



AUSTRALIAN CAPITAL TERRITORY

Roads and Public Places (Amendment) Act 1998

No. 56 of 1998

An Act to amend the *Roads and Public Places Act 1937* and for a related purpose

[Notified in ACT Gazette S207: 27 November 1998]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

This Act may be cited as the *Roads and Public Places (Amendment) Act 1998*.

2. Commencement

(1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

3. Principal Act

In this Act, “Principal Act” means the *Roads and Public Places Act 1937*.¹

4. Interpretation

Section 2 of the Principal Act is amended—

- (a) by inserting “unleased” before “Territory land” in the definition of “public place”; and
- (b) by inserting the following definitions:
 - “ ‘code of practice’ means the code of practice determined by the Minister under subsection 12A (1) as varied from time to time under that subsection;
 - ‘object’ includes any item of movable personal property;
 - ‘retention area’ has the same meaning as in the *Uncollected Goods Act 1996*;
 - ‘sign’ includes a notice and an advertisement.”.

5. Temporary closing of roads

Section 4 of the Principal Act is amended by omitting from subsection (3) all the words after “fine” and substituting “not exceeding—

- (a) if the offender is a natural person—5 penalty units; or
- (b) if the offender is a body corporate—25 penalty units”.

6. Temporary roads

Section 5 of the Principal Act is amended by omitting from subsection (3) all the words after “punishable” and substituting “on conviction—

- (a) if the offender is a natural person—by a fine not exceeding 50 penalty units or imprisonment for a term not exceeding 6 months, or both; or
- (b) if the offender is a body corporate—by a fine not exceeding 250 penalty units”.

7. Damage to or interference with public places and property thereon

Section 7 of the Principal Act is amended by omitting all the words after “punishable” and substituting “on conviction—

- (a) if the offender is a natural person—by a fine not exceeding 50 penalty units or imprisonment for a period not exceeding 6 months, or both; or
- (b) if the offender is a body corporate—by a fine not exceeding 250 penalty units”.

8. Construction of culverts etc. in public places

Section 8 of the Principal Act is amended by omitting all the words after “fine” and substituting “not exceeding—

- (a) if the offender is a natural person—30 penalty units; or
- (b) if the offender is a body corporate—150 penalty units”.

9. Excavations etc. on public places to be lighted

Section 10 of the Principal Act is amended by omitting the penalty provision and substituting the following penalty provision:

“Penalty:

- (a) if the offender is a natural person—30 penalty units;
- (b) if the offender is a body corporate—150 penalty units.”.

10. Alignment marks etc.

Section 11 of the Principal Act is amended by omitting all the words after “fine” and substituting “not exceeding—

- (a) if the offender is a natural person—30 penalty units; or
- (b) if the offender is a body corporate—150 penalty units”.

11. Insertion

After section 12 of the Principal Act the following sections are inserted:

“12A. Code of practice relating to movable signs

“(1) The Minister may, by instrument—

- (a) determine a code of practice in respect of the placement and keeping of movable signs in public places; or
- (b) vary the code from time to time.

“(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.

“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;
- (b) the sizes of signs;
- (c) the locations in which a sign may be placed;
- (d) the words or images that may be displayed on a sign;
- (e) the way in which the person responsible for a sign may be identified;
- (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.

Penalty:

- (a) if the offender is a natural person whose offence did not involve a contravention of a provision of the code relating to insurance—10 penalty units;
- (b) if the offender is a body corporate whose offence involved a contravention of a provision of the code relating to insurance—250 penalty units;
- (c) in any other case—50 penalty units.

“12D. Indemnification of the 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. Evidence of code of practice

In any proceedings before a court, evidence of the code of practice as in force on a specified day or during a specified period may be given by the production of a document purporting to be a copy of the code and purporting

to be signed by the Minister stating that the document is a true copy of the code as in force on that day or during that period.

“12F. Removal of items from public places

“(1) Where 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) Where—

- (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) in a case where 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) Where a Roads and Public Places Officer gives the owner of an object a notice under paragraph (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) Where a sign or object is placed in a retention area under subsection (1), paragraph (2) (c) or subsection (3)—

- (a) the sign or object shall be deemed to be uncollected goods for the purposes of the *Uncollected Goods Act 1996*;
- (b) the Minister shall be deemed to be the possessor of the goods for the purposes of that Act;
- (c) the Minister may dispose of the goods in accordance with Part III of that Act; and
- (d) for the purposes of paragraphs 26 (2) (a) and 30 (1) (a) of that Act the reasonable costs incurred by the possessor in complying with that Act shall be taken to include the cost of removing the sign or object from the public place to the retention area.

“(5) In this section—

‘prescribed object’ means an object prescribed under section 12G.

“12G. Prescribed objects

“(1) The Minister may, by instrument, prescribe objects for the purposes of the definition of ‘prescribed object’ in subsection 12F (5).

“(2) An instrument under subsection (1) is a disallowable instrument for the purposes of section 10 of the *Subordinate Laws Act 1989*.”.

12. Trees etc. overhanging public places

Section 13 of the Principal Act is amended—

- (a) by inserting after subsection (1) the following subsection:

“(1A) An occupier of land who is served with a notice under subsection (1) shall comply with the notice.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 penalty units.”; and

- (b) by omitting subsection (3) and substituting the following subsection:

“(3) An occupier of land who is served with a notice under subsection (2) shall comply with the notice.

Penalty for contravention of subsection (3):

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.”.

13. Change of address

Section 15R of the Principal Act is amended by omitting the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

“Penalty:

- (a) if the offender is a natural person—1 penalty unit;
- (b) if the offender is a body corporate—5 penalty units.”.

14. Consequential amendment—*Land (Planning and Environment) Regulations*

Schedule 1 to the *Land (Planning and Environment) Regulations* is amended by adding at the end the following item:

31. Placing or displaying a movable sign in a public place.
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Roads and Public Places (Amendment) Act 1998 No. 56, 1998

NOTES

Principal Act

1. Reprinted as at 31 January 1996. See also Act No. 63, 1997.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

[Presentation speech made in Assembly on 29 October 1998]

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