



Australian Capital Territory

# **Litter Act 2004**

**A2004-47**

**Republication No 4**

**Effective: 2 February 2009 – 16 August 2009**

Republication date: 2 February 2009

Last amendment made by A2008-37

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 2 February 2009. It also includes any amendment, repeal or expiry affecting the republished law to 2 February 2009.

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 includes 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

# Litter Act 2004

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R4  
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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 subsection (6).

- (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) For subsection (2), *escape* into or onto a public place includes fall, descend and percolate, and be blown or washed, into or onto the place.
- (7) 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: 50 penalty units, imprisonment for 6 months or both.

## **10 Commercial waste**

- (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 chief executive 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 chief executive 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 chief executive 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.

(6) In this section:

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

## 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                      Removal of litter**

### **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 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 in accordance with the requirement—

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

- (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 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 chief executive may arrange for a person to remove or dispose of the litter to which the direction relates.
- (3) However, the chief executive 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 litter) must pay to the Territory the reasonable cost of any removal or disposal carried out under section 22.

*Note* An amount owing under a law may be recovered as a debt in a court of competent jurisdiction (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 litter) may apply to the ACAT for review of the decision of the authorised person or police officer to give the notice.

## 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 chief executive may approve forms for this Act.

- (2) If the chief executive 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
- chief executive (see s 163)
- contravene
- Executive
- fail
- function
- public servant
- reviewable decision notice
- the Territory.

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

***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.

***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.

**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.

**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

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## 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, 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

**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)

### 4 Amendment history

**Commencement**

s 2 om LA s 89 (4)

**Identity cards**

s 15 sub A2005-50 s 4

**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

**Notice to remove litter**

s 21 am A2008-37 amdt 1.304; ss renum R4 LA

## Endnotes

### 5 Earlier republications

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

s 22 am A2008-37 amdt 1.305

**ACAT review of notice under s 21**

s 24 sub A2008-37 amdt 1.306

**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  
def **public place** am A2007-16 amdt 3.116

## 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 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

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