



Australian Capital Territory

Litter Legislation Amendment Act 2019

A2019-39

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Australian Capital Territory

Litter Legislation Amendment Act 2019

A2019-39

An Act to amend legislation about litter, and for other purposes

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

Part 1 Preliminary

1 Name of Act

This Act is the *Litter Legislation Amendment Act 2019*.

2 Commencement

- (1) This Act (other than the following provisions) commences on the day after its notification day:
- section 25
 - section 28
 - section 32
 - section 34.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) The provisions mentioned in subsection (1) commence on a day fixed by the Minister by written notice.

Note 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)).

- (3) If the provisions mentioned in subsection (1) have not commenced within 12 months beginning on this Act's notification day, they automatically commence on the first day after that period.

- (4) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to the provisions mentioned in subsection (1).

3 Legislation amended

This Act amends the following legislation:

- *Litter Act 2004*
- *Magistrates Court (Litter Infringement Notices) Regulation 2004*
- *Public Unleased Land Act 2013*
- *Uncollected Goods Act 1996*.

Note This Act also amends other legislation (see sch 1).

4 Legislation repealed

The *Litter Regulation 2018* (SL2018-13) is repealed.

Part 2 Litter Act 2004

5 Section 6

substitute

6 Objects of Act

- (1) The objects of this Act are—
 - (a) to protect and enhance the natural and built environment and amenity of the ACT, including the wellbeing of its people; and
 - (b) to reduce the economic and health impact of littering and illegal dumping.
- (2) This Act aims to achieve its objects by—
 - (a) reducing and preventing littering and illegal dumping; and
 - (b) regulating the depositing of litter, or other material that may become litter; and
 - (c) facilitating the removal of litter.

6 Meaning of *litter* Section 7, definition of *litter*

omit

, for example

7 Section 7, definition of *litter*, paragraph (a), new example

insert

Example—abandoned vehicle
dockless bicycle

8 Section 7, definition of *litter*, note*substitute***Example—untidy or adversely affects proper use of place**

large pile of soil or rocks left on side of road or in school playground for no purpose

9 New section 7A*in part 2, insert***7A Reference to *level* of litter**

For this Act, a reference to litter at a *level* mentioned in an item in table 7A, column 2, is a reference to the volume of litter mentioned in the item, column 3.

Table 7A

column 1 item	column 2 level	column 3 volume of litter (L)
1	level 1	1L or more but less than 10L
2	level 2	10L or more but less than 200L
3	level 3	200L or more

10 Sections 8 to 9B*substitute***8 Littering**

- (1) A person must not deposit litter at a public place or an open private place.

Maximum penalty: 10 penalty units.

Examples

- 1 dropping a lolly wrapper onto a footpath
- 2 leaving food packaging in a private car park

- (2) A person commits an offence if—
- (a) the person deposits litter at a public place or an open private place; and
 - (b) the litter escapes, or is likely to escape—
 - (i) from the public place into or onto another public place or an open private place; or
 - (ii) from the open private place into or onto a public place or another open private place.

Maximum penalty: 10 penalty units.

Examples

- 1 unsolicited advertising material, brochures or newspapers left falling out of a letterbox or in a front yard that are likely to be windblown onto a public park
- 2 building waste kept unsecured on a building site that is likely to be windblown offsite

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

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

Maximum penalty: 10 penalty units.

Example

placing commercial or household waste in a bin provided for general public waste

- (4) Subsection (1) does not apply to the depositing of litter at a place with the consent of the occupier of the place.
- (5) Subsection (2) does not apply to the depositing of litter at a place with the consent of the occupier of the place only if the litter is unlikely to escape.

- (6) 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 waste collection service; or
 - (b) the depositing of litter at a public place or an open private place in a receptacle that is—
 - (i) provided or designed to be used for litter; and
 - (ii) appropriate for litter of that size, shape, nature and volume; or
 - (c) the depositing of litter in accordance with an invitation from a public servant in the exercise of the public servant's functions; or
 - (d) the depositing of litter at a public landfill or waste facility.
- (7) Subsections (1) to (3) do not apply if the depositing of the litter is accidental and the person takes all reasonable steps to retrieve the litter.
- Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) to s (7) (see [Criminal Code](#), s 58).
- (8) An offence against this section is a strict liability offence.

9 Aggravated littering

- (1) A person commits an offence if—
- (a) the person deposits litter at a public place; and
 - (b) the nature of the litter or the way the litter is deposited is likely to injure a person or animal, or to damage property.

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

- (2) A person commits an offence if—
- (a) the person deposits litter at a public place; and

- (b) the litter is any of the following:
- (i) a cigarette or cigarette butt whether lit or unlit;
 - (ii) a match or similar item whether lit or unlit;
 - (iii) a syringe.

Maximum penalty: 50 penalty units.

- (3) Subsections (1) and (2) do not apply if the depositing of the litter is accidental and the person takes all reasonable steps to retrieve the litter.
- (4) Subsection (2) does not apply to—
- (a) the depositing of the litter in a public place in a receptacle that is—
 - (i) provided or designed to be used for litter; and
 - (ii) appropriate for litter of that size, shape, nature and volume; or
- Example**
depositing a syringe in a sharps container
- (b) the depositing of litter in accordance with an invitation from a public servant in the exercise of the public servant's functions; or
 - (c) for litter mentioned in subsection (2) (b) (i) or (ii)—
 - (i) the placing of a receptacle containing litter at a public place for the litter to be removed by a waste collection service; or
 - (ii) the depositing of litter at a public landfill or waste facility.
- Note* The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see [Criminal Code](#), s 58).
- (5) An offence against subsection (2) is a strict liability offence.

(6) In this section:

syringe means a hypodermic syringe and includes—

- (a) anything designed for use, or intended to be used, as part of a hypodermic syringe; and
- (b) a needle designed for use, or intended to be used, in relation to a hypodermic syringe.

9A Dumping litter

(1) A person commits an offence if—

- (a) the person dumps litter at a public place or an open private place; and
- (b) the volume of litter is 200L or more but less than 1 000L.

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

(2) A person commits an offence if—

- (a) the person dumps litter at a public place or an open private place; and
- (b) the volume of litter is 1 000L or more.

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

(3) A person commits an offence if—

- (a) the person dumps litter at a public place or an open private place; and
- (b) the volume of litter is 200L or more but less than 1 000L; and

- (c) the person is reckless about whether the litter, or part of the litter, escapes, or is likely to escape—
 - (i) from the public place into or onto another public place or an open private place; or
 - (ii) from the open private place into or onto a public place or another open private place.

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

- (4) A person commits an offence if—
 - (a) the person dumps litter at a public place or an open private place; and
 - (b) the volume of litter is 1 000L or more; and
 - (c) the person is reckless about whether the litter, or part of the litter, escapes, or is likely to escape—
 - (i) from the public place into or onto another public place or an open private place; or
 - (ii) from the open private place into or onto a public place or another open private place.

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

- (5) Subsections (1) and (2) do not apply to the dumping of litter at a place with the consent of the occupier of the place.
- (6) Subsections (3) and (4) do not apply to the dumping of litter at a place with the consent of the occupier of the place only if the litter is unlikely to escape.

- (7) Subsections (1) to (4) do not apply to—
- (a) the placing of a receptacle containing litter at a public place for the litter to be removed by a waste collection service; or
 - (b) the dumping of litter at a public place or an open private place in a receptacle that is—
 - (i) provided or designed to be used for litter; and
 - (ii) appropriate for litter of that size, shape, nature and volume; or
 - (c) the dumping of litter in accordance with an invitation from a public servant in the exercise of the public servant's functions; or
 - (d) the dumping of litter at a public landfill or waste facility.
- (8) Subsections (1) to (4) do not apply if the dumping of the litter is accidental and the person takes all reasonable steps to retrieve the litter.
- Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) to s (7) (see [Criminal Code](#), s 58).
- (9) Strict liability applies to subsections (1) (b), (2) (b), (3) (b) and (4) (b).

9B Dumping litter—strict liability

- (1) A person commits an offence if—
- (a) the person dumps litter at a public place or an open private place; and
 - (b) the volume of litter is at a level mentioned in an item in table 7A, column 2.

- (2) A person commits an offence if—
- (a) the person dumps litter at a public place or an open private place; and
 - (b) the volume of litter is at a level mentioned in an item in table 7A, column 2; and
 - (c) the litter, or part of the litter, escapes, or is likely to escape—
 - (i) from the public place into or onto another public place or an open private place; or
 - (ii) from the open private place into or onto a public place or another open private place.
- (3) For an offence against subsections (1) and (2), a penalty in accordance with section 9BA applies.
- (4) Subsection (1) does not apply to the dumping of litter at a place with the consent of the occupier of the place.
- (5) Subsection (2) does not apply to the dumping of litter at a place with the consent of the occupier of the place only if the litter is unlikely to escape.
- (6) 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 waste collection service; or
 - (b) the dumping of litter at a public place or an open private place in a receptacle that is—
 - (i) provided or designed to be used for litter; and
 - (ii) appropriate for litter of that size, shape, nature and volume; or

- (c) the dumping of litter in accordance with an invitation from a public servant in the exercise of the public servant's functions;
or
- (d) the dumping of litter at a public landfill or waste facility.
- (7) Subsections (1) and (2) do not apply if the dumping of the litter is accidental and the person takes all reasonable steps to retrieve the litter.
- Note* The defendant has an evidential burden in relation to the matters mentioned in s (4) to s (7) (see [Criminal Code](#), s 58).
- (8) An offence against this section is a strict liability offence.

9BA Dumping litter—penalties for s 9B offences

If a person commits an offence against section 9B (1) or (2) and the volume of litter was at a level stated in column 2 of an item of table 9BA, the offence is punishable by the maximum penalty stated in column 3 of that item.

Table 9BA

column 1 item	column 2 level	column 3 maximum penalty (penalty units)
1	level 1	20
2	level 2	35
3	level 3	50

11 Commercial waste—strict liability Section 10 (1), penalty

substitute

Maximum penalty: 50 penalty units.

**12 Offences about vehicle loads
Section 11 (1) (b)**

omit

or be dislodged

substitute

be dislodged or escape

13 Section 11 (1), penalty

substitute

Maximum penalty: 50 penalty units.

14 Section 11 (2) (b)

omit

or be dislodged

substitute

be dislodged or escape

15 Section 11 (2), new example

after the penalty, insert

Example

a trailer containing garden clippings that are uncovered or not strapped down

16 New section 11A*insert***11A Unsecured construction materials**

- (1) A person commits an offence if the person—
 - (a) keeps construction material at an open private place; and
 - (b) fails to secure the material to prevent it escaping from the place.

Maximum penalty: 20 penalty units.

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

Example

styrofoam waffle pods used for construction, left loose or uncontained on a building site

17 Section 13 heading*substitute***13 Placing advertising leaflets on motor vehicles, buildings or other fixed structures****18 Section 13 (1) to (4)***substitute*

- (1) A person commits an offence if the person—
 - (a) places any unsolicited leaflet in or on a motor vehicle at a public place; or
 - (b) attaches any unsolicited leaflet to any building or other fixed structure at a public place.

Example

attaching a sticker on a traffic sign or other public infrastructure

Maximum penalty: 20 penalty units.

- (2) Subsection (1) does not apply if the leaflet is placed in or on a motor vehicle (other than a light rail vehicle) or attached to any building or other fixed structure and—
- (a) is placed or attached in accordance with a territory law; or
 - (b) for a motor vehicle—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; or
 - (c) for a building or other fixed structure—is attached with the consent of the owner or occupier of the building, or the owner of the structure.
- (3) A person commits an offence if the person distributes, or commissions, authorises or arranges for the distribution of, any unsolicited leaflet for—
- (a) placement in or on a motor vehicle at a public place; or
 - (b) attachment to any building or other fixed structure at a public place.

Maximum penalty: 20 penalty units.

- (4) Subsection (3) does not apply if the leaflet—
- (a) is placed in or on a motor vehicle (other than a light rail vehicle) or attached to any building or other fixed structure; and
 - (b) is placed or attached in accordance with a territory law.

19 New section 13A

in part 3, insert

13A Incidental vehicle offences

- (1) This section applies to the following offences (a *relevant offence*):
 - (a) section 8 (1) to (3);
 - (b) section 9 (2);
 - (c) section 9B (1) and (2).
- (2) An offence against a relevant offence is an *incidental vehicle offence* if a person commits the offence—
 - (a) near a vehicle before entering the vehicle; or
 - (b) after exiting a vehicle, near the vehicle.
- (3) However, subsection (2) does not apply if the incidental vehicle offence was committed by a person other than the driver of the vehicle.
- (4) The *Magistrates Court Act 1930*, division 3.8.3 (Additional provisions for vehicle-related offences) applies to an incidental vehicle offence as if a reference in the division to a vehicle-related offence were a reference to an incidental vehicle offence.

Note An infringement notice offence that involves a vehicle, such as throwing litter out of a car window or using a truck to transport litter for dumping, is a vehicle-related offence under the *Magistrates Court Act 1930*, div 3.8.1 if it is declared by a regulation under that Act to be an offence to which div 3.8.3 of that Act applies. The *Magistrates Court (Litter Infringement Notices) Regulation 2004*, sch 2 sets out these offences.

**20 Request to remove litter
Section 20 (3), penalty**

substitute

Maximum penalty: 20 penalty units.

**21 Notice to remove etc litter
Section 21 (2), new note**

insert

Note If the notice is given to a person who may apply to the ACAT for review of the decision to which it relates, the notice must be a reviewable decision notice (see s 24X).

22 Section 21 (5) and (6)

omit

23 Section 21 (7), penalty

substitute

Maximum penalty: 20 penalty units.

24 Section 24

omit

25 New subdivision 4.3.3

insert

Subdivision 4.3.3 Dealing with litter affecting amenity etc**24BA Meaning of *amenity impact***

- (1) For this Act, a person causes an *amenity impact* if—
- (a) the person deposits litter at an open private place; and

- (b) the depositing of the litter has, or is likely to have, a significant adverse impact on the amenity, use or enjoyment of an entity's adjoining land.

Example

A person's yard contains numerous vehicles in a deteriorated state that have been left undisturbed for a significant period. There is no indication that the person is carrying out repair or other work on the vehicles and the surrounding area is overgrown and neglected. The yard is unsightly and significantly affects the neighbours' enjoyment of their land.

- (2) For subsection (1), in deciding whether an amenity impact is significant, regard must be had to the nature, quantity and volume of the litter and the length of time of the impact.

24BB Complaints about amenity impacts

- (1) A person may give a written complaint to an authorised person about an amenity impact.
- (2) An authorised person must investigate the complaint having regard to any code of practice approved under section 24ZA.
- (3) If, on investigation, an authorised person decides not to issue an abatement notice in relation to the amenity impact, the officer must give a written notice of that decision to the complainant, informing the complainant about any available ways of settling the matter privately.

24BC Notification about proposed abatement notice

- (1) If an authorised person proposes to give a person an abatement notice, the authorised person must give the person a written notice (a *show cause notice*) stating—
 - (a) the grounds on which the authorised person considers an abatement notice may be given; and
 - (b) details of the proposed abatement notice; and

- (c) that the person may, not later than 14 days after the day the person is given the notice, give a written submission to the authorised person about the proposed abatement notice.
- (2) The authorised person must consider any submission received by the authorised person in response to the show cause notice when making a decision to give or not give an abatement notice to the person.

24BD Abatement notices

- (1) This section applies if an authorised person—
 - (a) has considered a submission mentioned in section 24BC (2); and
 - (b) is satisfied on reasonable grounds that it is appropriate in all the circumstances, to give the person a notice to abate the amenity impact (an *abatement notice*).
- (2) If the authorised person has reasonable grounds for believing that an amenity impact exists, the authorised person may give an abatement notice to—
 - (a) the person who deposited litter and caused the impact; or
 - (b) if the person cannot be identified—the person who occupies the place from which the impact originates.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.
- (3) In determining whether to give an abatement notice in relation to an amenity impact, the authorised person—
 - (a) must have regard to the number of people affected, or potentially affected, by the impact; and
 - (b) must have regard to any disability that a person causing the impact may have; and

- (c) must have regard to the physical, mental or financial capacity of the person causing the impact to reasonably comply with the proposed abatement notice; and
- (d) may have regard to any reasonable steps that a person causing the impact has or has not taken to avoid or minimise the impact; and

Example

placing protective covers over vehicles that are in a state of disrepair in a person's yard to indicate the items are of some use or value to the person

- (e) may have regard to any reasonable steps that a person adversely impacted, or potentially adversely impacted has or has not taken to avoid or minimise the impact, or potential impact on the person.
- (4) An abatement notice—
- (a) must state the amenity impact which is required to be abated; and
 - (b) must state the period within which the amenity impact is to be abated; and
 - (c) may state steps to be taken to prevent the amenity impact from happening again and the period or periods within which they are to be undertaken.
- (5) An abatement notice continues in force until revoked in accordance with section 24BG.

24BE Not giving abatement notice

- (1) This section applies if, after considering a submission under section 24BC (2) received from a person, the authorised person is satisfied on reasonable grounds that an abatement notice—
- (a) may not be given to the person; or

- (b) may be given, but that in all the circumstances it is not appropriate to be given.
- (2) The authorised person must give the person written notice telling the person that an abatement notice will not be given to the person in relation to the matters raised in the show cause notice.

24BF Abatement notice—extension of compliance period

- (1) Before the end of a compliance period stated in an abatement notice under section 24BD (4) (b) or (c), an authorised person may extend the period.
- (2) An extension—
 - (a) may be given on the application of the person given the abatement notice, or on the authorised person’s initiative; and
 - (b) must be in writing given to the person given the abatement notice.
- (3) If an authorised person refuses an application for an extension, the person must give written notice to the applicant of the refusal stating the reasons for the refusal.

Note If the notice is given to a person who may apply to the ACAT for review of the decision to which it relates, the notice must be a reviewable decision notice (see s 24X).

24BG Abatement notice—revocation

- (1) A person given an abatement notice in relation to an amenity impact may apply for revocation of the notice.
- (2) An application must—
 - (a) be in writing; and

- (b) be addressed to the authorised person who gave the notice; and
- (c) state the action taken to comply with the notice by the person given the notice and any further measures taken to prevent the amenity impact from happening again; and
- (d) nominate a date on or after which an inspection may be made.

Note A fee may be determined under s 25 for this provision.

- (3) The authorised person must, on application or on the authorised person's initiative, revoke the abatement notice if satisfied, after carrying out an inspection—
 - (a) that the notice has been complied with; and
 - (b) that adequate measures have been taken to prevent the amenity impact from happening again.
- (4) The revocation must be in writing given to the person given the abatement notice.
- (5) If an authorised person refuses an application for revocation, the authorised person must give written notice to the applicant of the refusal stating the reasons for the refusal.

Note If the notice is given to a person who may apply to the ACAT for review of the decision to which it relates, the notice must be a reviewable decision notice (see s 24X).

24BH Abatement orders

- (1) The director-general may apply to the Magistrates Court for any of the following orders in relation to a person given an abatement notice:
 - (a) that the person—
 - (i) comply with the notice; and

- (ii) undertake, or stop taking, stated action to prevent the amenity impact from happening again;
 - (b) if the amenity impact has been removed but is likely to happen again—that the person undertake, or stop taking, stated action to prevent the amenity impact from happening again;
 - (c) that if the person fails to comply with an order made by the court under subsection (3) (a) or (b), an authorised person may, after the expiration of the compliance period stated in the order, enter a place to which the order relates and do whatever is necessary to implement the order;
 - (d) that the person pay the reasonable costs and expenses, as determined by the court—
 - (i) of the application; and
 - (ii) incurred by the Territory in implementing, or attempting to implement, any order made under subsection (3) (c).
- (2) In considering an application, the court—
- (a) must have regard to any disability that a person causing the amenity impact may have; and
 - (b) must have regard to the physical, mental or financial capacity of the person causing the impact to reasonably comply with an order proposed to be made by the court under subsection (3); and
 - (c) may consider any relevant report from anyone about the amenity impact.
- (3) The court may make any of the following orders in relation to the person given an abatement notice:
- (a) that the person comply with the notice within a period stated in the order;

- (b) that to prevent the amenity impact from happening again, the person undertake, or stop taking, stated action within a period stated in the order;
 - (c) that if the person fails to comply with an order under paragraph (a) or (b), an authorised person may, after the expiration of the compliance period stated in the order, enter a place to which the order relates and do whatever is necessary to implement the order.
 - (d) that the person pay the reasonable costs and expenses, as determined by the court—
 - (i) of the application; and
 - (ii) incurred by the Territory in implementing, or attempting to implement, an order under paragraph (c).
- (4) If the court makes an order under subsection (3) (c), an authorised person must not enter the place to which the order relates unless—
- (a) the authorised person has given the person a written notice stating the date and time of the proposed entry at least 7 days before the date; and
 - (b) the time of entry stated is on a working day between 8 am and 6 pm.
- (5) Also, for an order under subsection (3) (c), an authorised person must—
- (a) enter only the part of the place necessary to implement the order using any reasonable and necessary force and assistance; and
 - (b) not remain at the place longer than necessary to implement the order.
- (6) A person must comply with an order under subsection (3) (a), (b) or (d).

Maximum penalty: 50 penalty units.

- (7) The court may revoke an order under subsection (3) (a) or (b) on application by the person in relation to whom the order was made, or the director-general, if satisfied—
- (a) that the order has been complied with; and
 - (b) that there is no reasonable likelihood of the circumstances giving rise to the making of the order happening again.

24BI Joint and separate responsibility for amenity impacts

- (1) This section applies if—
- (a) an authorised person has reasonable grounds for believing that an amenity impact exists; and
 - (b) either—
 - (i) the authorised person has reasonable grounds for believing that 2 or more people have caused the impact; or
 - (ii) if the person or people causing the impact cannot be identified—2 or more people occupy the place from which the impact originates.
- (2) Each person who has caused the impact, or occupies the place from which the impact originates—
- (a) may be given an abatement notice; and
 - (b) if the court makes an order under section 24BH in relation to the person and another person (a *joint abatement order*)—the person and other person are jointly and separately liable—
 - (i) in relation to the joint abatement order; and
 - (ii) for the reasonable costs or expenses mentioned in section 24BH (3) (d) in relation to the application and the implementation, or attempted implementation of the joint abatement order.

26 **Definitions—pt 4A**
Section 24C, definition of *retention area*

omit

27 **New parts 4B and 4C**

insert

Part 4B Abandoned vehicles

24O Power to enter abandoned vehicle

- (1) This section applies if an authorised person has reasonable grounds for believing that a vehicle has been abandoned at a public place.

Examples—reasonable grounds

- 1 burnt out wreck
- 2 deteriorating body or broken windows
- 3 missing number plates

Note **Litter** is defined to include an abandoned vehicle (see s 7).

- (2) The authorised person may enter the vehicle, to identify the vehicle or responsible person for the vehicle, only if the vehicle or responsible person cannot be identified without entering the vehicle.
- (3) If the vehicle is entered, the authorised person—
- (a) may take only the steps reasonably necessary to obtain the information needed to identify the vehicle or responsible person for the vehicle (the ***identification information***); and
 - (b) must not examine anything else in the vehicle that is not relevant for obtaining the identification information; and
 - (c) must not remove anything from the vehicle other than the following:
 - (i) perishable items;

(ii) items that could cause harm to a person or animal if left in the vehicle;

(iii) items that may damage the vehicle if left in the vehicle.

Examples—removable items

- 1 foods that if spoiled, may soil or cause an offensive smell to permeate the vehicle
- 2 chemicals or explosives

- (4) The authorised person must not disclose any information, other than the identification information for the purposes of this Act, obtained by the authorised person because of the exercise of the authorised person's functions under subsection (3).

24P Direction to remove vehicles from public places

- (1) This section applies if—
- (a) a person places a vehicle at a public place; and
 - (b) an authorised person or police officer has reasonable grounds for believing that the vehicle has been abandoned.
- (2) The authorised person or police officer may direct (a *removal direction*) the person to remove the vehicle.

Note The power to make the direction includes the power to amend or repeal the direction (see [Legislation Act](#), s 46).

- (3) A removal direction must be in writing and state—
- (a) the public place; and
 - (b) the vehicle to be removed; and
 - (c) when the direction must be complied with (the *due date*), being a day at least 2 days after the direction is given to the person; and

- (d) that, if the vehicle is not removed by the due date—
 - (i) the person may be committing an offence under section 24Q; and
 - (ii) the vehicle may be removed and disposed of under section 24R and section 24S.
- (4) A removal direction may be given to a person by securely attaching the direction to the vehicle in a conspicuous place.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (5) A removal direction given to a person in the way mentioned in subsection (4) is taken to be given to the person on the day the direction is attached to the vehicle.

24Q Offence—fail to comply with removal direction

- (1) A person commits an offence if the person—
 - (a) is subject to a removal direction; and
 - (b) fails to comply with the direction.
- (2) Subsection (1) does not apply if the person has a reasonable excuse for failing to comply with the direction.

Maximum penalty: 20 penalty units.

Note The defendant has an evidential burden in relation to the matters mentioned in s (2) (see [Criminal Code](#), s 58).

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

24R Removal of vehicles at public places by Territory

- (1) This section applies if—
 - (a) a person—
 - (i) is subject to a removal direction for a vehicle; and
 - (ii) fails to comply with the direction; or
 - (b) a vehicle is at a public place and an authorised person reasonably believes that the vehicle is abandoned.
- (2) An authorised person may—
 - (a) move the vehicle to a retention area; or
 - (b) for a vehicle of no value—move the vehicle to a retention area or dispose of it immediately.

Example

A burnt out wreck may be disposed of immediately.

- (3) In this section:

net value—see the *Uncollected Goods Act 1996*, dictionary.

no value, in relation to a vehicle, means a vehicle having a net value of \$20 or less.

value—see the *Uncollected Goods Act 1996*, dictionary.

24S Disposal of vehicles by Territory

- (1) This section applies if a vehicle is moved to a retention area under section 24R.
- (2) The director-general must give the responsible person for the vehicle a written notice (a **retention notice**) stating—
 - (a) that the vehicle has been moved to a retention area; and
 - (b) when and where the vehicle may be collected; and

- (c) that, if the responsible person does not collect the vehicle within 7 days after the retention notice is given to the responsible person, the vehicle may be disposed of under the *Uncollected Goods Act 1996*.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) If the vehicle is not collected within the period mentioned in subsection (2) (c)—
- (a) the vehicle is taken to be uncollected goods under the *Uncollected Goods Act 1996*; and
 - (b) the director-general is taken to be the possessor of the goods for that Act; and
 - (c) the director-general may dispose of the goods under that Act, part 3 (Disposal of uncollected goods).
- (4) For the *Uncollected Goods Act 1996*, section 26 (2) (a) (Claim by owner before disposal) and section 30 (1) (a) (Proceeds of sale), the reasonable costs incurred by the director-general in complying with that Act are taken to include the cost of removing the vehicle from the public place to the retention area.

24T Damage etc to be minimised

- (1) In the exercise, or purported exercise, of a function under this part, an authorised person must take all reasonable steps to ensure that the authorised person causes as little inconvenience, detriment and damage as is practicable.
- (2) If an authorised person damages a vehicle in the exercise or purported exercise of a function under this part, the authorised person must give written notice of the particulars of the damage to the person whom the authorised person believes on reasonable grounds is the owner of the vehicle.

Note For how documents may be given, see the [Legislation Act](#), pt 19.5.

- (3) This section does not apply if the authorised person immediately disposes of the vehicle under section 24R (2) (b).

24U Compensation for exercise of enforcement powers

- (1) A person may claim compensation from the Territory if the person suffers loss or expense because of the exercise, or purported exercise, of a function under this part by an authorised person.
- (2) Compensation may be claimed and ordered in a proceeding for—
- (a) compensation brought in a court of competent jurisdiction; or
 - (b) an offence against this Act brought against the person making the claim for compensation.
- (3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.
- (4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

24V Protection from liability

- (1) An authorised person is not civilly liable for conduct engaged in honestly and without recklessness—
- (a) in the exercise of a function under this Act; or
 - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act.
- (2) Any civil liability that would, apart from this section, attach to the authorised person attaches instead to the Territory.
- (3) In this section:
- conduct*** means an act or omission to do an act.

Part 4C Review and appeals

24W **Meaning of *reviewable decision*—pt 4C**

In this part:

reviewable decision means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

24X **Reviewable decision notices**

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#), div 6.3.

24Y **Applications for review**

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

Note If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

28 New section 24Z

in part 4C, insert

24Z Appeals

A person subject to an abatement order may appeal to the Supreme Court in relation to any of the following orders of the Magistrates Court:

- (a) an abatement order under section 24BH (3);
- (b) an order under section 24BH (7) dismissing an application for the revocation of an abatement order.

29 New section 24ZA

in part 5, insert

24ZA Codes of practice

- (1) The Minister may approve a code of practice setting out minimum standards or guidelines for this Act.
- (2) However, the Minister must approve a code of practice setting out guidelines for the director-general in dealing with amenity impacts caused by hoarding (a *hoarding code of practice*).
- (3) Despite subsection (2), the Minister must not approve a hoarding code of practice within 6 months after the day this section commences.
- (4) In approving a hoarding code of practice, the Minister must have regard to—
 - (a) the objects of the Act in section 6; and
 - (b) minimising amenity impacts, and ways of dealing with amenity impacts, on the wellbeing of people affected by the amenity impacts, including people whose hoarding caused the amenity impacts.

- (5) Without limiting a hoarding code of practice, it must include guidelines about the following:
- (a) the regular review of the circumstances of a person in relation to whom an abatement notice has been given, or an abatement order has been made, as a consequence of an amenity impact caused by the person's hoarding;
 - (b) the establishment of, or referral to, a group made up of representatives from government agencies and support services to advise the director-general in relation to the management of amenity impacts caused by hoarding;
 - (c) the circumstances in which a person whose hoarding has caused an amenity impact should be referred to a government agency or support service;
 - (d) the least restrictive means reasonably available to the director-general for dealing with amenity impacts caused by hoarding.
- (6) An approved code of practice may apply, adopt or incorporate an instrument as in force from time to time.

Note 1 The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the [Legislation Act](#), s 47 (5) or (6) is not disapplied (see s 47 (7)).

Note 2 A notifiable instrument must be notified under the [Legislation Act](#).

Note 3 A reference to an instrument includes a reference to a provision of an instrument (see [Legislation Act](#), s 14 (2)).

- (7) An approved code of practice is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

30 Section 27*substitute***27 Regulation-making power**

- (1) The Executive may make regulations for this Act.
- (2) A regulation may—
 - (a) make provision in relation to dockless bicycle sharing schemes or other sharing schemes using GPS tracking devices on vehicles; and
 - (b) create offences for contraventions of the regulations and fix maximum penalties of not more than 30 penalty units for the offences.
- (3) In this section:

GPS tracking device, in relation to a vehicle, means a device that uses the global positioning system to keep track of the location of the vehicle.

31 New schedule 1*insert***Schedule 1 Reviewable decisions**

(see pt 4C)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	21 (2)	give notice requiring person to remove etc litter/restore public place	person given notice
2	24P (2)	issue removal direction	person directed

32 Schedule 1, new items 1A to 1C*insert*

column 1 item	column 2 section	column 3 decision	column 4 entity
1A	24BD (2)	give abatement notice	person given notice
1B	24BF (1)	refuse application to extend compliance period	applicant
1C	24BG (3)	refuse application for revocation of abatement notice	applicant

33 Dictionary, note 2*insert*

- entity

34 Dictionary, new definitions*insert**abatement notice*—see section 24BD.*amenity impact*—see section 24BA.*disability*—see the *Discrimination Act 1991*, section 5AA.**35 Dictionary, definition of *escape****substitute*

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

36 Dictionary, new definitions

insert

level, for a volume of litter—see section 7A.

open private place means—

- (a) a private place that is situated in or on land and that is not within a building on the land; or
- (b) a private place that is situated in or on waters.

removal direction—see section 24P (2).

responsible person, for a vehicle—see the [Road Transport \(General\) Act 1999](#), section 10 and section 11.

37 Dictionary, definition of *retention area*

substitute

retention area—see the [Uncollected Goods Act 1996](#), dictionary.

38 Dictionary, new definitions

insert

reviewable decision, for part 4C (Review and appeals)—see section 24W.

vehicle includes a boat or trailer.

waste—see the [Waste Management and Resource Recovery Act 2016](#), section 10.

waste collection service—see the [Waste Management and Resource Recovery Act 2016](#), section 63.

waste facility—see the [Waste Management and Resource Recovery Act 2016](#), section 14.

Part 3

Magistrates Court (Litter Infringement Notices) Regulation 2004

39 New section 2

insert

2 Dictionary

The dictionary at the end of this regulation is part of this regulation.

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

For example, the signpost definition '*litter*—see the *Litter Act 2004*, section 7.' means that the term '*litter*' is defined in that section and the definition applies to this regulation.

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

40 Meaning of *Litter Act* Section 5

omit

41 New section 7A

insert

7A Declared offences—Act, s 117, definition of *vehicle-related offence*, par (b)

- (1) An offence against a provision of the *Litter Act 2004* mentioned in schedule 2, column 2 is declared to be an offence to which the *Magistrates Court Act 1930*, division 3.8.3 (Additional provisions for vehicle-related offences) applies.

- (2) However, the *Magistrates Court Act 1930*, division 3.8.3 does not apply to the offence if—
- (a) the vehicle related to the commission of an offence is a public passenger vehicle being used to transport a passenger; and
 - (b) the offence was committed by the passenger.
- (3) In this section:

public passenger vehicle—see the *Road Transport (Public Passenger Services) Act 2001*, dictionary.

42 Schedule 1

substitute

Schedule 1 Litter Act 2004 infringement notice offences and penalties

(see s 7 and s 8)

column 1 item	column 2 provision and, if relevant, case	column 3 offence penalty (pu)	column 4 infringement penalty (\$)
1	8 (1)		
1.1	<ul style="list-style-type: none"> • if the litter is a ticket, voucher or receipt, a confectionary wrapper, cigarette packet or a similarly small item 	10	150
1.2	<ul style="list-style-type: none"> • any other litter 	10	300
2	8 (2)	10	300
3	8 (3)	10	300
4	9 (2)	50	500
5	9B		

column 1 item	column 2 provision and, if relevant, case	column 3 offence penalty (pu)	column 4 infringement penalty (\$)
5.1	<ul style="list-style-type: none"> level 1—1L or more of litter but less than 10L 	20	500
5.2	<ul style="list-style-type: none"> level 2—10L or more of litter but less than 200L 	35	1 000
5.3	<ul style="list-style-type: none"> level 3—200L or more of litter 	50	1 500
6	10 (1)	50	500
7	11 (1)	50	1 500
8	11 (2)	50	1 500
9	11A	20	500
10	13 (1)	20	200
11	13 (3)	20	200
12	20 (3)	20	300
13	21 (7)	20	300
14	24D (3)	10	150
15	24E (1)	10	200
16	24F (3)	10	20
17	24N (1)	5	60
18	24Q (1)	20	300

43 New schedule 2*insert***Schedule 2 Litter Act 2004 vehicle-related offences**

(see s 7A)

column 1 item	column 2 vehicle-related offences
1	8 (1)
2	8 (2)
3	8 (3)
4	9 (2)
5	9B (1)
6	9B (2)
7	10 (1)
8	11 (1)
9	11 (2)

44 New dictionary*insert***Dictionary**

(see s 2)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- corporation
- Corporations Act
- director-general (see s 163)
- individual.

Note 3 Terms used in this regulation have the same meaning that they have in the [Magistrates Court Act 1930](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Magistrates Court Act 1930](#), dict:

- administering authority
- authorised person
- infringement notice
- infringement notice offence
- reminder notice.

level—see the [Litter Act 2004](#), section 7A.

litter—see the [Litter Act 2004](#), section 7.

45 Further amendments, mentions of *Litter Act*

omit

[Litter Act](#)

substitute

[Litter Act 2004](#)

in

- section 3
- sections 6 to 12

Part 4 Public Unleased Land Act 2013

46 Direction to remove objects from public unleased land Section 98 (2) (c)

before the note, substitute

- (c) if the object is a vehicle—
- (i) the vehicle is parked on a road or road related area in a way that does not contravene the *Road Transport (Safety and Traffic Management) Act 1999*; or
 - (ii) an authorised person has reasonable grounds for believing that the vehicle has been abandoned.

47 Removal of objects by Territory Section 105 (1) (b), note

substitute

Note If an authorised person reasonably believes that a vehicle on public unleased land is causing an obstruction or hazard, the authorised person may give the owner a removal direction for the vehicle.

48 New section 105 (1A)

insert

- (1A) However, this section does not apply if—
- (a) the object is a vehicle; and
 - (b) an authorised person has reasonable grounds for believing that the vehicle has been abandoned.

Part 5 Uncollected Goods Act 1996

49 Goods deemed uncollected New section 5 (2)

insert

- (2) However, paragraph (e) does not apply if—
- (a) the goods are a vehicle; and
 - (b) an authorised officer has reasonable grounds for believing that the vehicle has been abandoned.

50 Goods lost or abandoned on public or unleased land Section 14 (2) (c)

substitute

- (c) a vehicle that is parked on a road or road related area (within the meaning of the *Road Transport (Safety and Traffic Management) Act 1999*, section 42 (Regulations about parking))—
- (i) unless the authorised officer has reasonable grounds for believing that the vehicle—
 - (A) is an obstruction or hazard to people on, or who might come on, the land; or
 - (B) is placed in a way that contravenes the regulations made under the *Road Transport (Safety and Traffic Management) Act 1999*; or
 - (ii) if the authorised officer has reasonable grounds for believing that the vehicle is abandoned.

51 Sections 22 to 24

substitute

22 Goods of no value

Goods of no value may be disposed of by sale, appropriation or destruction—

- (a) for a vehicle that is abandoned—immediately; or
- (b) in any other case—after 7 days.

23 Goods of low value

Goods of low value may be disposed of by sale, appropriation or destruction—

- (a) for a vehicle that is abandoned—immediately; or
- (b) in any other case—after 1 month.

24 Goods of significant value

Goods of significant value may be disposed of by public auction—

- (a) for a vehicle that is abandoned—after 14 days; or
- (b) in any other case—after 3 months.

Schedule 1 Road Transport (Safety and Traffic Management) Act 1999—
Consequential amendment

Amendment [1.1]

**Schedule 1 Road Transport (Safety and
Traffic Management) Act
1999—Consequential
amendment**

(see s 3)

[1.1] Section 40 (a) (ii)

omit

abandoned or left

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 6 June 2019.

2 Notification

Notified under the [Legislation Act](#) on 31 October 2019.

3 Republications of amended laws

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

I certify that the above is a true copy of the Litter Legislation Amendment Bill 2019, which was passed by the Legislative Assembly on 22 October 2019.

Clerk of the Legislative Assembly

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