



Australian Capital Territory

Public Roads Act 1902

A1902-95

Republication No 5

Effective: 31 March 2008 – 13 October 2015

Republication date: 31 March 2008

Last amendment made by [A2007-25](#)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Public Roads Act 1902* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 31 March 2008. It also includes any amendment, repeal or expiry affecting the republished law to 31 March 2008.

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):

- 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 or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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 *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Public Roads Act 1902

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R5
31/03/08

Public Roads Act 1902
Effective: 31/03/08-13/10/15

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Australian Capital Territory

Public Roads Act 1902

An Act to consolidate the Acts relating to the opening, closing, survey, altering and improving of roads and the alignment and alteration of the alignment of streets in municipalities

1 Name of Act

This Act is the *Public Roads Act 1902*.

2 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.

Note 2 A definition in the dictionary 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)).

3 Notes

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

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

18 Lands reserved as roads may be declared public roads

- (1) The Minister may, in writing, declare any road to be a public road and, on the making of the declaration, the road shall be dedicated to the public accordingly and shall be withdrawn from any lease or licence from the Territory or Commonwealth under which it was held and no compensation shall be payable in relation to it.

- (2) A declaration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act 2001](#).

19 Notices of intention to close unnecessary road

- (1) If the Minister is satisfied that a road should be closed, completely or partly, the Minister may prepare a written notice to that effect and send a copy of the notice by post to each owner or occupier of land with frontage to the road or part whose name and address is known.

- (2) However, subsection (1) does not apply if—

-
- (a) the Minister is satisfied that it is necessary to partly close the road; and
 - (b) the closure of the road is only to give effect to a variation of a lease under the *Planning and Development Act 2007*, chapter 7 (Development approvals); and
 - (c) the variation is only to incorporate into an existing lease an envelope of land that contains an encroachment onto, over or under unleased territory land; and
 - (d) the closure of the road would not—
 - (i) impede the flow of vehicle or pedestrian traffic; or
 - (ii) otherwise present a risk to public safety; and
 - (e) because of the size, location or configuration of the area of road to be closed, granting a separate territory lease over the land would not be reasonable or appropriate.

Example—par (d)

If the road to be closed allows vehicle traffic in 2 directions, then part of the road cannot be closed if traffic flow in either direction would be impeded.

Example—par (e)

It would not be reasonable or appropriate to grant a lease over a parcel of land with an area of 0.05m x 50m located between an existing lease and a public road as it is unlikely that the parcel of land could be separately leased.

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

- (3) The notice must state that objections to the closing of the road must be given to the Minister within 1 month after the notification of the notice under the *Legislation Act 2001*.
- (4) A notice is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.
- (5) The Minister must also publish a notice in a local newspaper.

20 Closing of roads

- (1) If, after considering all objections (if any) made in accordance with the notice given under section 19 about the closing of a road, the Minister is satisfied that the road should be completely or partly closed, the Minister may, after the month mentioned in the notice, declare, in writing, that the road is completely or partly closed.
- (2) However, subsection (1) does not apply if—
 - (a) the Minister is satisfied that it is necessary to partly close the road; and
 - (b) the closure of the road is to give effect only to a variation of a lease under the *Planning and Development Act 2007*, chapter 7 (Development approvals); and
 - (c) the variation is only to incorporate into an existing lease an envelope of land that contains an encroachment onto, over or under unleased territory land; and
 - (d) the closure of the road would not—
 - (i) impede the flow of vehicle or pedestrian traffic; or
 - (ii) otherwise present a risk to public safety; and
 - (e) because of the size, location or configuration of the area of road to be closed, granting a separate territory lease over the land would not be reasonable or appropriate.

Example—par (d)

If the road to be closed allows vehicle traffic in 2 directions, then part of the road cannot be closed if traffic flow in either direction would be impeded.

Example—par (e)

It would not be reasonable or appropriate to grant a lease over a parcel of land with an area of 0.05m x 50m located between an existing lease and a public road as it is unlikely that the parcel of land could be separately leased.

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

- (3) On the making of a declaration completely or partly closing a road, the land included in the closed road, or closed part of the road, is freed from any rights of the public or anyone to the land as a highway.
- (4) A declaration under this section is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act](#).

23 Minister may re-mark

Whenever the position and boundaries of a road required for public traffic cannot be identified through the absence or loss of the survey marks, the Minister may cause the road to be re-marked.

25 Notice of re-marking of road to be published

- (1) If a road has been re-marked under section 23, the Minister may prepare a notice setting out generally the extent and direction of the road.
- (2) The notice shall—
 - (a) refer to a plan of survey of the re-marking of the road; and
 - (b) state where the plan may be inspected; and
 - (c) state that it is intended, subject to consideration of any objections received, to approve the plan; and
 - (d) call on all persons interested to make, in writing, addressed to the Minister, within 1 month of the date of the notice, any objections they may have to the road as re-marked.
- (3) The notice is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act 2001](#).

- (4) The Minister must also publish the notice in a local newspaper.

- (5) After considering the objections (if any) received in accordance with the notice, the Minister may approve the plan, in writing, with or without change.
- (6) The road as re-marked according to the plan as approved is taken to be the original road.
- (7) The approval under subsection (5) is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act 2001](#).

29 Protection of Territory and Commonwealth

No suit or action shall be maintainable against the Territory or Commonwealth for injury or damage resulting from any alignment or alteration of alignment under this Act.

35 Backdating of limitations etc

- (1) The Minister may, in writing, limit, correct or alter a notice under this Act and, if the Minister does so, the limitation, correction or alteration relates back to the date of the original notice unless otherwise stated in the notice.
- (2) A limitation, correction or alteration is a notifiable instrument.

Note A notifiable instrument must be notified under the [Legislation Act 2001](#).

Dictionary

(see s 2)

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:

- ACT
- Commonwealth
- Minister (see s 162)
- territory lease
- the Territory.

local newspaper means a newspaper published or circulating in the ACT.

road includes any land proclaimed, dedicated, resumed or otherwise provided before or after the passing of this Act, as a public thoroughfare or way and, in sections 18 to 20, also includes any land defined, reserved or left, before or after the passing of this Act, as a road in any subdivision of land of the Commonwealth or New South Wales or in the measurement or granting of the land as indicated on the official plans of the subdivision.

Endnotes

1 About the endnotes

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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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

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

3 Legislation history

This Act was originally a NSW Act—the *Public Roads Act 1902* A1902-95 (NSW).

The Act was in force in NSW immediately before 1 January 1911 (the date of establishment of the ACT) and was continued in force by the *Seat of Government Acceptance Act 1909* (Cwlth), s 6.

Under the *Seat of Government (Administration) Act 1910* (Cwlth), s 4 the Act had effect in the ACT as if it were an ACT law (subject to ordinances made under the *Seat of Government (Administration) Act 1910*).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former NSW laws in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

Under the *Interpretation Act 1967*, s 65 (now expired) all former NSW Acts in force in the ACT immediately before 10 November 1999 (including this Act) became, for all purposes, laws made by the ACT Legislative Assembly. This completed the process of making former NSW Acts fully into ACT laws.

NSW legislation

Public Roads Act 1902 A1902-95

assented to 12 December 1902

commenced 12 December 1902

Commonwealth legislation

as amended by

[New South Wales Acts Act 1986 A1986-91](#)

notified 12 January 1987 (Cwlth Gaz 1987)

commenced 12 January 1987

Legislation after becoming Territory enactment

[Self-Government \(Consequential Amendments\) Ordinance 1989](#)

Ord1989-38 sch 2

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 2 commenced 11 May 1989 (s 2 (2) and see Cwlth Gaz 1989 No S164)

Endnotes

4 Amendment history

Legislation (Consequential Amendments) Act 2001 A2001-44 pt 315

notified 26 July 2001 ([Gaz 2001 No 30](#))
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 315 commenced 12 September 2001 (s 2 and [Gaz 2001 No S65](#))

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.43

notified 5 September 2001 ([Gaz 2001 No S65](#))
s 1, s 2 commenced 5 September 2001 (IA s 10B)
amdt 3.471 commenced 12 September 2001 (s 2 (2))
pt 3.43 remainder commenced 5 September 2001 (s 2 (1))

Land (Planning and Environment) (Compliance) Amendment Act 2003 A2003-34 pt 3

notified LR 7 July 2003
s 1, s 2 commenced 7 July 2003 (LA s 75 (1))
pt 3 commenced 1 September 2003 (s 2 and [CN2003-8](#))

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.80

notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 3 pt 3.80 commenced 12 April 2007 (s 2 (1))

Planning and Development (Consequential Amendments) Act 2007 A2007-25 sch 1 pt 1.26

notified LR 13 September 2007
s 1, s 2 commenced 13 September 2007 (LA s 75 (1))
sch 1 pt 1.26 commenced 31 March 2008 (s 2 and see [Planning and Development Act 2007 A2007-24, s 2](#) and [CN2008-1](#))

4 Amendment history

The *New South Wales Acts Act 1986* (previously the *New South Wales Acts Ordinance 1986*), sch 2, pt 15 sets out the text of this Act in an amended form and provided for the amended form to apply as the text of the Act in force in the ACT. This endnote, therefore, only details amendments made after that date.

Name of Act

s 1 sub [A2001-56](#) amdt 3.469

Repeal Savings and Interpretation

hdg before s 1 om [A2001-44](#) amdt 1.3463

Dictionary

s 2 ins [A2007-3](#) amdt 3.420

Notes

s 3 ins [A2007-3](#) amdt 3.420

Definitions for Act

s 6 defs reloc to dict [A2007-3](#) amdt 3.419
om [A2007-3](#) amdt 3.420

Dedication of roads

hdg before s 18 om [A2001-44](#) amdt 1.3464

Lands reserved as roads may be declared public roads

s 18 am [Ord1989-38](#) sch 2; [A2001-44](#) amdt 1.3465, amdt 1.3466

Closing of unnecessary roads

hdg before s 19 om [A2001-44](#) amdt 1.3467

Notices of intention to close unnecessary road

s 19 am [Ord1989-38](#) sch 2; [A2001-44](#) amdt 1.3468, amdt 1.3469;
[A2001-56](#) amdt 3.471; [A2003-34](#) s 11; ss renum R3 LA (see
[A2003-34](#) s 12); [A2007-25](#) amdt 1.159

Closing of roads

s 20 am [Ord1989-38](#) sch 2; [A2001-44](#) amdt 1.3470, amdt 1.3471
sub [A2003-34](#) s 13
am [A2007-25](#) amdt 1.160

Re-marking roads

hdg before s 23 om [A2001-44](#) amdt 1.3472

Notice of re-marking of road to be published

s 25 am [Ord1989-38](#) sch 2; [A2001-44](#) amdt 1.3473-1.3475

Protection of Territory and Commonwealth

s 29 am [Ord1989-38](#) sch 2
s 29 hdg sub [A2001-56](#) amdt 3.472

Gazette notices

hdg before s 35 om [A2001-44](#) amdt 1.3476

Backdating of limitations etc

s 35 am [Ord1989-38](#) sch 2
sub [A2001-44](#) amdt 1.3477

Dictionary

dict ins [A2007-3](#) amdt 3.421
am [A2007-25](#) amdt 1.161
def **local newspaper** reloc from s 6 [A2007-3](#) amdt 3.419
def **road** am [A2001-56](#) amdt 3.470
reloc from s 6 [A2007-3](#) amdt 3.419

Endnotes

5 Earlier republications

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.

Republication No and date	Effective	Last amendment made by	Republication for
R1 31 Aug 1992	11 May 1989– 4 Sept 2001	Ord1989-38	amendments by Ord1989-38
R1 (RI) 20 Sept 2013	11 May 1989– 4 Sept 2001	Ord1989-38	reissue of printed version
R2 30 Apr 2002	12 Sept 2001– 31 Aug 2003	A2001-56	amendments by A2001-44 and A2001-56
R3 1 Sept 2003	1 Sept 2003– 11 Apr 2007	A2003-34	amendments by A2003-34
R4 12 Apr 2007	12 Apr 2007– 30 Mar 2008	A2007-3	amendments by A2007-3

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