

2004

**LEGISLATIVE ASSEMBLY
FOR THE
AUSTRALIAN CAPITAL TERRITORY**

Litter Bill 2003

Government Amendments

Explanatory Notes

Amendments to be moved by the Minister for Urban Services

Bill Wood MLA

Government Amendments

Amendment 1

This is an amendment to **clause 10** of the Bill, dealing with commercial waste. It inserts a **new clause 10 (1A)** to make it an offence for an occupier of commercial, industrial or business premises to fail to take reasonable steps to prevent litter from the premises from being deposited in or on a public place.

The maximum penalty for this offence is 50 penalty units and it is a strict liability offence.

This amendment has the effect of replicating, in the new Litter Bill, section 5 of the current *Litter Act 1977*. When the Act was reviewed it had, initially, been considered that some of the new provisions would ensure a comprehensive scheme to address the various circumstances in which littering occurs, and the retention of section 5 of the Act would not be necessary.

However, on further consideration of this matter, the government is satisfied that the provisions of existing section 5 of the Act should be retained, as they provide a useful enforcement tool by placing a positive onus on occupiers of commercial, industrial and business premises to take reasonable steps to prevent the deposit of litter on a public place.

For this reason **new clause 10 (1A)** will reinstate the provisions of section 5 of the Act in the Bill.

Amendment 2

Amendment 2 inserts **new clause 21(7)** at the end of **clause 21** of the Bill dealing with the issue of a notice to remove litter. **Clause 21(6)** of the Bill makes it an offence to fail to comply with a notice to remove litter.

The Scrutiny of Bills Committee of the ACT Legislative Assembly, in its *Report Number 46*, noted that there was no provision to the effect that this was a strict liability offence. **New clause 21(7)** makes it clear that an offence against **clause 21** is a strict liability offence.

Amendment 3

This is an amendment to **Schedule 1** to the Bill – Consequential Amendments to the *Magistrates Court Act 1930*. These amendments facilitate the issuing of infringement notices to the registered operator of a vehicle for “vehicle related offences” such as where litter is deposited from a vehicle.

Section 120 of the Magistrates Court Act is amended by the insertion of a **new subsection 120(2)** which clarifies the relationship between the infringement notice provisions for infringement notice offences and vehicle-related offences. Specifically, it provides that section 120, which enables an infringement notice to be issued for an infringement notice offence does not prevent the issue of a notice for a vehicle-related offence.