



Australian Capital Territory

Protection of Lands Ordinance 1937

Ord1933-37

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The republished law

This is a republication of the *Protection of Lands Ordinance 1937* effective 30 December 1976 to 1 May 1980.

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AUSTRALIAN CAPITAL TERRITORY

PROTECTION OF LANDS ORDINANCE 1937

Incorporating all amendments by legislation made to 30 April 1979

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An Ordinance to provide for the Protection of Commonwealth Lands

1. This Ordinance may be cited as the *Protection of Lands Ordinance* Short title 1937.¹

2. In this Ordinance, unless the contrary intention appears—

“authorized officer”, in relation to any act, matter or thing, means an officer thereto authorized in writing by the Minister;

“carriageway”, in relation to a public street, includes the gutter, if any, of the public street;

“lands” means lands vested in the Commonwealth;

“Motor Traffic Ordinance” means the *Motor Traffic Ordinance* 1936;

“off-street parking area” has the same meaning as in the *Motor Traffic Ordinance*;

“permit” means a permit issued under this Ordinance;

Interpretation
Amended by
No. 8, 1976, s. 2;
No. 73, 1976, s. 3

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“public street” has the same meaning as in the Motor Traffic Ordinance;

“retention area” means an area declared under section 9 to be a retention area;

“vehicle” has the same meaning as in the Motor Traffic Ordinance.

Sand, gravel, &c., not to be taken without permit
Sub-section (1) amended by No. 19, 1966, s. 2

3. (1) A person shall not, without a permit in that behalf issued under this Ordinance, take from any lands any stone, shell, sand, gravel, clay or earth.

Penalty: Twenty dollars.

(2) The Minister may, for such period as he thinks fit, by notice published in the *Gazette*, suspend the operation of this section in respect of any substance or in respect of any lands, and this section shall thereupon cease to apply in respect of that substance or those lands, as the case may be, until the expiration of the period of suspension, or until the suspension is sooner revoked, whichever first happens.

(3) The Minister may, at any time, by notice published in the *Gazette*, revoke any such suspension.

Power to grant permits

4. (1) The Minister or an authorized officer may issue permits to go upon any lands and to take therefrom any substance referred to in the last preceding section.

(2) A permit may be limited to any particular substance, and to any particular lands, district or locality.

(3) A permit shall continue in force for the period specified therein and no longer, and shall not be issued for any period exceeding twelve months.

(4) A permit shall only be granted over lands included in a lease in cases where the substances are reserved to, or are the property of, the Crown.

(5) A permit issued under this section shall not extend to authorize the taking from any lands any substance which is, or appears to be, metalliferous.

Terms and conditions of permits

5. (1) The terms and conditions on which a permit may be issued shall be as determined by the Minister, and any permit may be cancelled by the Minister or an authorized officer for non-compliance by the holder of the permit with any term or condition of the permit.

(2) Where the Minister or an authorized officer cancels any permit, the Minister or the authorized officer shall forward by post to the person whose permit has been cancelled, at his address as stated in that permit, notice of the cancellation of the permit and the cancellation shall be deemed to take effect at the time the notice would have been delivered in the ordinary course of post.

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6. The fee payable for a permit shall be at the rate of Fifty cents per month or portion of a month for each vehicle to be used for taking any substance in pursuance of the permit.

Fees for permits
Amended by
No. 19, 1966, s. 2

6A. (1) The Minister may, by notice in the *Gazette*, declare any lands to be a sand and gravel pit and may by like notice revoke any such declaration.

Sand and gravel pits
Inserted by
No. 4, 1944, s. 2

(2) Notwithstanding anything contained in sections three and four of this Ordinance, the Minister may, by notice published in a newspaper circulating in the Territory—

(a) declare, with respect to any sand and gravel pit, that any stone, shell, sand, gravel, clay or earth may, notwithstanding anything contained in sections three and four of this Ordinance, be taken therefrom on payment of such charges and subject to such conditions as are set out in the notice; and

(b) vary from time to time any such charge or condition, and any such substance may be taken from the sand and gravel pit on payment of the charges and subject to the conditions declared by the Minister in pursuance of this section.

(3) Any person who takes any stone, shell, sand, gravel, clay or earth from any sand and gravel pit without paying the charges, and complying with the conditions set out in a notice referred to in the last preceding sub-section shall be guilty of an offence and liable to a penalty of Forty dollars and, in addition to any penalty that may be imposed, the Court may order the defendant to pay the charges payable under this section in respect of any such substance so taken and the like proceedings may be taken upon the order as if the order had been a judgment of the Court in favour of the Commonwealth.

Amended by
No. 21, 1959,
s. 3; No. 19,
1966, s. 2

(4) A certificate by the Minister, or any person authorized by the Minister on that behalf, specifying the charges owing to the Commonwealth, in respect of any such substance so taken, shall be *prima facie* evidence of the matters stated therein.

7. (1) A person shall not, without the authority of the Minister or an authorized officer (proof whereof shall lie upon the person accused), deposit, or cause to be deposited, on any unleased lands, any substance, material or thing.

Substances, &c., not to be placed on lands

Sub-section (1) amended by
No. 19, 1966,
s. 2; No. 8, 1976,
s. 3

Penalty: Forty dollars, and, if the substance, material or thing continue on the land for more than one day, a further penalty not exceeding Ten dollars for each day or portion of a day during which they so continue.

(2) A person who, in pursuance of a permit in force under the *Roads and Public Places Ordinance 1937*, places an object in, over or across a public place does not, by reason of so placing the object, commit an offence against sub-section (1).

Added by
No. 73, 1976, s. 4

Excavations
or
obstructions
on lands to
be lighted
Amended by
No. 19, 1966, s. 2

8. Where any excavation or obstruction is made, or any substance or material is placed, on any unleased lands with the authority of the Minister or an authorized officer, or any work is being carried on on any unleased lands entailing the opening up or breaking of the surface thereof, the person making, or permitting or causing to be made, the excavation or obstruction, or placing the substance or material, or permitting or causing the substance or material to be placed, on the lands, or carrying out the works, shall cause sufficient lights to be affixed in a proper place to indicate clearly the excavation, obstruction, substance, material or works, and continue those lights every night from sunset to sunrise while the excavation, obstruction, substance, material or works continue, and shall during all that time at his own expense cause the place on which they are continued to be sufficiently fenced or enclosed to prevent any danger or inconvenience to any person.

Penalty: Forty dollars.

Retention
area
Added by
No. 8, 1976, s. 4

9. The Minister may, from time to time, by notice published in the *Gazette*, declare an area of land specified in the notice to be a retention area for the purposes of this Ordinance.

Substance,
&c., may be
removed
from certain
land
Added by
No. 8, 1976, s. 4
Sub-section (1)
amended by
No. 73, 1976, s. 5

10. (1) Subject to sub-section (2), the Minister or an authorized officer may cause to be removed and placed in a retention area any substance, material or thing that is on—

- (a) land lying between the carriageway of a public street and the boundary of leased land;
- (b) any part of a public street, including land lying between the carriageways of a public street; or
- (c) any other unleased land.

(2) Sub-section (1) does not apply to or in relation to—

- (a) a substance, material or thing that is on the land with the authority of the Minister or an authorized officer or by virtue of any other law of the Territory;
- (b) an object that was placed on the land in pursuance of a permit in force under the *Roads and Public Places Ordinance 1937*; or
- (c) a vehicle that is parked—

- (i) on the carriageway of a public street; or

- (ii) in an off-street parking area,

unless the Minister or authorized officer has reasonable grounds for believing that the vehicle has been abandoned.

(3) A substance, material or thing that is on an area of land at the time at which the land is declared, under section 9, to be a retention area shall, for the purposes of this section and sections 11 to 15 (inclusive), be deemed to have been placed in the retention area in pursuance of sub-section (1).

Substituted by
No. 73, 1976, s. 5

- 11.** Any substance, material or thing placed in a retention area shall remain in that area—
- (a) where a claim under section 13 is made—until the claim is determined or, where a period is fixed under paragraph 13 (1) (b), until the expiration of that period; or
 - (b) where no claim is made—for a period of 3 months from the date of publication of a notice under section 12 in relation to the substance, material or thing.
- 12.** Within 7 days of the removal from the land of the substance, material or thing, the Minister or an authorized officer shall cause to be inserted in a daily newspaper circulating in the Territory a notice stating—
- (a) particulars of the substance, material or thing and of the place from which it was removed;
 - (b) the retention area in which the substance, material or thing is stored; and
 - (c) a statement that any person claiming to be entitled to the possession of the substance, material or thing may apply, in accordance with the provisions of section 13, to the Court of Petty Sessions for its return.
- 13.** (1) A person may, within a period of 2 weeks from the date of publication of a notice under section 12, or within such further time as the Court of Petty Sessions, on application made before or after the expiration of that period, allows, apply to the Court for an order—
- (a) that he is entitled to the possession of the substance, material or thing the subject of the notice; and
 - (b) that the substance, material or thing be delivered to him at the retention area in which it is being held, within such period as the Court fixes, on payment by him to Australia of such removal expenses as the Court determines.
- (2) Upon an application being made under sub-section (1) the Court shall hear and determine the matter.
- (3) An order made under sub-section (1) does not affect the right of any other person to claim the matter the subject of the order from the applicant in a court of competent jurisdiction.
- 14.** Where, in respect of a substance, material or thing removed in pursuance of this Ordinance—
- (a) no application under section 13 is made within a period of 3 months from the date of publication of the notice under section 12; or
 - (b) where an application is made, an amount ordered by the Court of Petty Sessions to be paid to Australia is not so paid within 3 months of the date of the order,

Substance,
&c., to
remain in
retention
area
Added by
No. 8, 1976, s. 4

Publication
of notice
Added by
No. 8, 1976, s. 4

Application
for return of
substance,
&c.
Added by
No. 8, 1976, s. 4

Disposal of
substance,
&c.
Added by
No. 8, 1976, s. 4

the ownership of the substance, material or thing shall be deemed, for all purposes, to vest in Australia and the substance, material or thing may be disposed of in such manner as the Minister directs.

No liability for damage caused by removal, &c.

Added by No. 8, 1976, s. 4

15. Australia or a person acting in pursuance of this Ordinance is not liable for reasonable damage caused by the removal or retention of a substance, material or thing.

Certificate evidence of contents

Added by No. 8, 1976, s. 4

16. For the purposes of sections 7 and 10, a certificate given by the Secretary that land is unleased land is evidence of the contents of the certificate.

NOTE

1. The *Protection of Lands Ordinance 1937 (a)* as shown in this reprint comprises Ordinance No. 33, 1937 as amended by the other Ordinances specified in the following table:

Ordinance	Number and year	Date of notification in <i>Gazette</i>	Date of commencement
<i>Protection of Lands Ordinance 1937</i>	No. 33, 1937	23 Dec 1937	23 Dec 1937
<i>Protection of Lands Ordinance 1944</i>	No. 4, 1944	3 Feb 1944	3 Feb 1944
<i>Ordinances Revision Ordinance 1959</i>	No. 21, 1959	23 Dec 1959	31 Dec 1959
<i>Ordinances Revision (Decimal Currency) Ordinance 1966</i>	No. 19, 1966	23 Dec 1966	23 Dec 1966
<i>Protection of Lands Ordinance 1976</i>	No. 8, 1976	24 Feb 1976	24 Feb 1976
<i>Protection of Lands (Amendment) Ordinance 1976</i>	No. 73, 1976	30 Dec 1976	30 Dec 1976

- (a) This citation is provided for by the *Amendments Incorporation Ordinance 1929* and the *Ordinances Citation Ordinance 1976*.