



Australian Capital Territory

# **Litter Act 2004**

**A2004-47**

**Republication No 9**

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Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Litter Act 2004* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 12 December 2011. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 12 December 2011.

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](http://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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### 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 the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Litter Act 2004

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Australian Capital Territory

# Litter Act 2004

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An Act relating to litter, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Litter Act 2004*.

### 3 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 terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere.

For example, the signpost definition '*road related area*—see the *Road Transport (General) Act 1999*, dictionary.' means that the term 'road related area' is defined in that dictionary 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, s 155 and s 156 (1)).

### 4 Notes

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

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



## 5 Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

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.

## Part 2 Objects and key concepts

### 6 Objects of Act

The objects of this Act are—

- (a) to enhance the natural and built environment by regulating the depositing of litter, or other material that may become litter; and
- (b) to facilitate the removal of litter.

### 7 Meaning of *litter*

In this Act:

*litter* includes any solid or liquid waste, whether domestic or commercial, and also includes, for example—

- (a) any glass, metal, cigarette butt, plastic, paper, fabric, wood, food, abandoned vehicle and vehicle part, construction or demolition material, garden remnants and clippings, soil, sand or rocks; and
- (b) any material, substance or thing deposited at a place if its size, shape, nature or volume makes the place untidy or adversely affects the proper use of the place.

*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).

## Part 3                      Offences

### 8                      Littering

- (1) A person must not deposit litter at a public place.

Maximum penalty: 10 penalty units.

- (2) A person commits an offence if—

- (a) the person deposits litter anywhere; and
- (b) it escapes, or is likely to escape, into or onto a public place.

Maximum penalty: 10 penalty units.

*Note*      *Escape* is defined in the dictionary.

- (3) A person commits an offence if—

- (a) the person deposits litter in a public place in a receptacle provided for litter; and
- (b) the litter is not of the size, shape, nature or volume for which the receptacle is provided.

Maximum penalty: 10 penalty units.

- (4) Subsections (1) and (2) do not apply to—

- (a) the placing of a receptacle containing litter at a public place for the litter to be removed by a garbage collection service; or
- (b) the depositing of litter in accordance with an invitation from a public servant in the exercise of his or her functions; or
- (c) the depositing of litter at a place with the consent of the occupier of the place; or
- (d) the depositing of litter at a public landfill or waste transfer station.

- (5) Subsections (1), (2) and (3) do not apply if the depositing of the litter is accidental and the person takes all reasonable steps to retrieve the litter.
- (6) An offence against this section is a strict liability offence.

**9 Aggravated littering**

A person commits the offence of aggravated littering if the person intentionally deposits at a public place litter that, by its nature or the way it is deposited, is likely to cause injury to a person or animal, or to damage property.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

**9A Dumping litter**

- (1) A person commits an offence if—
  - (a) the person intentionally dumps litter at a public place; and
  - (b) either—
    - (i) the volume or weight of litter is more than the amount prescribed by regulation; or
    - (ii) the litter is larger than the size prescribed by regulation.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) A person commits an offence if—
  - (a) the person intentionally dumps litter anywhere; and
  - (b) either—
    - (i) the volume or weight of litter is more than the amount prescribed by regulation; or

- (ii) the litter is larger than the size prescribed by regulation; and
- (c) the person is reckless about whether the litter, or part of the litter, escapes, or is likely to escape, into or onto a public place.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (3) Strict liability applies to subsection (1) (b) and subsection (2) (b).

### **9B Dumping litter—strict liability**

- (1) A person commits an offence if—
  - (a) the person dumps litter at a public place; and
  - (b) either—
    - (i) the volume or weight of litter is more than the amount prescribed by regulation; or
    - (ii) the litter is larger than the size prescribed by regulation.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—
  - (a) the person dumps litter; and
  - (b) either—
    - (i) the volume or weight of litter is more than the amount prescribed by regulation; or
    - (ii) the litter is larger than the size prescribed by regulation; and
  - (c) the litter, or part of the litter, escapes, or is likely to escape, into or onto a public place.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

**9C Commercial waste**

- (1) A person commits an offence if the person deposits commercial waste at a public place.

Maximum penalty: 100 penalty units, imprisonment for 1 year or both.

- (2) An occupier of commercial, industrial or business premises commits an offence if the occupier fails to take reasonable steps to prevent litter from the premises being deposited at a public place.

Maximum penalty: 100 penalty units.

**10 Commercial waste—strict liability**

- (1) A person commits an offence if the person deposits commercial waste at a public place.

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

- (2) An occupier of commercial, industrial or business premises commits an offence if the occupier fails to take reasonable steps to prevent litter from the premises being deposited at a public place.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

**11 Offences about vehicle loads**

- (1) A person commits an offence if the person—  
(a) requires someone else to move a vehicle carrying a load through a public place; and

- (b) fails to give the other person appropriate means to secure the load appropriately so that it (or any part of it) is not likely to fall, or be dislodged, from the vehicle.

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

- (2) A person commits an offence if the person—
  - (a) is the driver or rider of a moving vehicle carrying a load through a public place; and
  - (b) fails to secure the load appropriately so that it is not likely to fall, or be dislodged, from the vehicle.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

## **12 Depositing or abandoning dangerous containers**

- (1) In this section:

*dangerous container* means a vessel, container or receptacle (other than a vehicle or a part of a vehicle or a bin or other receptacle ordinarily used to hold litter) that consists of or contains a compartment that—

- (a) has a capacity of at least 40L; and
- (b) has an opening of at least 120mm in both width and height; and
- (c) is fitted with a door or lid that can be fastened to close that opening effectively.

- (2) A person commits an offence if the person deposits or abandons a dangerous container at a public place (including a public tip, public landfill or waste transfer station conducted by the Territory).

Maximum penalty: 50 penalty units.

- (3) Subsection (2) does not apply if the person takes all reasonable steps to prevent children gaining access to the relevant compartment of the container.

**13 Placing advertising leaflets on motor vehicles etc**

- (1) A person commits an offence if the person places any unsolicited leaflet in or on a motor vehicle at a public place.

Maximum penalty: 10 penalty units.

- (2) Subsection (1) does not apply if the leaflet—

(a) is placed in or on a motor vehicle in accordance with a Territory law; or

(b) contains a message that is—

(i) of a personal nature; and

(ii) directed only to the owner, or the driver or rider, of the motor vehicle.

- (3) A person commits an offence if the person distributes, or commissions, authorises or arranges for the distribution of, any unsolicited leaflet for placement in or on a motor vehicle at a public place.

Maximum penalty: 10 penalty units.

- (4) Subsection (3) does not apply if the leaflet is placed in or on a motor vehicle in accordance with a Territory law.

- (5) An offence against this section is a strict liability offence.

- (6) In this section:

*leaflet* includes a handbill or other document publicising or promoting a product, service, event, cause or belief, or otherwise giving a message or information.



## **Part 4                      Enforcement**

### **Division 4.1              Authorised people**

#### **14                      Appointment of authorised people**

The director-general may appoint a public servant as an authorised person for this Act.

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

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

#### **15                      Identity cards**

- (1) The director-general must give an authorised person an identity card stating the person's name and that the person is an authorised person.
- (2) The identity card must show—
  - (a) a recent photograph of the person; and
  - (b) the card's date of issue and expiry; and
  - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
  - (a) the person stops being an authorised person; and
  - (b) the person does not return the person's identity card to the director-general as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.

## Division 4.2 Powers of authorised people

### 16 Power not to be exercised before identity card shown etc

- (1) An authorised person may exercise a power under this Act in relation to a person only if the authorised person first shows the person his or her identity card.
- (2) An authorised person may not remain on premises entered under this division if, when asked by the occupier, the authorised person does not show his or her identity card.
- (3) Subsection (1) does not apply to the exercise of a power by an authorised person under section 17 (1).

*Note* Section 17 (3) allows a person to ask the authorised person to produce his or her identity card for inspection.

### 17 Power to require name and address

- (1) An authorised person may require a person to state the person's name and home address if the authorised person believes, on reasonable grounds, that the person is committing or has just committed an offence against this Act.

*Note* A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any regulation (see Legislation Act, s 104).

- (2) The authorised person must tell the person the reason for the requirement and, as soon as practicable, record the reason.
- (3) The person may ask the authorised person to produce his or her identity card for inspection by the person.
- (4) A person must comply with a requirement made of the person under subsection (1) if the authorised person—
  - (a) tells the person the reason for the requirement; and

(b) complies with any request made by the person under subsection (3).

Maximum penalty: 10 penalty units.

(5) An offence against this section is a strict liability offence.

## **18 Entry to premises**

- (1) This section applies if an authorised person suspects on reasonable grounds that an offence against this Act is being, or is likely to be, or has just been, committed at premises not on public land.
- (2) The authorised person may—
  - (a) enter the premises (other than a part used for residential purposes) at any reasonable time; or
  - (b) enter the premises at any time with the occupier's consent.
- (3) An authorised person may, without the occupier's consent, enter the land around premises to ask for consent to enter the premises.
- (4) An authorised person who enters premises under this section may inspect the premises or anything on it.

## **19 Consent to entry**

- (1) This section applies if an authorised person intends to ask the occupier of premises to consent to the authorised person entering the premises.
- (2) Before asking for the consent, the authorised person must tell the occupier—
  - (a) the reason for the entry; and
  - (b) that the occupier is not required to consent.
- (3) If the consent is given, the authorised person must ask the occupier to sign an acknowledgment of the consent.

- (4) The acknowledgment must state that—
  - (a) the occupier was told—
    - (i) the reason for the entry; and
    - (ii) that the occupier is not required to consent; and
  - (b) the occupier gives an authorised person consent to enter the premises and exercise powers under this part; and
  - (c) the time and date the consent was given.
- (5) If the occupier signs an acknowledgment of consent, the authorised person must immediately give a copy to the occupier.
- (6) A court may assume that the occupier did not consent if—
  - (a) a question arises, in a proceeding in the court, whether the occupier consented to the authorised person entering the premises under this part; and
  - (b) an acknowledgment under this section is not produced in evidence for the entry; and
  - (c) it is not proved that the occupier consented to the entry.

## **Division 4.3 Dealing with litter**

### **Subdivision 4.3.1 Dealing with litter—removal etc by person**

#### **20 Request to remove litter**

- (1) This section applies if an authorised person or police officer believes on reasonable grounds that litter in a public place has been deposited by a person in contravention of this Act.
- (2) The authorised person or police officer may ask the person to remove the litter from the public place.

- (3) The person commits an offence if the person fails to comply with the request.

Maximum penalty: 10 penalty units.

- (4) An offence against this section is a strict liability offence.

## **21 Notice to remove etc litter**

- (1) This section applies if an authorised person or police officer believes on reasonable grounds that litter in a public place has been deposited by a person in contravention of this Act.

- (2) An authorised person or police officer may, by written notice given to the person, require the person to do either or both of the following:

- (a) remove or dispose of the litter from the public place;
- (b) restore the public place affected by the litter to a state as close as practicable to the state it was in immediately before the litter was deposited.

- (3) The notice may state—

- (a) how the requirement is to be carried out; and
- (b) the time within which the requirement must be complied with.

- (4) The notice must contain a statement to the effect that if the litter is not removed or disposed of, or the public place not restored, in accordance with the requirement—

- (a) an authorised person may authorise someone else to remove or dispose of the litter or restore the public place; and
- (b) the reasonable cost of the removal, disposal or restoration is a debt due to the Territory by the person who is required to comply with the requirement.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

- (5) Also, the notice must state—
- (a) that the person may apply under the *ACT Civil and Administrative Tribunal Act 2008*, section 22B for a reasons statement for the decision to give the notice; and
  - (b) that the person may apply to the ACAT for review of the decision; and
  - (c) how to make the application; and
  - (d) the options available under ACT laws to have the decision reviewed by a court or the ombudsman.
- (6) However, the notice need not comply with any other requirements for reviewable decision notices under the *ACT Civil and Administrative Tribunal Act 2008*, section 67A.
- (7) A person commits an offence if the person—
- (a) is given a notice under subsection (2); and
  - (b) fails to comply with a requirement of the notice.
- Maximum penalty: 10 penalty units.
- (8) An offence against this section is a strict liability offence.

**22 Authority to remove etc litter when direction not complied with**

- (1) This section applies if a person fails to comply with a requirement in a notice under section 21.
- (2) The director-general may arrange for a person to remove or dispose of the litter, or restore the public place, in relation to which the direction relates.

- (3) However, the director-general must not give the authorisation—
- (a) until the end of the period (or any extended period) within which an application may be made to the ACAT for the review of the decision to give the direction to which the notice relates; or
  - (b) if an application is made to the ACAT for a review of the decision—unless the decision is upheld or the application is withdrawn.

### **23 Liability for cost of removal etc**

A person who fails to comply with a requirement in a notice under section 21 (Notice to remove etc litter) must pay to the Territory the reasonable cost of any removal, disposal or restoration carried out under section 22.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

### **24 ACAT review of notice under s 21**

A person to whom a notice is given under section 21 (Notice to remove etc litter) may apply to the ACAT for review of the decision of the authorised person or police officer to give the notice.

## **Subdivision 4.3.2 Dealing with litter—removal etc by Territory**

### **24A Removal etc of litter—by Territory**

- (1) This section applies if an authorised person or police officer believes on reasonable grounds that—
- (a) litter in a public place has been deposited by anyone (the *litterer*) in contravention of this Act; and
  - (b) either or both of the following applies:

- (i) prompt removal or disposal of the litter is necessary because it could cause injury to a person or animal or damage to property;
- (ii) the size, shape, nature or volume of the litter means that prompt removal or disposal is in the public interest.

**Examples**

- 1 A large volume of litter is dumped next to a main road. Prompt removal is in the public interest because the litter smells and is unsightly.
- 2 Access to a walking trail in a nature reserve is blocked by an old spa bath that has been dumped in the reserve. Prompt removal is in the public interest to restore access to the trail.
- 3 A large public building is being extensively renovated. The Territory gives permission for the builder to establish a temporary depot on adjacent public land for rubbish from the building site to be deposited. The depot is fenced. When the renovations are finished, the rubbish is removed and the fence taken down. However, someone dumps rubbish at the site, and soon others also dump rubbish there. Prompt removal is in the public interest because it discourages the dumping of rubbish at the site.

*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 director-general may arrange for a person to do either or both of the following:
  - (a) remove or dispose of the litter from the public place;
  - (b) restore the public place affected by the litter to a state as close as practicable to the state it was in immediately before the litter was deposited.
- (3) To remove any doubt, if this section applies, notice need not be given to the litterer under section 21 (Notice to remove etc litter).



**24B Recovery of costs associated with removal etc of litter**

- (1) If the director-general arranges for a person to do a thing mentioned in section 24A (2), the litterer must pay to the Territory the reasonable cost of doing the thing.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction or the ACAT (see Legislation Act, s 177).

- (2) In this section:

*litterer*—see section 24A (1).

## Part 4A Shopping trolleys

### 24C Definitions—pt 4A

In this part:

**collection area**—see section 24H (2) (c).

**collection day**—see section 24H (2) (b).

**collection day notice**—see section 24H (1).

**removal notice** means a notice under section 24I (3).

**removal notice location**, of a retailer's shopping trolley, means—

- (a) the place mentioned in section 24I (1) where the trolley was found; and
- (b) any place outside the retailer's shopping centre precinct that can be clearly seen from the place mentioned in paragraph (a).

**retailer** means a person who provides shopping trolleys for use in the retailer's premises.

**retailer collection notice**—see section 24K (2).

**retailer's shopping centre precinct**, for a retailer's shopping trolley, means the shopping centre precinct where the retailer's premises identified on the trolley are located.

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

**shopping centre**, for retail premises which provide shopping trolleys for use in the premises, means—

- (a) if the premises occupy a single building—the retail premises; or
- (b) if the premises are in a shopping centre, shopping mall, shopping court or shopping arcade—the centre, mall, court or arcade.

*shopping centre precinct* means—

- (a) an area consisting of—
  - (i) a shopping centre; and
  - (ii) any car park provided for the use of customers of the shopping centre; and
  - (iii) any area, including a road or other public place, between the shopping centre and the car park; and
  - (iv) any other area provided for the use of customers of the shopping centre immediately adjacent to the shopping centre; or
- (b) an area prescribed by regulation.

*shopping trolley* means—

- (a) a predominantly metal trolley incorporating a basket that cannot be removed; or
- (b) a trolley or handcart prescribed by regulation.

#### **24D Direction to return shopping trolley**

- (1) This section applies if an authorised person or police officer believes on reasonable grounds that—
  - (a) a person—
    - (i) has taken a retailer's shopping trolley from the retailer's shopping centre precinct; or
    - (ii) is using a retailer's shopping trolley in a place outside the retailer's shopping centre precinct; or
    - (iii) has left a retailer's shopping trolley at a place outside the retailer's shopping centre precinct; and

- (b) for paragraph (a) (i) and (ii), the person is not—
  - (i) the retailer identified on the trolley; or
  - (ii) a person authorised by the retailer to do the things mentioned in paragraph (a) (i) and (ii).
- (2) The authorised person or police officer may give the person a written direction to return the shopping trolley to the retailer's premises identified on the trolley.
- (3) The person must comply with the direction.

Maximum penalty: 10 penalty units.

- (4) An offence against this section is a strict liability offence.
- (5) The authorised person or police officer must not give the person a written direction under subsection (2) if it is harsh or unreasonable in the circumstances to do so.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (5) (see Criminal Code, s 58).

- (6) A direction must—
  - (a) state that it is an offence against subsection (3) not to comply with the direction; and
  - (b) state a reasonable time within which the direction must be complied with; and
  - (c) include a statement that the person may be served with an infringement notice or prosecuted under subsection (3) if the person does not comply with the direction.

(7) In this section:

*infringement notice*—see the *Magistrates Court Act 1930*, section 117.

**24E Notice about taking etc shopping trolley outside of shopping centre precinct**

(1) A retailer must place prominently at or near the customer exits in the retailer's premises a notice that—

(a) contains the following statement:

'Under the *Litter Act 2004* fines can apply for taking, using or leaving a shopping trolley outside this shopping centre precinct'; and

(b) describes the retailer's shopping centre precinct; and

(c) contains anything else prescribed by regulation; and

(d) can be seen and read easily by a person leaving the retailer's premises.

Maximum penalty: 10 penalty units.

(2) An offence against this section is a strict liability offence.

**24F Identification of ownership of shopping trolleys**

(1) A retailer must display on each of the retailer's shopping trolleys the following information:

(a) the retailer's name;

(b) the address of the retailer's premises at which the retailer keeps the trolley;

- (c) the contact telephone number of—
    - (i) the retailer; or
    - (ii) a person authorised by the retailer to collect the trolley;
  - (d) the telephone number for the shopping trolley hotline;
  - (e) anything else prescribed by regulation.
- (2) The information mentioned in subsection (1)—
- (a) must be legible and conspicuously displayed on the shopping trolley; and
  - (b) must not be easily removed from the trolley or made illegible.
- (3) A retailer commits an offence if the retailer fails to comply with this section.

Maximum penalty: 10 penalty units.

- (4) Subsection (3) does not apply if the information mentioned in subsection (1) is—
- (a) removed from the shopping trolley by a person other than the retailer; or
  - (b) made illegible by a person other than the retailer.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

- (5) An offence against this section is a strict liability offence.
- (6) In this section:

***shopping trolley hotline*** means a telephone contact service operated by the Territory to receive information about shopping trolleys left in public places.

**24G Retailer must keep shopping trolleys within shopping centre precinct**

- (1) A retailer commits an offence if the retailer fails to keep a shopping trolley identified as belonging to the retailer under section 24F (1) within the retailer's shopping centre precinct.

Maximum penalty: 60 penalty units.

- (2) This section does not apply if the shopping trolley is—
- (a) in premises owned or leased by the retailer or a person authorised by the retailer to keep the trolley; or
  - (b) in the possession of the retailer or a person authorised by the retailer to be in possession of the trolley; or
  - (c) in a shopping centre precinct other than the retailer's shopping centre precinct.
- (3) This section does not apply if—
- (a) the retailer operates and maintains a trolley containment system at the retailer's premises where the shopping trolley came from and the containment system applied to the trolley; or
  - (b) the retailer took all reasonable measures to ensure that the trolley was kept within the retailer's shopping centre precinct; or
  - (c) the number of trolleys provided by the retailer at the retailer's premises where the trolley came from is less than the number prescribed by regulation.

*Note* The defendant has an evidential burden in relation to the matters mentioned in s (2) and (3) (see Criminal Code, s 58).

- (4) In this section:

***trolley containment system*** means a system approved by the director-general that is designed to reduce the number of a retailer's shopping trolleys taken out of the retailer's shopping centre precinct.

**Example—trolley containment system**

a system which requires the deposit of money by customers to use a shopping trolley which is refundable on the return of the trolley

*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).

## 24H Notice of shopping trolley collection days

- (1) The director-general may give a retailer a notice (a ***collection day notice***) of the director-general's intention to remove shopping trolleys left in places outside a shopping centre precinct.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

- (2) A collection day notice must state the following:
- (a) the date the notice is given;
  - (b) the day (the ***collection day***) that the removal of shopping trolleys will take place, being a day not less than 2 days after the date the notice is given;
  - (c) the area (the ***collection area***) from where trolleys will be removed;
  - (d) if a trolley is found in a place outside a shopping centre precinct in a collection area on a collection day, the trolley may—
    - (i) be removed to a retention area; and



- (ii) only be collected by the retailer from the retention area if the retailer pays all fees, charges and other amounts payable under this Act;

*Note* A fee for removing and storing the trolley may be determined under s 25 for this provision.

- (e) it is an offence against section 24G if the retailer fails to keep a trolley identified as belonging to the retailer under section 24F (1) within the retailer's shopping centre precinct;
- (f) the maximum penalty for the offence;
- (g) how the retailer may contact an authorised person, including, for example, by giving a telephone number.

*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).

## **24I Notice to remove individual shopping trolley**

- (1) This section applies if a retailer's shopping trolley is found in a place outside the retailer's shopping centre precinct by an authorised person or police officer.
- (2) This section does not apply if the retailer identified on the shopping trolley has been given a collection day notice and the trolley is found on a collection day in a collection area.
- (3) An authorised person or police officer may give the retailer a notice (a **removal notice**) to remove the shopping trolley from the removal notice location.
- (4) A removal notice must state the following:
  - (a) the time and date the notice is given;
  - (b) the place where the shopping trolley was found;
  - (c) that the trolley must be removed from the removal notice location within 24 hours after the time the notice is given;

- (d) if the trolley is not removed from the removal notice location within 24 hours after the time the notice is given, the trolley may—
  - (i) be removed to a retention area; and
  - (ii) only be collected by the retailer from the retention area if the retailer pays all fees, charges and other amounts payable under this Act;

*Note* A fee for removing and storing the trolley may be determined under s 25 for this provision.

- (e) it is an offence against section 24G if the retailer fails to keep a trolley identified as belonging to the retailer under section 24F (1) within the retailer's shopping centre precinct;
- (f) the maximum penalty for the offence;
- (g) how the retailer may contact an authorised person, including, for example, by giving a telephone number.

*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).

- (5) The removal notice must be given by—
  - (a) securely attaching the notice, addressed to the retailer, to the shopping trolley in a conspicuous position; and
  - (b) calling the contact telephone number stated on the trolley and giving the information in the notice to the retailer.
- (6) For subsection (5) (b), information in the removal notice is taken to have been given to the retailer if—
  - (a) the information is given to—
    - (i) a person who answers the telephone call; or
    - (ii) a telephone answering or recording device; or

- (b) a reasonable attempt was made to give the information to the retailer by telephone.
- (7) A removal notice given in the way mentioned in subsection (5) is taken to have been given to the retailer at the time and date the telephone call is made.

#### **24J Removal of shopping trolley to retention area**

- (1) The director-general may authorise a person (a *trolley collector*) to remove shopping trolleys found outside shopping centre precincts to a retention area.
- (2) A trolley collector or authorised person may remove a shopping trolley found outside a shopping centre precinct to a retention area if the retailer identified on the trolley has been given—
  - (a) a collection day notice and the trolley is found on a collection day in a collection area; or
  - (b) a removal notice in relation to the trolley and the trolley has not been removed from the removal notice location within 24 hours after the time the notice was given.
- (3) Subsection (2) does not apply if the shopping trolley is—
  - (a) in premises owned or leased by the retailer or a person authorised by the retailer to keep the trolley; or
  - (b) in the possession of the retailer or a person authorised by the retailer to be in possession of the trolley; or
  - (c) in a shopping centre precinct other than the retailer's shopping centre precinct.

- (4) However, an authorised person or a police officer may remove a shopping trolley to a retention area without a notice under section 24H or section 24I having been given if the authorised person or a police officer believes on reasonable grounds that—
- (a) the trolley may cause injury to a person or animal or damage to property or a public place if it is not removed; or
  - (b) it is impractical for the retailer to remove the trolley.

**Example—par (a)**

A shopping trolley is left next to a main road. Prompt removal is necessary because the trolley could roll or be pushed onto the road.

**Example—par (b)**

A shopping trolley is dumped in a waterway. Removal by the retailer is impractical because it requires specialised equipment to remove it.

*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).

## 24K Retention of shopping trolleys

- (1) This section applies if a shopping trolley is removed to a retention area under section 24J.
- (2) The director-general must give written notice (a **retailer collection notice**) that the shopping trolley is in the retention area to the retailer identified on the trolley.

*Note* For how documents may be served, see the Legislation Act, pt 19.5.

- (3) The retailer collection notice must state the following:
- (a) the date of the notice;
  - (b) the address of the retention area where the trolley may be collected;
  - (c) when the trolley may be collected;

- (d) any fee the retailer must pay before the trolley may be collected;

*Note* A fee for removing and storing the trolley may be determined under s 25 for this provision.

- (e) that the trolley may be disposed of under the *Uncollected Goods Act 1996*, part 3 if the trolley is not collected within 7 days after the day the notice is given to the retailer.

## **24L Disposal of retained shopping trolleys**

If a shopping trolley is removed to a retention area under section 24J—

- (a) the trolley is taken to be uncollected goods for the *Uncollected Goods Act 1996*; and
- (b) the trolley is taken to have become uncollected goods for that Act on the day the retailer collection notice is given; and
- (c) the director-general is taken to be the possessor of the trolley for that Act; and
- (d) the director-general may dispose of the trolley under that Act, part 3 after 7 days after the day the retailer collection notice is given; and
- (e) if a trolley is to be destroyed under that Act, part 3—to the extent reasonably practicable, the component materials of the trolley must be recycled; and
- (f) for that Act, section 26 (2) (a) and (b) and section 30 (1) (a) and (b), the reasonable costs incurred by the director-general are taken to be any fee determined under this Act for the removal, storage and disposal of the trolley; and

*Note* A fee for removing, storing and disposing of the trolley may be determined under s 25 for this provision.

- (g) that Act, section 27 does not apply.

**24M Recovery of cost of disposal etc of shopping trolley**

- (1) This section applies if a shopping trolley has been disposed of under section 24L and the *Uncollected Goods Act 1996*, part 3.
- (2) A fee for the removal, storage and disposal of the shopping trolley is a debt due to the Territory by the retailer.

*Note* A fee for removing, storing and disposing of the trolley may be determined under s 25 for s 24L (f).

- (3) The debt is payable within 14 days after the date of the invoice.
- (4) Interest is payable on the amount of the debt that remains unpaid after the payment date at the interest rate mentioned in the *Court Procedures Rules 2006*, schedule 2, rule 2.3 (Interest on judgment after 30 June 2010—Supreme Court).

**24N Removing, defacing or interfering with removal notices**

- (1) A person commits an offence if—
  - (a) a removal notice is placed on, or attached to, a shopping trolley; and
  - (b) the person is not—
    - (i) an authorised person or police officer; or
    - (ii) the retailer; or
    - (iii) a person authorised by the retailer to collect the trolley; and
  - (c) the person removes, defaces or interferes with the notice.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

## Part 5                      Miscellaneous

### 25                      Determination of fees

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

*Note*        The Legislation Act 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.

### 26                      Approved forms

- (1) The director-general may approve forms for this Act.

- (2) If the director-general 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, s 255.

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

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

### 27                      Regulation-making power

- (1) The Executive may make regulations for this Act.

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

- (2) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Dictionary

(see s 3)

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

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- contravene
- director-general (see s 163)
- Executive
- fail
- function
- home address
- public servant
- reviewable decision notice
- the Territory.

***authorised person*** means an authorised person appointed under section 14.

***collection area***, for part 4A (Shopping trolleys)—see section 24H (2) (c).

***collection day***, for part 4A (Shopping trolleys)—see section 24H (2) (b).

***collection day notice***, for part 4A (Shopping trolleys)—see section 24H (1).

***commercial waste*** means—

- (a) waste resulting from institutional, commercial or industrial activities; or
- (b) waste collected and transported in the course of business.

***deposit*** means the act of parting with possession of litter.



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

**escape**, into or onto a public place, includes fall, descend and percolate, and be blown or washed, into or onto the place.

**lake**—see the *Lakes Act 1976*, dictionary.

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

**occupier**, of premises, includes the person in charge of the premises.

**public place** means—

- (a) a road, road related area or any other unleased Territory land;  
or
- (b) a place to which the public, or a section of the public, has access, whether by payment or not.

**removal notice**, for part 4A (Shopping trolleys)—see section 24C.

**removal notice location**, for part 4A (Shopping trolleys)—see section 24C.

**retailer**, for part 4A (Shopping trolleys)—see section 24C.

**retailer collection notice**, for part 4A (Shopping trolleys)—see section 24K (2).

**retailer's shopping centre precinct**, for part 4A (Shopping trolleys)—see section 24C.

**retention area**, for part 4A (Shopping trolleys)—see the *Uncollected Goods Act 1996*, dictionary.

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

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

**road related area**—see the *Road Transport (General) Act 1999*, dictionary.

**shopping centre**, for part 4A (Shopping trolleys)—see section 24C.

*shopping centre precinct*, for part 4A (Shopping trolleys)—see section 24C.

*shopping trolley*, for part 4A (Shopping trolleys)—see section 24C.

*unleased Territory land* includes a waterway.

*waterway* means—

- (a) a river, creek, stream or other natural channel in which water flows (whether permanently or intermittently); or
- (b) the stormwater system and any other channel formed (whether in whole or part) by altering or relocating a waterway mentioned in paragraph (a); or
- (c) a lake, pond, lagoon or marsh (whether formed by geomorphic processes or by works) in which water collects (whether continuously or intermittently);

and includes the bed that the water in the waterway normally flows over or is covered by.

## 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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Litter Act 2004 A2004-47**

notified LR 16 August 2004  
s 1, s 2 commenced 16 August 2004 (LA s 75 (1))  
remainder commenced 30 September 2004 (s 2 and CN2004-22)

as amended by

#### **Litter Amendment Act 2005 A2005-50**

notified LR 27 September 2005  
s 1, s 2 commenced 27 September 2005 (LA s 75 (1))  
remainder commenced 28 September 2005 (s 2)

#### **Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.25**

notified LR 20 June 2007  
s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))  
sch 3 pt 3.25 commenced 11 July 2007 (s 2 (1))

#### **ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.70**

notified LR 4 September 2008  
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
sch 1 pt 1.70 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

#### **Dangerous Substances and Litter (Dumping) Legislation Amendment Act 2009 A2009-1 pt 3**

notified LR 17 February 2009  
s 1, s 2 commenced 17 February 2009 (LA s 75 (1))  
pt 3 commenced 17 August 2009 (s 2 and LA s 79)

#### **Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.47**

notified LR 26 November 2009  
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))  
sch 3 pt 3.47 commenced 17 December 2009 (s 2)

#### **Litter (Shopping Trolleys) Amendment Act 2010 A2010-34**

notified LR 2 September 2010  
s 1, s 2 commenced 2 September 2010 (LA s 75 (1))  
remainder commenced 2 March 2011 (s 2 and LA s 79)

**Administrative (One ACT Public Service Miscellaneous Amendments)  
Act 2011 A2011-22 sch 1 pt 1.95**

notified LR 30 June 2011  
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))  
sch 1 pt 1.95 commenced 1 July 2011 (s 2 (1))

**Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.36**

notified LR 28 November 2011  
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))  
sch 3 pt 3.36 commenced 12 December 2011 (s 2)

## Endnotes

4 Amendment history

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### 4 Amendment history

#### Commencement

s 2 om LA s 89 (4)

#### Littering

s 8 am A2009-1 s 7, s 8; ss renum R5 LA

#### Aggravated littering

s 9 am A2009-1 s 9

#### Dumping litter

s 9A ins A2009-1 s 10

#### Dumping litter—strict liability

s 9B ins A2009-1 s 10

#### Commercial waste

s 9C ins A2009-1 s 10

#### Commercial waste—strict liability

s 10 hdg sub A2009-1 s 11

#### Appointment of authorised people

s 14 am A2011-22 amdt 1.295

#### Identity cards

s 15 sub A2005-50 s 4  
am A2011-22 amdt 1.295

#### Power not to be exercised before identity card shown etc

s 16 am A2005-50 s 5

#### Power to require name and address

s 17 sub A2005-50 s 6  
am A2009-49 amdt 3.111

#### Dealing with litter

div 4.3 hdg sub A2009-1 s 12

#### Dealing with litter—removal etc by person

sdiv 4.3.1 hdg ins A2009-1 s 13

#### Notice to remove etc litter

s 21 hdg sub A2009-1 s 14  
s 21 am A2008-37 amdt 1.304; ss renum R4 LA; A2009-1 s 15;  
A2011-52 amdt 3.134

#### Authority to remove etc litter when direction not complied with

s 22 hdg sub A2009-1 s 16  
s 22 am A2008-37 amdt 1.305; A2009-1 s 17; A2011-22  
amdt 1.295

**Liability for cost of removal etc**

s 23 hdg sub A2009-1 s 18  
 s 23 am A2009-1 s 18; A2011-52 amdt 3.135

**ACAT review of notice under s 21**

s 24 sub A2008-37 amdt 1.306  
 am A2009-1 s 19

**Dealing with litter—removal etc by Territory**

sdiv 4.3.2 hdg ins A2009-1 s 20

**Removal etc of litter—by Territory**

s 24A ins A2009-1 s 20  
 am A2011-22 amdt 1.295

**Recovery of costs associated with removal etc of litter**

s 24B ins A2009-1 s 20  
 am A2011-22 amdt 1.295; A2011-52 amdt 3.136

**Shopping trolleys**

pt 4A hdg ins A2010-34 s 4

**Definitions—pt 4A**

s 24C ins A2010-34 s 4  
 def **collection area** ins A2010-34 s 4  
 def **collection day** ins A2010-34 s 4  
 def **collection day notice** ins A2010-34 s 4  
 def **removal notice** ins A2010-34 s 4  
 def **removal notice location** ins A2010-34 s 4  
 def **retailer** ins A2010-34 s 4  
 def **retailer collection notice** ins A2010-34 s 4  
 def **retailer's shopping centre precinct** ins A2010-34 s 4  
 def **retention area** ins A2010-34 s 4  
 def **shopping centre** ins A2010-34 s 4  
 def **shopping centre precinct** ins A2010-34 s 4  
 def **shopping trolley** ins A2010-34 s 4

**Direction to return shopping trolley**

s 24D ins A2010-34 s 4

**Notice about taking etc shopping trolley outside of shopping centre precinct**

s 24E ins A2010-34 s 4

**Identification of ownership of shopping trolleys**

s 24F ins A2010-34 s 4

**Retailer must keep shopping trolleys within shopping centre precinct**

s 24G ins A2010-34 s 4  
 am A2011-22 amdt 1.295

## Endnotes

4 Amendment history

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### Notice of shopping trolley collection days

s 24H ins A2010-34 s 4  
am A2011-22 amdt 1.292, amdt 1.295

### Notice to remove individual shopping trolley

s 24I ins A2010-34 s 4

### Removal of shopping trolley to retention area

s 24J ins A2010-34 s 4  
am A2011-22 amdt 1.295

### Retention of shopping trolleys

s 24K ins A2010-34 s 4  
am A2011-22 amdt 1.295

### Disposal of retained shopping trolleys

s 24L ins A2010-34 s 4  
am A2011-22 amdt 1.295

### Recovery of cost of disposal etc of shopping trolley

s 24M ins A2010-34 s 4

### Removing, defacing or interfering with removal notices

s 24N ins A2010-34 s 4

### Approved forms

s 26 am A2011-22 amdt 1.295

### Repeals and consequential amendments

pt 6 hdg om LA s 89 (3)

### Legislation repealed

s 28 om LA s 89 (3)

### Legislation amended

s 29 om LA s 89 (3)

### Consequential amendments—Magistrates Court Act 1930

sch 1 om LA s 89 (3)

### Dictionary

dict am A2008-37 amdt 1.307; A2009-49 amdt 3.112; A2011-22  
amdt 1.293, amdt 1.294  
def **collection area** ins A2010-34 s 5  
def **collection day** ins A2010-34 s 5  
def **collection day notice** ins A2010-34 s 5  
def **escape** ins A2009-1 s 21  
def **public place** am A2007-16 amdt 3.116  
def **removal notice** ins A2010-34 s 5  
def **removal notice location** ins A2010-34 s 5  
def **retailer** ins A2010-34 s 5  
def **retailer collection notice** ins A2010-34 s 5



def **retailer's shopping centre precinct** ins A2010-34 s 5  
def **retention area** ins A2010-34 s 5  
def **shopping centre** ins A2010-34 s 5  
def **shopping centre precinct** ins A2010-34 s 5  
def **shopping trolley** ins A2010-34 s 5

## Endnotes

### 5 Earlier republications

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#### 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. Electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 30 Sept 2004	30 Sept 2004– 27 Sept 2005	not amended	new Act
R2 28 Sept 2005	28 Sept 2005– 10 July 2007	A2005-50	amendments by A2005-50
R3 11 July 2007	11 July 2007– 1 Feb 2009	A2007-16	amendments by A2007-16
R4 2 Feb 2009	2 Feb 2009– 16 Aug 2009	A2008-37	amendments by A2008-37
R5 17 Aug 2009	17 Aug 2009– 16 Dec 2009	A2009-1	amendments by A2009-1
R6 17 Dec 2009	17 Dec 2009– 1 Mar 2011	A2009-49	amendments by A2009-49
R7 2 Mar 2011	2 Mar 2011– 30 June 2011	A2010-34	amendments by A2010-34
R8 1 July 2011	1 July 2011– 11 Dec 2011	A2011-22	amendments by A2011-22

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