roads and public

places officer may, by written notice, require the occupier of the land to remove immediately the tree, sapling, plant, shrub or timber, or part.

- (4) An occupier of land who is served with a notice under subsection (3) shall comply with the notice.

Maximum penalty: 50 penalty units.

14 Repair of damage to public places

- (1) Any person who causes damage to any public place other than the fair wear and tear due to ordinary and reasonable user of the public place shall—
- (a) pay the cost incurred by the Territory in making good the damage; or
 - (b) if the Minister so requires, make good the damage to the satisfaction of the Minister or a roads and public places officer.
- (2) Subsection (1) applies whether or not the person was acting with the permission of the Minister or a roads and public places officer or under a permit granted to him or her under this Act.

14A Graffiti removal on leased land

- (1) This section applies to graffiti on property on leased Territory land if the graffiti is visible from a public place.
- (2) An authorised person may remove the graffiti with the agreement of the occupier of the land.
- (3) If subsection (4) is complied with, an authorised person may also remove the graffiti—
- (a) without the agreement of the occupier of the land; and
 - (b) whether or not the occupier has been notified that the graffiti removal work will be carried out.

-
- (4) For subsection (3), an authorised person must, immediately before the graffiti removal work is to be carried out, take reasonable steps to notify the occupier that the work is to be carried out.
 - (5) Graffiti removal work under subsection (3) must be carried out only from a public place.
 - (6) After graffiti removal work has been carried out under subsection (2) or (3), an authorised person must give the occupier written notice that the work has been carried out.
 - (7) The notice must include information about the effect of section 14B.
 - (8) To remove any doubt, this section does not require the Territory to carry out graffiti removal work.
 - (9) In this section:

authorised person means a person authorised in writing by the chief executive for this section.

occupier, of leased Territory land, includes—

- (a) a person believed, on reasonable grounds, to be an occupier of the land; and
- (b) a person apparently in charge of the land.

14B Graffiti removal—liability of the Territory

- (1) The cost of the graffiti removal work under section 14A is payable by the Territory.
- (2) The Territory is liable for any damage caused to the property in carrying out the graffiti removal work, other than any minor damage that is incidental to the removal of the graffiti.

Examples of minor incidental damage

- 1 minor discoloration of the surface from which the graffiti is removed

2 minor variations in the colour and application of paintwork

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The Territory is not liable for any failure to completely remove the graffiti.
- (4) To remove any doubt, this section does not require the Territory to restore any property to its former state before graffiti was applied to it.

15A Objects in public places

The Minister may, on the application of a person, grant to the person a permit to place an object, other than an object of a kind referred to in section 8 (a), in, over or across a public place.

Note A hawker who is licensed under the *Hawkers Act 2003* does not require a permit under this Act to park a vehicle in a public place if the person is carrying on the business of a hawker under that Act in accordance with the person's licence, see s 15U.

15B Application for permit

An application for the grant of a permit to place an object in, over or across a public place—

- (a) shall be made in writing to the Minister and signed by or on behalf of the applicant; and
- (b) shall specify the place in relation to which the permit is sought; and
- (c) shall be accompanied by a plan clearly showing—
 - (i) the location, boundaries and dimensions of the place in relation to which the permit is sought; and
 - (ii) if it is not proposed to move the object whilst the permit is in force—the proposed position of the object in, over or across that place; and

- (d) shall clearly indicate the nature of the object and give particulars of its design and size; and
- (e) shall specify the use to which it is intended the object will be put; and
- (f) shall specify the hours when it is proposed the object will remain in, over or across the place; and
- (g) shall give particulars of any measures proposed to be adopted in connection with the use of the object to safeguard the health and provide for the safety, comfort and convenience of persons using the place or a place adjacent to or near the place; and
- (h) if installation or construction work is proposed to be carried out in or on the place for the purpose of placing the object in, over or across the place—
 - (i) shall specify the nature of the work; and
 - (ii) shall give particulars of the methods to be employed in the execution of the work; and
 - (iii) shall give particulars of any measures proposed to be adopted in connection with the work to protect the safety of persons using the place or a place adjacent to or near the place.

15BA Placement of objects affecting heritage significance

- (1) The section applies if an application under section 15B relates to the placement of an object at a place registered, or nominated for provisional registration, under the *Heritage Act 2004*.
- (2) The Minister must—
 - (a) give a copy of the application to the heritage council; and
 - (b) in deciding on the application under section 15C, consider any written recommendation or submission about the placement given to the Minister by the council within 15 working days after the day the copy of the application is given to the council.

15C Grant or refusal of permit

- (1) The Minister shall consider each application for a permit and shall—
 - (a) approve of the grant to the applicant of the permit; or
 - (b) refuse to grant the permit to the applicant.
- (2) For the purpose of determining an application for a permit to place an object in, over or across a public place, the Minister shall have regard to—
 - (a) whether the place is a suitable place in, over or across which to place the object; and
 - (b) whether the object will be structurally sufficient, safe and stable; and
 - (c) the interests of the public and, in particular—
 - (i) whether the object, placed in, over or across the place, would be likely to be to the benefit or detriment of persons using the place or a place adjacent to or near the place; and
 - (ii) whether adequate provision is proposed to be made in connection with the use of the object to safeguard the health and provide for the safety, comfort and convenience of persons using the place or a place adjacent to or near the place; and
 - (d) the interests of persons carrying on business in the vicinity of the place and, in particular, the interests of a person carrying on, in the vicinity of the place, a business similar to the business (if any) carried on, in the vicinity of the place, by the applicant; and
 - (e) if installation or construction work is proposed to be carried out in or on the place for the purpose of placing the object in, over or across the place—

- (i) whether it is desirable to allow the work to be carried out in or on the place; and
- (ii) whether the work will be suitable for the purpose; and
- (iii) whether adequate provision is proposed to be made in connection with the work to protect the safety of persons using the place or a place adjacent to or near the place.

15D Permit may be subject to conditions

If the Minister approves of the grant to an applicant of a permit to place an object in, over or across a public place, the Minister may grant the permit subject to any of the following conditions that the Minister considers appropriate:

- (a) that the object will be of a type or design specified by the Minister;
- (b) that the object will be properly maintained and will not be allowed to become structurally insufficient, unsafe or unstable;
- (c) that the holder of the permit will not allow the object, whether directly or indirectly, to adversely affect the health or safety of persons using the place or a place adjacent to or near the place;
- (d) that adequate provision will be made for the disposal of refuse and waste from, and for the drainage of, the place;
- (e) that, during the hours between sunset and sunrise that the object is in the place, the place will be illuminated in a way that indicates clearly the object;
- (f) that the place will be fenced or enclosed in a way that prevents persons being endangered or inconvenienced by the object;
- (g) that any installation or construction work to be carried out in or on the place for the purpose of placing the object in, over or across the place will be carried out in a proper, skilful and safe way;

- (h) that the applicant will insure himself or herself and keep himself or herself insured against liability in relation to—
 - (i) death, bodily injury or illness; or
 - (ii) loss of, or damage to, property;
occurring in connection with the object.

15E Grant of permit

- (1) If the Minister approves of the grant to an applicant of a permit, the Minister shall notify the applicant in writing of the grant and of any conditions to which the permit is subject and shall issue the permit to the applicant.

Note A fee may be determined under s 9A (Determination of fees) for this section.

- (2) A permit granted under this Act shall clearly identify the place in relation to which the permit is granted and shall specify—
 - (a) the name and address of the person to whom the permit is granted; and
 - (b) the object permitted to be placed in, over or across the place; and
 - (c) the use to which the object may be put; and
 - (d) the hours when the object may remain in, over or across the place; and
 - (e) the period for which the permit is granted; and
 - (f) the conditions (if any) to which the permit is subject.

15F Cancellation of permit

The Minister may, on any of the following grounds, cancel a permit authorising a person to place an object in, over or across a public place:

- (a) that a permit was granted in error or in consequence of a false statement made or misleading information given by the holder of the permit;
- (b) that the holder of the permit has failed to take reasonable steps to prevent the object being used for a purpose other than the purpose specified in the permit;
- (c) that the holder of the permit has permitted the object to remain in the public place at a time other than a time allowed by the permit;
- (d) that the holder of the permit has failed to comply with a condition to which the permit is subject;
- (e) that the public place is no longer a suitable place to be the subject of a permit under this Act;
- (f) that the object is not serving a purpose beneficial to the interests of the public;
- (g) that the object has resulted in, whether directly or indirectly, the interests of a person carrying on business in the vicinity of the place being adversely affected.

15G Review of decisions of Minister

- (1) Application may be made to the administrative appeals tribunal for a review of a decision of the Minister—
 - (a) under section 15C (1) (b) to refuse to grant a permit; or
 - (b) under section 15D to grant a permit subject to a condition; or
 - (c) under section 15F to cancel a permit.
- (2) If the Minister makes a decision of the kind referred to in subsection (1), the Minister shall give notice of the decision to a person whose interests are affected by the decision.

- (3) A notice under subsection (2) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

15H Rights of holder of permit

- (1) For the purpose of ensuring that an object to which a permit relates is used for the purpose specified in the permit, the holder of the permit may determine the persons who may make use of the object and any equipment or services provided in connection with the object.
- (2) Nothing in subsection (1) or in any other provision of this Act prevents a place that is a public place for the purposes of a law in force in the ACT from continuing to be a public place for the purposes of that law.

15J Term of permit

A permit, unless sooner surrendered or cancelled, remains in force for the period, not longer than 12 months, specified in the permit.

15K Renewal of permit

- (1) If the holder of a permit applies to the Minister for its renewal (whether the application is made before or after the end of the permit's term), the Minister must renew the permit.

Note A fee may be determined under s 9A (Determination of fees) for this section.

- (2) If the Minister renews a permit—
- (a) the permit as renewed continues in force for the period, not longer than 12 months, specified in the renewal; and
- (b) that period begins at the end of the period when, apart from its renewal, the permit would have been in force.
- (3) The Minister shall not renew a permit if the object to which the permit related has been removed under section 15N (1).

15L Loss or destruction of permit

If the Minister is satisfied that a permit has been lost, defaced or destroyed, he or she may issue to the holder of the permit a certified copy of the permit and that copy is, for this Act, of the same effect as the permit.

15M Notice to remove object

- (1) If a permit expires or is surrendered or cancelled, the Minister shall, as soon as possible after the expiry, surrender or cancellation of the permit, if the object to which the permit related is still in, over or across the public place to which the permit related, by written notice given to the person who held the permit, require that person, within the period specified in the notice, being a period of not less than 14 days after the notice is given, to remove the object from the public place.

Note For the giving of documents, see *Legislation Act 2001*, pt 19.5.

- (2) If a notice is given under subsection (1) following the expiry of a permit and the permit is subsequently renewed under section 15K (1), the notice ceases to have effect.

15N Removal of objects by Territory

- (1) If a person fails to comply with a notice given to him or her under section 15M (1), the Minister shall cause the object to which the notice relates to be removed and placed in storage.
- (2) If a notice is given to a person under section 15M (1) and the object to which the notice relates is removed under subsection (1), the Minister shall give to the person a further notice stating—
 - (a) the place where the object is stored; and
 - (b) that the object will be given to the person at the place where it is being stored if, within 28 days after the notice is given, the person pays to the Territory—

- (i) the amount specified in the notice in relation to the costs and expenses incurred or to be incurred by the Territory in making good any damage caused to the public place by the removal of the object; and
 - (ii) the amount specified in the notice in relation to the costs and expenses incurred by the Territory in removing the object; and
 - (iii) an amount in relation to the costs and expenses of storage of the object, being an amount calculated in accordance with the rate specified in the notice; and
- (c) that, if, within the time specified in paragraph (b), the amounts referred to in that paragraph are not paid and the object removed from the place where it is being stored—
- (i) the ownership of the object shall be deemed, for all purposes, to vest in the Territory; and
 - (ii) the object may be disposed of in the way the Minister directs.

Note For the giving of documents, see *Legislation Act 2001*, pt 19.5.

- (3) In relation to a notice given under subsection (2)—
- (a) the amount to be specified in the notice for subsection (2) (b)
 - (i) is the amount of the reasonable costs and expenses incurred or to be incurred by the Territory in making good any damage caused to the public place by the removal of the object; and
 - (ii) is the amount of the reasonable costs and expenses incurred by the Territory in removing the object; and
 - (b) the amount to be specified in the notice for subsection (2) (b)
 - (i) is the amount of the reasonable costs and expenses incurred or to be incurred by the Territory in making good any damage caused to the public place by the removal of the object; and
 - (ii) is the amount of the reasonable costs and expenses incurred by the Territory in removing the object; and
 - (c) the rate to be specified in the notice for subsection (2) (b) (iii) is the rate necessary to cover the reasonable costs and expenses of storage of the object.

15P Disposal of objects by Territory

- (1) If a person to whom a notice is given under section 15N (2) does not, within 28 days after the notice is given to him or her—
 - (a) pay to the Territory the amounts referred to in the notice; and
 - (b) remove the object to which the notice relates from the place where it is being stored;

the ownership of the object is taken, for all purposes, to vest in the Territory and the object may be disposed of in the way the Minister directs.

- (2) If, under subsection (1), an object is sold by the Territory, the proceeds of the sale shall be applied—
 - (a) in repaying to the Territory—
 - (i) the amounts specified, for section 15N (2) (b) (i) and (ii), in the notice given under section 15N (2) in relation to the object; and
 - (ii) the amount of the costs and expenses incurred by the Territory in connection with the storage of the object, being an amount calculated in accordance with the rate specified, for section 15N (2) (b) (iii), in that notice; and
 - (iii) the amount of the reasonable costs and expenses incurred by the Territory in connection with the sale of the object; and
 - (b) in payment of the balance (if any) to the person to whom the notices under sections 15M (1) and 15N (2) were given.

15R Change of address

- (1) If the name or address of the holder of a permit is changed, the holder must immediately give to the Minister written notice of the change and give the permit to the Minister.

Maximum penalty: 1 penalty unit.

- (2) The Minister shall, as soon as practicable after receipt of the permit, enter the particulars of the change on the permit and return it to the holder.

15S Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see *Legislation Act 2001*, s 255.

- (3) An approved form is a notifiable instrument.

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

15T Occupation etc of public land under Land Act licence

A person is not required to hold a permit under this Act to place an object in, over or across, or otherwise interfere with, a public place if—

- (a) the person holds a licence under the *Land (Planning and Environment) Act 1991* to occupy or use the public place; and
- (b) the public place is being occupied or used in accordance with the licence.

15U Occupation etc of public land under Hawkers Act licence

A person is not required to hold a permit under this Act to park a vehicle (within the meaning of the *Hawkers Act 2003*) in a public place if—

- (a) the person holds a licence under the *Hawkers Act 2003* to use the vehicle to sell goods or services in the public place; and
- (b) the person is carrying on the business of a hawker under that Act in accordance with the licence.

16 Regulation-making power

The Executive may make regulations for this Act.

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

Dictionary

(see s 2)

Note 1 The *Legislation Act 2001* contains definitions and other provisions relevant to this Act.

Note 2 In particular, the *Legislation Act 2001*, dict, pt 1, defines the following terms:

- ACT
- chief executive
- document
- penalty unit (see s 133)
- property
- Territory land
- the Territory.

code of practice means the code of practice approved by the Minister under section 12A (1).

object includes any item of movable personal property.

owner, of land, means the lessee of the land.

permit means a permit granted under this Act.

public place means unleased Territory land that the public are entitled to use or that is open to, or used by, the public, and includes every public road.

public road means any street, road, lane, thoroughfare, footpath, or place that is Territory land open to, or used by, the public.

retention area—see the *Uncollected Goods Act 1996*, section 4.

roads and public places officer means a roads and public places officer appointed under section 2B.

sign includes a notice and an advertisement.

vehicle—see the *Road Transport (General) Act 1999*, dictionary.

Note The def defines ***vehicle*** as any vehicle on wheels (other than a vehicle used on railways or tramways) or a prescribed vehicle.

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

This Act was originally a Commonwealth ordinance—the *Roads and Public Places Ordinance 1937* No 24 (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).

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).

Legislation before becoming Territory enactment

Roads and Public Places Act 1937 No 24

notified 16 December 1937

commenced 16 December 1937

as amended by

Ordinances Revision Ordinance 1959 No 21

notified 23 December 1959

commenced 31 December 1959

Ordinances Revision (Decimal Currency) Ordinance 1966 No 19

notified 23 December 1966

commenced 23 December 1966

Roads and Public Places (Amendment) Ordinance 1976 No 72

notified 30 December 1976

commenced 30 December 1976

Roads and Public Places (Amendment) Ordinance 1983 No 15

notified 27 July 1983

commenced 10 August 1983 (Cwlth Gaz 1983 No S172)

Roads and Public Places (Amendment) Ordinance 1987 No 64

notified 6 November 1987

commenced 6 November 1987

Endnotes

3 Legislation history

Self-Government (Consequential Amendments) Ordinance 1989 No 38 sch1

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 (Position of Crown) Act 1993 No 44 s 3

notified 27 August 1993 (Gaz 1993 No S165)
commenced 27 August 1993 (s 2)

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
sch 1 commenced 14 November 1994 (s 2 (2) and see Gaz 1994 No S250)

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 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)

Roads and Public Places (Amendment) Act 1997 No 63

notified 9 October 1997 (Gaz 1997 No S300)
ss 1-3 commenced 9 October 1997 (s 2 (1))
remainder commenced 27 October 1997 (s 2 (2) and Gaz 1997 No S326)

Roads and Public Places (Amendment) Act 1998 No 56

notified 27 November 1998 (Gaz 1998 No S207)
ss 1-3 commenced 27 November 1998 (s 2 (1))
s 11 (part) commenced 5 February 1999 (s 2 (2) and Gaz 1999 No S5)
remainder commenced 27 May 1999 (s 2 (3))

Legislation Amendment Act 2002 No 11 pt 2.43

notified LR 27 May 2002
 s 1, s 2 commenced 27 May 2002 (LA s 75)
 pt 2.43 commenced 28 May 2002 (s 2 (1))

Statute Law Amendment Act 2002 No 30 pt 3.62

notified LR 16 September 2002
 s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
 pt 3.62 commenced 17 September 2002 (s 2 (1))

Hawkers Act 2003 A2003-10 sch 1

notified LR 27 March 2003
 s 1, s 2 commenced 27 March 2003 (LA s 75 (1))
 sch 1 commenced 27 September 2003 (s 2 and LA s 79)

Land (Planning and Environment) (Compliance) Amendment Act 2003 A2003-34 pt 4

notified LR 7 July 2003
 s 1, s 2 commenced 7 July 2003 (LA s 75 (1))
 pt 4 commenced 1 September 2003 (s 2 and CN2003-8)

Roads and Public Places (Vandalism) Amendment Act 2004 A2004-46

notified LR 11 August 2004
 s 1, s 2 commenced 11 August 2004 (LA s 75 (1))
 remainder commenced 13 September 2004 (s 2 and CN2004-23)

Heritage Act 2004 A2004-57 sch 1 pt 1.10

notified LR 9 September 2004
 s 1, s 2 commenced 9 September 2004 (LA s 75 (1))
 sch 1 pt 1.10 commenced 9 March 2005 (s 2 and LA s 79)

4 Amendment history**Title**

title am 1989 No 38

Name of Act

s 1 sub 2002 No 30 amdt 3.663

Dictionary

s 2 def **authorized officer** am 1989 No 38
 om 1994 No 97 sch pt 1
 def **code of practice** ins 1998 No 56 s 4
 om 2002 No 30 amdt 3.664

Endnotes

4 Amendment history

def **determined fee** ins 1997 No 63 s 4
om 2002 No 30 amdt 3.664
def **object** ins 1998 No 56 s 4
om 2002 No 30 amdt 3.664
def **permit** ins 1976 No 72
om 2002 No 30 amdt 3.664
def **public place** am 1989 No 38; 1998 No 56 s 4
om 2002 No 30 amdt 3.664
def **public road** am 1959 No 21; 1989 No 38
om 2002 No 30 amdt 3.664
def **retention area** ins 1998 No 56 s 4
om 2002 No 30 amdt 3.664
def **roads and public places officer** ins 1994 No 97 sch pt 1
om 2002 No 30 amdt 3.664
def **sign** ins 1998 No 56 s 4
om 2002 No 30 amdt 3.664
sub 2002 No 30 amdt 3.664

Offences against Act—application of Criminal Code etc

s 2AA ins A2004-46 s 4

Notes

s 2A ins 1993 No 44 sch 1
sub 2002 No 11 amdt 2.88; 2002 No 30 amdt 3.664

Application of Act to Territory

s 2B ins 1994 No 97 sch pt 1
sub 2002 No 30 amdt 3.664

Road and public places officers

s 2C ins 2002 No 30 amdt 3.664

Level of roads

s 3 am 1994 No 97 sch pt 1; am 2002 No 30 amdt 3.665, amdt
3.666

Temporary closing of roads

s 4 am 1994 No 81 sch; 1994 No 97 sch pt 1; 1998 No 56

Temporary roads

s 5 am 1994 No 81 sch; 1994 No 97 sch pt 1; 1998 No 56;
R2 LRA; ss renum R3 LA; 2002 No 30 amdt 3.667

Drains for surface water

s 6 am 2002 No 30 amdt 3.668

Damage to or interference with public places and property on them

s 7 am 1989 No 38; 1994 No 81 sch; 1994 No 97 sch pt 1; 1998
No 56; 2002 No 30 amdt 3.669

Construction of culverts etc in public places

s 8 am 1976 No 72; 1994 No 81 sch; 1994 No 97 sch pt 1; 1998 No 56; 2002 No 30 amdt 3.669

Permission to place culverts etc across, and to interfere with the surfaces of, public places

s 9 am 1976 No 72; 1983 No 15; 1994 No 97 sch pt 1; 1997 No 63 sub 2002 No 30 amdt 3.670

Determination of fees

s 9A ins 1983 No 15
sub 1997 No 63; 2002 No 30 amdt 3.671

Excavations etc on public places to be lighted

s 10 am 1966 No 19; 1976 No 72; 1994 No 81 sch; 1998 No 56; 2002 No 30 amdt 3.672

Alignment marks etc

s 11 am 1989 No 38; 1994 No 81 sch; 1998 No 56

Exhibition of advertisements or notices

s 12 am 1976 No 72; 1989 No 38; 1994 No 81 sch; 1994 No 97 sch pt 1; 2002 No 30 amdt 3.673

Code of practice for removable signs

s 12A ins 1998 No 56
sub 2002 No 30 amdt 3.674

Contents of code of practice

s 12B ins 1998 No 56

Failure to comply with code

s 12C ins 1998 No 56
am 2002 No 30 amdt 3.675

Indemnification of Territory

s 12D ins 1998 No 56

Removal of abandoned vehicles from public places

s 12E ins 1998 No 56
om 2002 No 30 amdt 3.676
ins A2004-46 s 5

Failure to provide information about abandoned vehicles

s 12F orig s 12F renum as s 12G
ins A2004-46 s 5

Endnotes

4 Amendment history

Removal of signs and other items from public places

s 12G hdg (prev s 12F hdg) sub A2004-46 s 6
s 12G orig s 12G renum as s 12I
(prev s 12F) ins 1998 No 56
am 2002 No 30 amdt 3.677
renum as s 12G A2004-46 s 6
am A2004-46 s 7

Disposal of items removed under sections 12E and 12G

s 12H ins A2004-46 s 7

Prescribed objects—s 12G (4), def of *prescribed object*

s 12I hdg (prev s 12G hdg) sub A2004-46 s 8
s 12I (prev s 12G) ins 1998 No 56
sub 2002 No 30 amdt 3.678
renum as s 12I A2004-46 s 8

Tress etc overhanging public places

s 13 am 1994 No 81 sch; 1994 No 97 sch pt 1; 1998 No 56;
ss renum R3 LA; 2002 No 30 amdt 3.679; amdt 3.680

Repair of damage to public places

s 14 am 1976 No 72; 1989 No 38; 1994 No 97 sch pt 1

Graffiti removal on leased land

s 14A ins A2004-46 s 9

Graffiti removal—liability of the Territory

s 14B ins A2004-46 s 9

Penalties

s 15 am 1966 No 19
sub 1976 No 72
om 1994 No 81 sch

Objects in public places

s 15A ins 1976 No 72
am A2003-34 s 15; A2003-10 amdt 1.1

Application for permit

s 15B ins 1976 No 72

Placement of objects affecting heritage significance

s 15BA ins A2004-57 amdt 1.55

Grant or refusal of permit

s 15C ins 1976 No 72

Permit may be subject to conditions

s 15D ins 1976 No 72

Grant of permit

s 15E ins 1976 No 72
am 1997 No 63; 2002 No 30 amdt 3.681, amdt 3.682

Cancellation of permit

s 15F ins 1976 No 72

Review of decisions of Minister

s 15G ins 1976 No 72
am 1989 No 38; 1994 No 60 sch 1; 2002 No 30 amdt 3.683,
amdt 3.684

Rights of holder of permit

s 15H ins 1976 No 72

Term of permit

s 15J ins 1976 No 72

Renewal of permit

s 15K ins 1976 No 72
am 1997 No 63; 2002 No 30 amdt 3.685

Loss or destruction of permit

s 15L ins 1976 No 72

Notice to remove object

s 15M ins 1976 No 72
am 2002 No 30 amdt 3.686

Removal of objects by Territory

s 15N ins 1976 No 72
am 1989 No 38; 2002 No 30 amdt 3.686

Disposal of objects by Territory

s 15P ins 1976 No 72
am 1989 No 38; 2002 No 30 amdt 3.687

Manner of giving notices

s 15Q ins 1976 No 72
om 2002 No 30 amdt 3.688

Change of address

s 15R ins 1976 No 72
am 1994 No 81 sch; 1998 No 56; 2002 No 30 amdt 3.689

Approved forms

s 15S ins 1987 No 64
om 1989 No 38
ins 2002 No 30 amdt 3.690

Endnotes

5 Earlier republications

Occupation etc of public land under Land Act licence

s 15T ins 1987 No 64
om 1989 No 38
ins A2003-34 s 16

Occupation etc of public land under Hawkers Act licence

s 15U ins A2003-10 amdt 1.2
am A2004-46 s 10

Regulation-making power

s 16 am 1989 No 38
sub 2002 No 30 amdt 3.690

Dictionary

dict ins 2002 No 30 amdt 3.691
am A2004-46 s 11
def **code of practice** ins 2002 No 30 amdt 3.691
def **object** ins 2002 No 30 amdt 3.691
def **owner** ins 2002 No 30 amdt 3.691
def **permit** ins 2002 No 30 amdt 3.691
def **public place** ins 2002 No 30 amdt 3.691
def **public road** ins 2002 No 30 amdt 3.691
def **retention area** ins 2002 No 30 amdt 3.691
def **roads and public places officer** ins 2002 No 30
amdt 3.691
def **sign** ins 2002 No 30 amdt 3.691
def **vehicle** ins A2004-46 s 12

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 1994 No 97	31 January 1996
2	Act 1998 No 56	31 July 1999
3	Act 1998 No 56	4 January 2002
4	Act 2002 No 11	30 May 2002

Republication No	Amendments to	Republication date
5	A2002-30	17 September 2002
6	A2003-34	1 September 2003
7	A2003-34	27 September 2003
8	<u>A2004-57</u>	13 September 2004

© Australian Capital Territory 2005