



Australian Capital Territory

# Roads and Public Places Amendment Act 2009

A2009-13

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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 Amendment Act 2009*.

## **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 Offences against Act—application of Criminal Code etc Section 2AA, note 1**

*substitute*

*Note 1 Criminal Code*

The Criminal Code, ch 2 applies to the following offences against this Act (see Code, pt 2.1):

- s 12EB (1) (Removing, defacing or interfering with notices)
- 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**).

**5      Section 12E (4) to (6)**

*substitute*

- (4) The notice must state—
- (a) the date the notice is given; and
  - (b) if the operator is not an owner of the vehicle—that the operator must tell a roads and public places officer within 2 days after the day the notice is given—
    - (i) that the operator is not an owner of the vehicle; and
    - (ii) the name and address of anyone that the operator believes is an owner of the vehicle; and
  - (c) that, if the vehicle is not removed within 2 days after the day the notice is given, the vehicle may be—
    - (i) removed and placed in a retention area; and
    - (ii) disposed of under the *Uncollected Goods Act 1996*, part 3 (Disposal of uncollected goods); and
  - (d) how the operator may contact a roads and public places officer, 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) Also, a notice must state, in a conspicuous position on the notice—
- (a) that it is an offence under this Act, section 12EB to remove, deface or interfere with a notice placed on, or attached to, a vehicle if a person is not the registered operator or owner of the vehicle; and
  - (b) the penalty for the offence.

- (6) Without limiting how a notice may be given, the notice may be given by securely placing or attaching the notice, addressed to the operator, on or to the vehicle in a conspicuous position.

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

- (7) A notice given in the way mentioned in subsection (6) is taken to have been given to the operator on the day that it is placed on or attached to the vehicle.

## **6 New sections 12EA and 12EB**

*insert*

### **12EA Retaining abandoned vehicles**

- (1) This section applies if a vehicle is placed in a retention area under section 12E (3).
- (2) The chief executive must give written notice that the vehicle is in a retention area to 1 of the following people (a ***notified person***):
- (a) the registered operator;
  - (b) if the registered operator has told a roads and public places officer the name and address of another person who the registered operator believes is the owner of the vehicle—the other person.

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

- (3) The notice must—
- (a) briefly describe the vehicle including identifying particulars; and
  - (b) state the date of the notice; and
  - (c) state the address where the vehicle is available for collection; and

- (d) state when the vehicle will be available for collection; and
  - (e) if the notified person is not an owner of the vehicle—
    - (i) state that the notified person must tell the chief executive, within 7 days after the day the notice is given—
      - (A) that the notified person is not an owner of the vehicle; and
      - (B) the name and address of anyone that the notified person believes is an owner of the vehicle; and
    - (ii) state that—
      - (A) it is an offence under this Act, section 12F not to tell the chief executive the information mentioned in subparagraph (i); and
      - (B) the penalty for the offence; and
  - (f) state any costs that must be met by the registered operator or owner before the vehicle will be returned; and
- Note* Costs for removing the vehicle to a retention area are reasonable costs that can be claimed under the *Uncollected Goods Act 1996* (see s 12H (1) (d)).
- (g) state that the vehicle may be disposed of under the *Uncollected Goods Act 1996*, part 3 if the vehicle is not collected within 7 days after the day the notice is given to the notified person.
- (4) If the notified person tells the chief executive the name and address of another person that the notified person believes is an owner of the vehicle, the chief executive must make reasonable attempts to give a copy of the notice to the other person.

**12EB Removing, defacing or interfering with notices**

A person commits an offence if—

- (a) a notice under section 12E (3) is placed on, or attached to, a vehicle; and
- (b) the person is not the registered operator or owner of the vehicle; and
- (c) the person removes, defaces or interferes with the notice.

Maximum penalty: 20 penalty units.

**7 Section 12F**

*substitute*

**12F Failure to provide information about abandoned vehicles**

A person commits an offence if—

- (a) the person is given a notice under section 12EA (2) or section 12EA (4) about a vehicle in a retention area; and
- (b) the person is not an owner of the vehicle; and
- (c) the person fails to tell the chief executive, 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: 10 penalty units.

**8 Disposal of items removed under sections 12E and 12G  
Section 12H**

*omit*

Minister

*substitute*

chief executive

**9 New section 12H (2)**

*insert*

- (2) However, a vehicle placed in a retention area under section 12E (3) is taken to be uncollected goods under the *Uncollected Goods Act 1996* only if the vehicle has not been collected within the period ending—
- (a) if a copy of a notice is given to a person under section 12EA (4)—7 days after the day the notice is given under section 12EA (4); or
  - (b) in any other case—7 days after the day a notice is given under section 12EA (2).

**10 Dictionary, definition of *owner***

*substitute*

***owner*—**

- (a) of land, means the lessee of the land; and
- (b) of a vehicle, includes anyone who has a legal right to move the vehicle.

**11 Dictionary, new definition of *registered operator***

*insert*

***registered operator***—see the *Road Transport (Vehicle Registration) Act 1999*, dictionary.

*Note* A reference to the registered operator includes each registered operator (see *Road Transport (Vehicle Registration) Act 1999*, s 29).

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**Endnotes**

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 26 March 2009.

**2 Notification**

Notified under the Legislation Act on 14 May 2009.

**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 Amendment Bill 2009, which was passed by the Legislative Assembly on 5 May 2009.

Clerk of the Legislative Assembly

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