

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Litter Bill 2003

Contents

	Page	
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Dictionary	2
4	Notes	3
5	Offences against Act—application of Criminal Code etc	3
Part 2	Objects and key concepts	
6	Objects of Act	4
7	Meaning of <i>litter</i>	4
Part 3	Offences	
8	Littering	5

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Contents

	Page	
9	Aggravated littering	6
10	Commercial waste	6
11	Offences about vehicle loads	6
12	Depositing or abandoning dangerous containers	7
13	Placing advertising leaflets on motor vehicles etc	8
Part 4	Enforcement	
Division 4.1	Authorised persons	
14	Appointment of authorised persons	9
15	Identity cards for authorised persons	9
Division 4.2	Powers of authorised persons	
16	Power not to be exercised before identity card shown etc	10
17	Authorised person may require name and address etc	10
18	Entry to premises	11
19	Consent to entry	11
Division 4.3	Removal of litter	
20	Request to remove litter	12
21	Notice to remove litter	13
22	Authority to remove litter when direction not complied with	14
23	Liability for cost of removal etc	14
24	AAT review of notice under section 21	15
Part 5	Miscellaneous	
25	Determination of fees	16
26	Approved forms	16
27	Regulation-making power	16
Part 6	Repeals and consequential amendments	
28	Legislation repealed	17
29	Legislation amended	17

		Contents
		Page
Schedule 1	Consequential amendments—Magistrates Court Act 1930	18
Dictionary		28

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Urban Services)

Litter Bill 2003

A Bill for

An Act relating to litter, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Litter Act 2003*.

4 **2 Commencement**

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

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

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

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

15 **3 Dictionary**

16 The dictionary at the end of this Act is part of this Act.

17 *Note 1* The dictionary at the end of this Act defines certain terms used in this
18 Act, and includes references (*signpost definitions*) to other terms
19 defined elsewhere.

20 For example, the signpost definition '*road related area*—see the *Road*
21 *Transport (General) Act 1999*, dictionary.' means that the term 'road
22 related area' is defined in that dictionary and the definition applies to
23 this Act.

24 *Note 2* A definition in the dictionary (including a signpost definition) applies to
25 the entire Act unless the definition, or another provision of the Act,
26 provides otherwise or the contrary intention otherwise appears (see
27 Legislation Act, s 155 and s 156 (1)).

1 **4 Notes**

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

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

4 **5 Offences against Act—application of Criminal Code etc**

5 Other legislation applies in relation to offences against this Act.

6 *Note 1 Criminal Code*

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

9 The chapter sets out the general principles of criminal responsibility
10 (including burdens of proof and general defences), and defines terms
11 used for offences to which the Code applies (eg *conduct*, *intention*,
12 *recklessness* and *strict liability*).

13 *Note 2 Penalty units*

14 The Legislation Act, s 133 deals with the meaning of offence penalties
15 that are expressed in penalty units.

1 **Part 2** **Objects and key concepts**

2 **6** **Objects of Act**

3 The objects of this Act are—

4 (a) to enhance the natural and built environment by regulating the
5 depositing of litter, or other material that may become litter;
6 and

7 (b) to facilitate the removal of litter.

8 **7** **Meaning of *litter***

9 In this Act:

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

12 (a) any glass, metal, cigarette butt, plastic, paper, fabric, wood,
13 food, abandoned vehicle and vehicle part, construction or
14 demolition material, garden remnants and clippings, soil, sand
15 or rocks; and

16 (b) any material, substance or thing deposited at a place if its size,
17 shape, nature or volume makes the place untidy or adversely
18 affects the proper use of the place.

19 *Note* An example is part of the Act, is not exhaustive and may extend, but
20 does not limit, the meaning of the provision in which it appears (see
21 Legislation Act, s 126 and s 132).

1 **Part 3** **Offences**

2 **8 Littering**

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

4 Maximum penalty: 10 penalty units.

5 (2) A person commits an offence if—

6 (a) the person deposits litter anywhere; and

7 (b) it escapes, or is likely to escape, into or onto a public place.

8 Maximum penalty: 10 penalty units.

9 *Note* *Escape* is defined in subsection (6).

10 (3) A person commits an offence if—

11 (a) the person deposits litter in a public place in a receptacle
12 provided for litter; and

13 (b) the litter is not of the size, shape, nature or volume for which
14 the receptacle is provided.

15 Maximum penalty: 10 penalty units.

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

17 (a) the placing of a receptacle containing litter at a public place for
18 the litter to be removed by a garbage collection service; or

19 (b) the depositing of litter in accordance with an invitation from a
20 public servant in the exercise of his or her functions; or

21 (c) the depositing of litter at a place with the consent of the
22 occupier of the place; or

23 (d) the depositing of litter at a public landfill or waste transfer
24 station.

1 (5) Subsections (1), (2) and (3) do not apply if the depositing of the
2 litter is accidental and the person takes all reasonable steps to
3 retrieve the litter.

4 (6) For subsection (2), *escape* into or onto a public place includes fall,
5 descend and percolate, and be blown or washed, into or onto the
6 place.

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

8 **9 Aggravated littering**

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

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

15 **10 Commercial waste**

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

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

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

21 **11 Offences about vehicle loads**

22 (1) A person commits an offence if the person—

23 (a) requires someone else to move a vehicle carrying a load
24 through a public place; and

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

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

6 (2) A person commits an offence if the person—

7 (a) is the driver or rider of a moving vehicle carrying a load
8 through a public place; and

9 (b) fails to secure the load appropriately so that it is not likely to
10 fall, or be dislodged, from the vehicle.

11 Maximum penalty: 50 penalty units.

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

13 **12 Depositing or abandoning dangerous containers**

14 (1) In this section:

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

19 (a) has a capacity of at least 40L; and

20 (b) has an opening of at least 120mm in both width and height; and

21 (c) is fitted with a door or lid that can be fastened to close that
22 opening effectively.

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

26 Maximum penalty: 50 penalty units.

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

4 **13 Placing advertising leaflets on motor vehicles etc**

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

7 Maximum penalty: 10 penalty units.

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

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

11 (b) contains a message that is—

12 (i) of a personal nature; and

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

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

19 Maximum penalty: 10 penalty units.

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

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

- 23 (6) In this section:

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

1 **Part 4** **Enforcement**

2 **Division 4.1** **Authorised persons**

3 **14** **Appointment of authorised persons**

4 (1) The chief executive may appoint a public servant as an authorised
5 person for this Act.

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

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

11 (2) A person may be appointed as an authorised person only if—

12 (a) the person is an Australian citizen or a permanent resident of
13 Australia; and

14 (b) the chief executive is satisfied that the person is suitable for
15 appointment, having regard in particular to—

16 (i) whether the person has any criminal convictions; and

17 (ii) the person's employment record; and

18 (c) the chief executive is satisfied the person has satisfactorily
19 completed adequate training to exercise the powers proposed to
20 be given to the person.

21 **15** **Identity cards for authorised persons**

22 (1) The chief executive must give an authorised person an identity card
23 that states the person's appointment and shows—

24 (a) a recent photograph of the person; and

25 (b) the name or identifying particulars of the person; and

- 1 (c) the date of issue of the card; and
2 (d) an expiry date for the card; and
3 (e) anything else prescribed under the regulations.
- 4 (2) A person who ceases to be an authorised person must return his or
5 her identity card to the chief executive as soon as practicable (but
6 within 21 days) after the day the person ceases to be an authorised
7 person.
- 8 Maximum penalty: 1 penalty unit.
- 9 (3) An offence against subsection (2) is a strict liability offence.

10 **Division 4.2 Powers of authorised persons**

11 **16 Power not to be exercised before identity card shown etc**

- 12 (1) An authorised person may exercise a power under this Act in
13 relation to a person only if the authorised person first shows the
14 person his or her identity card.
- 15 (2) An authorised person may not remain on premises entered under
16 this division if, when asked by the occupier, the authorised person
17 does not show his or her identity card.

18 **17 Authorised person may require name and address etc**

- 19 (1) An authorised person may require the occupier of premises to state
20 the person's name and home address.

21 *Note* For offences in relation to giving false or misleading information to a
22 person exercising a function under a Territory law, see the Criminal
23 Code, pt 3.4 (False or misleading statements, information and
24 documents).

- 25 (2) A person commits an offence if the person fails to comply with a
26 requirement under subsection (1).

27 Maximum penalty: 5 penalty units.

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

2 (4) In this section:

3 *home address* means the address of the place where the person
4 usually lives.

5 **18 Entry to premises**

6 (1) This section applies if an authorised person suspects on reasonable
7 grounds that an offence against this Act is being, or is likely to be,
8 or has just been, committed at premises not on public land.

9 (2) The authorised person may—

10 (a) enter the premises (other than a part used for residential
11 purposes) at any reasonable time; or

12 (b) enter the premises at any time with the occupier's consent.

13 (3) An authorised person may, without the occupier's consent, enter the
14 land around premises to ask for consent to enter the premises.

15 (4) An authorised person who enters premises under this section may
16 inspect the premises or anything on it.

17 **19 Consent to entry**

18 (1) This section applies if an authorised person intends to ask the
19 occupier of premises to consent to the authorised person entering the
20 premises.

21 (2) Before asking for the consent, the authorised person must tell the
22 occupier—

23 (a) the reason for the entry; and

24 (b) that the occupier is not required to consent.

25 (3) If the consent is given, the authorised person must ask the occupier
26 to sign an acknowledgment of the consent.

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

17 **Division 4.3 Removal of litter**

18 **20 Request to remove litter**

- 19 (1) This section applies if an authorised person or police officer
- 20 believes on reasonable grounds that litter in a public place has been
- 21 deposited by a person in contravention of this Act.
- 22 (2) The authorised person or police officer may ask the person to
- 23 remove the litter from the public place.
- 24 (3) The person commits an offence if the person fails to comply with
- 25 the request.

26 Maximum penalty: 10 penalty units.

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

2 **21 Notice to remove litter**

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

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

9 (a) remove or dispose of the litter from the public place;

10 (b) restore the public place affected by the litter to a state as close
11 as practicable to the state it was in immediately before the litter
12 was deposited.

13 (3) The notice may state—

14 (a) how the requirement is to be carried out; and

15 (b) the time within which the requirement must be complied with.

16 (4) The notice must contain a statement to the effect that if the litter is
17 not removed or disposed of in accordance with the requirement—

18 (a) an authorised person may authorise someone else to remove or
19 dispose of the litter; and

20 (b) the reasonable cost of that removal or disposal is a debt to the
21 Territory by the person who is required to comply with the
22 requirement.

23 (5) Also the notice must be in accordance with the requirements of the
24 code of practice in force under the *Administrative Appeals Tribunal*
25 *Act 1989*, section 25B (1).

- 1 (6) A person commits an offence if the person—
2 (a) is given a notice under subsection (2); and
3 (b) fails to comply with a requirement of the notice.

4 Maximum penalty: 10 penalty units.

5 **22 Authority to remove litter when direction not complied**
6 **with**

- 7 (1) This section applies if a person fails to comply with a requirement in
8 a notice under section 21.
9 (2) The chief executive may arrange for a person to remove or dispose
10 of the litter to which the direction relates.
11 (3) However, the chief executive must not give the authorisation—
12 (a) until the end of the period (or any extended period) within
13 which an application may be made to the administrative
14 appeals tribunal for the review of the decision to give the
15 direction to which the notice relates; or
16 (b) if an application is made to the administrative appeals tribunal
17 for a review of the decision—unless the decision is upheld or
18 the application is withdrawn.

19 **23 Liability for cost of removal etc**

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

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

1 **24 AAT review of notice under section 21**

2 Application may be made to the AAT for review of a decision under
3 section 21 (Notice to remove litter).

1 **Part 5 Miscellaneous**

2 **25 Determination of fees**

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

4 *Note* The Legislation Act contains provisions about the making of
5 determinations and regulations relating to fees (see pt 6.3).

6 (2) A determination is a disallowable instrument.

7 *Note* A disallowable instrument must be notified, and presented to the
8 Legislative Assembly, under the Legislation Act.

9 **26 Approved forms**

10 (1) The chief executive may approve forms for this Act.

11 (2) If the chief executive approves a form for a particular purpose, the
12 approved form must be used for that purpose.

13 *Note* For other provisions about forms, see Legislation Act, s 255.

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

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

16 **27 Regulation-making power**

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

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

20 (2) The regulations may also prescribe offences for contraventions of
21 the regulations and prescribe maximum penalties of not more than
22 10 penalty units for offences against the regulations.

1 **Part 6** **Repeals and consequential**
2 **amendments**

3 **28 Legislation repealed**

4 (1) The *Litter Act 1977* A1977-27 is repealed.

5 (2) The *Litter Regulations 1993* SL1993-42 are repealed.

6 **29 Legislation amended**

7 This Act amends the legislation mentioned in schedule 1.

1 **Schedule 1 Consequential**
2 **amendments—Magistrates**
3 **Court Act 1930**

4 (see s 29)

5 **[1.1] Section 117, new definitions**

6 *insert*

7 *another jurisdiction* means a jurisdiction other than the ACT.

8 *driver*, of a vehicle, means the person who is driving the vehicle.

9 *home address*, of a person, means the address of the place where the
10 person usually lives.

11 *illegal user declaration*—see section 131D.

12 *known offender declaration*—see section 131E.

13 *registered*, for a vehicle, means registered under the *Road Transport*
14 *(Vehicle Registration) Act 1999*.

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

17 *responsible person*, for a vehicle—see the *Road Transport*
18 *(General) Act 1999*, section 10 and section 11.

19 *sold vehicle declaration*—see section 131F.

20 *trader's plate*—see the *Road Transport (Vehicle Registration) Act*
21 *1999*, dictionary.

22 *unknown offender declaration*—see section 131G.

23 *vehicle*—see the *Road Transport (Vehicle Registration) Act 1999*,
24 dictionary.

[1.2] New division 8.2A*insert***Division 8.2A Additional provisions for vehicle-related offences****131A Definitions for div 8.2A**

In this division:

infringement notice means an infringement notice for a vehicle-related offence*vehicle-related offence* means an infringement notice offence that—

- (a) involves a vehicle; and
- (b) is declared under the regulations to be an offence to which this division applies.

131B Service of infringement notice on responsible person for vehicles

(1) This section applies if an authorised person believes, on reasonable grounds, that a vehicle-related offence has been committed.

(2) The authorised person may serve an infringement notice for the offence on—

- (a) the responsible person for the vehicle at the time of the offence; or
- (b) if there is more than 1 responsible person for the vehicle at that time—each or any of them.

Note 1 For how documents may be served, see Legislation Act, pt 19.5

Note 2 Subsections (3) and (4) provide additional ways for serving infringement notices (see Legislation Act, s 251 (1)).

- 1 (3) If the infringement notice is to be served on a person under this
2 section by post and the vehicle is registered under a law of another
3 jurisdiction corresponding to the *Road Transport (Vehicle*
4 *Registration) Act 1999*, the notice may be served by sending it by
5 prepaid post, addressed to the person, to the latest address of the
6 person in the registration records kept under that law.
- 7 (4) An infringement notice for a vehicle-related offence may be served
8 by securely placing or attaching the notice, addressed to the
9 responsible person (without further description), on or to the vehicle
10 in a conspicuous position.
- 11 (5) If an infringement notice is served in the way mentioned in
12 subsection (4), it is taken to have been served, on the day that it is
13 placed on or attached to the vehicle, on—
- 14 (a) the responsible person for the vehicle; or
15 (b) if there is more than 1 responsible person for the vehicle at that
16 time—each of them.
- 17 (6) A person must not remove, deface or interfere with an infringement
18 notice placed on, or attached to, a vehicle unless the person is the
19 driver of the vehicle or the responsible person (or a responsible
20 person) for the vehicle.
- 21 Maximum penalty: 20 penalty units.
- 22 (7) The regulations may provide that an infringement notice for a
23 vehicle-related offence may only be served on a person under this
24 section within the prescribed period after the day the offence was
25 committed.
- 26 (8) This section does not prevent an infringement notice for a vehicle-
27 related offence being served on a person under section 120 (Service
28 of infringement notices).

1 **131C Liability for vehicle-related offences**

- 2 (1) If an infringement notice for a vehicle-related offence is served on a
3 person under section 131B, the person is liable for the offence, and
4 may be convicted of and punished for the offence, even though the
5 person who actually committed the offence (the *actual offender*)
6 may have been someone else.
- 7 (2) If the actual offender is not the responsible person (or a responsible
8 person) for the vehicle at the time of the offence, subsection (1) does
9 not affect the liability of the actual offender, but—
- 10 (a) an additional penalty for the offence may not be recovered
11 from or imposed on the actual offender if an infringement
12 notice penalty for the offence has been paid by, or a penalty
13 has been imposed on, the responsible person (or a responsible
14 person) for the vehicle at that time; and
- 15 (b) an additional penalty for the offence may not be recovered
16 from or imposed on the responsible person (or a responsible
17 person) for the vehicle at that time if an infringement notice
18 penalty for the offence has been paid by, or a penalty has been
19 imposed on, the actual offender.
- 20 (3) However, in a prosecution against a responsible person for a
21 vehicle-related offence, it is a defence if the responsible person
22 establishes—
- 23 (a) that the vehicle was stolen, or illegally taken or used, at the
24 time of the offence; or
- 25 (b) that the person made and gave to the administering authority a
26 known offender declaration in accordance with section 131E
27 (Known offender declaration) for the offence; or
- 28 (c) that the vehicle (or all of the person's interest in the vehicle)
29 had been sold or disposed of by the person before the time of
30 the offence, and that at that time the person did not have an
31 interest in the vehicle; or

- 1 (d) that the person—
- 2 (i) was not the driver of the vehicle at the time of the
- 3 offence; and
- 4 (ii) does not know, and could not with reasonable diligence
- 5 have found out, the name and address of the driver of the
- 6 vehicle at that time.

7 **131D Illegal user declarations**

- 8 (1) This section applies if—
- 9 (a) an infringement notice for a vehicle-related offence is served
- 10 on a person under section 131B (Service of infringement notice
- 11 on responsible person for vehicles); and
- 12 (b) the person makes a statutory declaration (an *illegal user*
- 13 *declaration*) stating that the vehicle was stolen, or illegally
- 14 taken or used, at the time of the offence and providing all
- 15 relevant facts supporting that statement, including details of
- 16 where and when the matter was reported to the police; and
- 17 (c) the person gives the illegal user declaration to the
- 18 administering authority within 28 days after the day when the
- 19 infringement notice, or a reminder notice for the offence, is
- 20 served on the person (or any additional time allowed by the
- 21 administering authority).
- 22 (2) An infringement notice for the offence may be served under
- 23 section 120 (Service of infringement notices) on the person (if any)
- 24 stated in the illegal user declaration as the person (the *named*
- 25 *offender*) who was illegally in charge of the vehicle at the time of
- 26 the offence.
- 27 (3) If a document (including an infringement notice or reminder notice)
- 28 is to be served on the named offender under this part by post in
- 29 relation to the offence, the document may be addressed to the named

- 1 offender at his or her home or business address stated in the illegal
2 user declaration.
- 3 (4) Sections 131C (Liability for vehicle-related offences) and 131E
4 (Known offender declarations) apply as if the named offender were
5 the responsible person for the vehicle at the time of the offence and
6 the infringement notice had been served on the named offender
7 under section 131B.
- 8 (5) However, a proceeding for the offence may be brought in a court
9 against the named offender only if a copy of the illegal user
10 declaration has been served on the named offender by an authorised
11 person.
- 12 (6) In a proceeding against the named offender for the offence, the
13 illegal user declaration is evidence that the named offender was the
14 driver of the vehicle at the time of the offence.

15 **131E Known offender declarations**

- 16 (1) This section applies if—
- 17 (a) an infringement notice for a vehicle-related offence is served
18 on a person under section 131B (Service of infringement notice
19 on responsible person for vehicles); and
- 20 (b) the person makes a statutory declaration (a *known offender*
21 *declaration*) stating—
- 22 (i) if the person is an individual—
- 23 (A) that the person was not the driver of the vehicle at
24 the time of the offence and did not commit the
25 offence; and
- 26 (B) the name and home or business address of the
27 person (the *named offender*) who was the driver of
28 the vehicle at that time; and
- 29 (C) all relevant facts supporting those statements; or

- 1 (ii) if the person is a corporation—the name and home or
2 business address of the person (also the *named offender*)
3 who was the driver of the vehicle at the time of the
4 offence and all relevant facts supporting that statement;
5 or
- 6 (iii) for a vehicle-related offence under an Act declared under
7 the regulations to be an Act to which this subparagraph
8 applies—the person saw another named person (also the
9 *named offender*) do the act the subject of the offence and
10 stating—
- 11 (A) the address of the named offender; and
- 12 (B) if the person does not know the other person’s
13 address—the reasons why the person does not know
14 the address; and
- 15 (c) the person gives the known offender declaration to the
16 administering authority within 28 days after the day when the
17 infringement notice, or a reminder notice for the offence, is
18 served on the person (or any additional time allowed by the
19 administering authority).
- 20 (2) An infringement notice for the offence may be served under
21 section 120 (Service of infringement notices) on the named
22 offender.
- 23 (3) If a document (including an infringement notice or reminder notice)
24 is to be served on the named offender under this part by post in
25 relation to the offence, the document may be addressed to the named
26 offender at his or her home or business address stated in the known
27 offender declaration.
- 28 (4) Section 131C (Liability for vehicle-related offences), this section
29 and section 131F apply as if the named offender were the
30 responsible person for the vehicle at the time of the offence and the
31 infringement notice had been served on the named offender under
32 section 131B.

- 1 (5) However, a proceeding for the offence may be brought in a court
2 against the named offender only if a copy of the known offender
3 declaration has been served on the named offender by an authorised
4 person.
- 5 (6) In a proceeding against the named offender for the offence, the
6 known offender declaration is evidence that the named offender was
7 the offender at the time of the offence.

8 **131F Sold vehicle declarations**

- 9 (1) This section applies if—
- 10 (a) an infringement notice for a vehicle-related offence is served
11 on a person under section 131B (Service of infringement notice
12 on responsible person for vehicles); and
- 13 (b) the person makes a statutory declaration (a ***sold vehicle***
14 ***declaration***) stating that the vehicle (or all of the person's
15 interest in the vehicle) had been sold or otherwise disposed of
16 by the person before the time of the offence and providing all
17 relevant facts supporting that statement, including—
- 18 (i) the name and home or business address of the person (the
19 ***buyer***) to whom the vehicle (or the person's interest in
20 the vehicle) was sold or disposed of by the person; and
- 21 (ii) the date and, if relevant to the offence, time of the sale or
22 disposal; and
- 23 (iii) if an agent made the sale or disposal for the person—the
24 name and home or business address of the agent; and
- 25 (iv) whether the person had any interest in the vehicle at the
26 time of the offence; and
- 27 (c) the person gives the sold vehicle declaration to the
28 administering authority within 28 days after the day when the
29 infringement notice, or a reminder notice for the offence, is

- 1 served on the person (or any additional time allowed by the
2 administering authority).
- 3 (2) An infringement notice for the offence may be served under
4 section 120 (Service of infringement notices) on the buyer.
- 5 (3) If a document (including an infringement notice or reminder notice)
6 is to be served on the buyer under this part by post in relation to the
7 offence, the document may be addressed to the buyer at his or her
8 home or business address stated in the sold vehicle declaration.
- 9 (4) Sections 131C (Liability for vehicle-related offences), 131E and this
10 section apply as if the buyer were a responsible person for the
11 vehicle at the time of the offence and the infringement notice had
12 been served on the buyer under section 131B.
- 13 (5) However, a proceeding for the offence may be brought in a court
14 against the buyer only if a copy of the sold vehicle declaration has
15 been served on the buyer by an authorised person.
- 16 (6) In a proceeding against the buyer for the offence, the sold vehicle
17 declaration is evidence that the buyer was the responsible person for
18 the vehicle at the time of the offence.

19 **131G Unknown offender declarations**

20 If an infringement notice for a vehicle-related offence is served on a
21 person under section 131B (Service of infringement notice on
22 responsible person for vehicles), the person may—

- 23 (a) make a statutory declaration (an *unknown offender*
24 *declaration*) stating—
- 25 (i) that—
- 26 (A) if the person is an individual—the person was not
27 the driver of the vehicle at the time of the offence
28 and did not commit the offence; or

-
- 1 (B) if the person is a corporation—the vehicle was not
2 being used for the corporation’s purposes at the
3 time of the offence; and
- 4 (ii) that the person has made inquiries to find out who was—
- 5 (A) the driver of the vehicle at that time; or
- 6 (B) for a vehicle-related offence under an Act declared
7 under the regulations to be an Act to which this
8 subparagraph applies—the offender was at that
9 time; and
- 10 (iii) that the person does not know, and has not been able to
11 find out, who was the driver of the vehicle, or the
12 offender, at that time; and
- 13 (iv) the nature and extent of the inquiries made by the person;
14 and
- 15 (b) give the unknown offender declaration to the administering
16 authority within 28 days after the day when the infringement
17 notice, or a reminder notice for the offence, is served on the
18 person (or any additional time allowed by the administering
19 authority).

1 Dictionary

2 (see s 3)

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

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

- 6 • chief executive (see s 163)
- 7 • contravene
- 8 • Executive
- 9 • fail
- 10 • function
- 11 • public servant
- 12 • the Territory.

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

15 ***commercial waste*** means—

16 (a) waste resulting from institutional, commercial or industrial
17 activities; or

18 (b) waste collected and transported in the course of business.

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

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

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

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

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

- 1 **public place** means—
- 2 (a) a road, road related area or any other unleased Territory land;
- 3 and
- 4 (b) a place to which the public, or a section of the public, has
- 5 access, whether by payment or not.
- 6 **rider**—see the *Road Transport (General) Act 1999*, dictionary.
- 7 **road**—see the *Road Transport (General) Act 1999*, dictionary.
- 8 **road related area**—see the *Road Transport (General) Act 1999*,
- 9 dictionary.
- 10 **unleased Territory land** includes a waterway.
- 11 **waterway** means—
- 12 (a) a river, creek, stream or other natural channel in which water
- 13 flows (whether permanently or intermittently); or
- 14 (b) the stormwater system and any other channel formed (whether
- 15 in whole or part) by altering or relocating a waterway
- 16 mentioned in paragraph (a); or
- 17 (c) a lake, pond, lagoon or marsh (whether formed by geomorphic
- 18 processes or by works) in which water collects (whether
- 19 continuously or intermittently);
- 20 and includes the bed that the water in the waterway normally flows
- 21 over or is covered by.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2003.

2 Notification

Notified under the Legislation Act on 2003.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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