Defence (Public Areas) Amendment By-laws 2001 (No. 1)'

Statutory Rules 2001 No. /2

I, DANNA VALE, Minister for Veterans’ Affairs make the following By-laws under section 116ZD of the Defence Act 1903.

Dated / 2001

12 December

Minister for Veterans’ Affairs
1 **Name of By-laws**
These By-laws are the *Defence (Public Areas) Amendment By-laws 2001 (No. 1).*

2 **Commencement**
These By-laws commence on 15 December 2001.

3 **Amendment of Defence (Public Areas) By-laws**
Schedule 1 amends the Defence (Public Areas) By-laws.

**Schedule 1**  
**Amendments**  
(by-law 3)

[1] **By-law 1**
*substitute*

1 **Name of By-laws**
These By-laws are the *Defence (Public Areas) By-laws 1987.*

[2] **By-laws 6 to 12**
*substitute*

6 **Offences relating to vehicles**
(1) A person is guilty of an offence if the person:
(a) in the case of a public area that is, or forms part of, an island — brings a vehicle into, or uses a vehicle in, the public area; or

2 *Defence (Public Areas) Amendment By-laws 2001 (No. 1) 2001, 2 331*
(b) in the case of any other public area — uses a vehicle in the public area, and not on a road or in a parking area or camping area.

Penalty: 5 penalty units.

(2) An offence under this by-law is an offence of strict liability.

Note For strict liability, see section 6.1 of the Criminal Code.

(3) It is a defence if the person has the written consent of the commanding officer or a ranger.

Note A defendant bears an evidential burden in relation to the matter in sub-by-law (3) (see section 13.3 of the Criminal Code).

7 Offences relating to lighting etc of fires

(1) A person is guilty of an offence if, in a public area:
(a) the person lights, maintains or uses a fire; and
(b) the fire is not in:
   (i) a portable barbecue or portable stove that uses liquefied petroleum gas; or
   (ii) a fireplace made available by the Commonwealth for use by persons in the public area.

Penalty: 5 penalty units.

(2) An offence under this by-law is an offence of strict liability.

Note For strict liability, see section 6.1 of the Criminal Code.

(3) It is a defence if the fire is lit, maintained or used in accordance with a written consent given by the commanding officer or a ranger.

Note A defendant bears an evidential burden in relation to the matter in sub-by-law (3) (see section 13.3 of the Criminal Code).

(4) It is a defence if the fire was reasonably necessary in circumstances that constituted an emergency.

Note A defendant bears an evidential burden in relation to the matter in sub-by-law (4) (see section 13.3 of the Criminal Code).
8 Offence to take animals into public area

(1) A person is guilty of an offence if the person:
   (a) takes an animal into a public area; or
   (b) permits an animal that is not wildlife to enter a public area.

Penalty: 5 penalty units.

(2) This by-law does not apply to or in relation to the taking by a blind person of a guide-dog into a public area.

(3) It is a defence if the person had the written consent of the commanding officer or a ranger for the relevant conduct.

Note A defendant bears an evidential burden in relation to the matter in sub-by-law (3) (see section 13.3 of the Criminal Code).

(4) In a prosecution for an offence against this by-law, evidence that a person had an animal in his or her possession in a public area is evidence that the person intentionally took the animal into, or intentionally permitted the animal to enter, the public area.

9 Offence relating to firearms in public area

(1) A person is guilty of an offence if:
   (a) the person is in a public area; and
   (b) the person uses or has in his or her possession a firearm.

Penalty: 5 penalty units.

(2) An offence under this by-law is an offence of strict liability.

Note For strict liability, see section 6.1 of the Criminal Code.

(3) It is a defence if the use or possession is in accordance with a written consent given by the commanding officer or a ranger.

Note A defendant bears an evidential burden in relation to the matter in sub-by-law (3) (see section 13.3 of the Criminal Code).
10 **Offence to enter or stay on island**

(1) A person is guilty of an offence if the person, between sunset and sunrise, enters or stays in a public area that is, or forms part of, an island.

Penalty: 5 penalty units.

(2) It is a defence if the entry or stay is in accordance with a written consent given by the commanding officer or a ranger.

*Note* A defendant bears an evidential burden in relation to the matter in sub-by-law (2) (see section 13.3 of the *Criminal Code*).

11 **Additional activities prohibited without consent of commanding officer or ranger**

(1) A person is guilty of an offence if, in a public area, the person does any of the following:

(a) leaves any rubbish or litter in a place that is not a receptacle made available by the Commonwealth for use by persons in the public area;

(b) parks a vehicle in a place that is not a parking area;

(c) camps in a place that is not a camping area;

(d) contravenes a direction, warning or requirement on a sign erected or placed with the approval of a commanding officer under by-law 4;

(e) removes or interferes with a sign erected or placed with the approval of a commanding officer under by-law 4.

Penalty: 5 penalty units.

(2) In paragraphs (1) (d) and (e) strict liability applies to the physical element that the sign was erected or placed with the approval of a commanding officer under by-law 4.

*Note* For strict liability, see section 6.1 of the *Criminal Code*. 
(3) It is a defence if the person's conduct is in accordance with a written consent given by the commanding officer or a ranger.

*Note* A defendant bears an evidential burden in relation to the matter in sub-by-law (3) (see section 13.3 of the *Criminal Code*).

12 **Additional activities prohibited without consent of commanding officer**

(1) A person is guilty of an offence if, in a public area, the person does any of the following:

(a) erects or places a sign that is not approved by a commanding officer under by-law 4, or erects a building, booth, stall, post or other structure;

(b) supplies goods or services;

(c) engages in conduct that damages, destroys or removes a natural or artificial structure or feature;

(d) takes, or engages in conduct that damages, injures or destroys an animal or plant or the nest or dwelling of an animal.

Penalty: 5 penalty units.

(2) It is a defence if the person's conduct is in accordance with a written consent given by the commanding officer.

*Note* A defendant bears an evidential burden in relation to the matter in sub-by-law (2) (see section 13.3 of the *Criminal Code*).

(3) Strict liability applies to the physical element in paragraph (1) (a) that the sign is not approved by a commanding officer under by-law 4.

*Note* For strict liability, see section 6.1 of the *Criminal Code*.

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**Notes**

1. These By-laws amend Statutory Rules 1987 No. 238, as amended by 1988 No. 13; 1997 No. 34.


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