

AUSTRALIAN CAPITAL TERRITORY

583

No. 8 of 1976

AN ORDINANCE

To amend the *Protection of Lands Ordinance 1937-1966*.

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910-1973*.

Dated this twelfth day of February 1976.

JOHN R. KERR
Governor-General.

By His Excellency's Command,

ERIC L. ROBINSON
Minister of State for the Capital Territory.

PROTECTION OF LANDS ORDINANCE 1976

1. (1) This Ordinance may be cited as the *Protection of Lands Ordinance 1976*.^{*} Short title
and
citation.

(2) The *Protection of Lands Ordinance 1937-1966*[†] is in this Ordinance referred to as the Principal Ordinance.

(3) The Principal Ordinance, as amended by this Ordinance, may be cited as the *Protection of Lands Ordinance 1937-1976*.

2. Section 2 of the Principal Ordinance is amended—

Definitions.

(a) by inserting after the definition of "authorized officer" the following definition:—

"'carriageway', in relation to a public street, includes the gutter, if any, of the public street;

(b) by omitting from the definition of "lands" the word "and"; and

(c) by adding at the end thereof the following definitions:—

"'public street' has the same meaning as in the *Motor Traffic Ordinance 1936-1974*;

"'retention area' means an area declared under section 9 to be a retention area."

3. Section 7 of the Principal Ordinance is amended by omitting the words "substance or materials" (twice occurring) and substituting the words "substance, material or thing". Substances,
&c., not to
be placed
on lands.

^{*} Notified in the *Australian Government Gazette* on 24 February 1976.

[†] Ordinance No. 33, 1937, as amended by No. 4, 1944; No. 21, 1959; and No. 19, 1966.

4. The Principal Ordinance is amended by adding at the end thereof the following sections:—

Retention
area.

“ 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.

“ 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) unleased land.

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

(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).

Substance,
&c., to
remain in
retention
area.

“ 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.

Publication
of notice.

“ 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—

Application
for return of
substance,
&c.

- (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—

Disposal of
substance,
&c.

- (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,

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.

“ 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.

No liability
for damage
caused by
removal, &c.

“ 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.”