



Australian Capital Territory

# Roads and Public Places (Vandalism) Amendment Act 2004

A2004-46

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Australian Capital Territory

# Roads and Public Places (Vandalism) Amendment Act 2004

**A2004-46**

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An Act to amend the *Roads and Public Places Act 1937*

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

## **1 Name of Act**

This Act is the *Roads and Public Places (Vandalism) Amendment Act 2004*.

## **2 Commencement**

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

## **3 Legislation amended**

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

## **4 New section 2AA**

*insert*

### **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.

## **5        New sections 12E and 12F**

*insert*

### **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).

## **6 Section 12F heading**

*substitute*

## **12G Removal of signs and other items from public places**

## **7 Section 12F (4) and (5)**

*substitute*

- (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.

**8 Section 12G heading**

*substitute*

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

**9 New sections 14A and 14B**

*insert*

**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.

**10 Occupation etc of public land under Hawkers Act licence  
Section 15U**

*after*

a vehicle

*substitute*

(within the meaning of the *Hawkers Act 2003*)

**11 Dictionary, note 2**

*insert*

- penalty unit (see s 133)
- property
- Territory land

**12 Dictionary, new definition of *vehicle***

*insert*

***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.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 14 May 2004.

**2 Notification**

Notified under the Legislation Act on 11 August 2004.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Roads and Public Places (Vandalism) Amendment Bill 2004, which was passed by the Legislative Assembly on 3 August 2004.

Clerk of the Legislative Assembly

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