



Australian Capital Territory

# **Executive Documents Release Act 2001 No 53**

## **Republication No 1**

Republication date: 12 July 2001

Act not amended up to this date

Provisions effective to 19 July 2001

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Executive Documents Release Act 2001* as in force on 12 July 2001. It includes any commencement, amendment, repeal or expiry affecting the republished law to 19 July 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

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—

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

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Australian Capital Territory

# Executive Documents Release Act 2001

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# **Executive Documents Release Act 2001**

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An Act to require the publication of certain executive documents

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## **1 Name of Act**

This Act is the *Executive Documents Release Act 2001*.

## **3 Definitions**

In this Act:

*Note* A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

***accessible executive document*** means an executive document (or part of an executive document) on or after its earliest release day.

***Assembly*** means the Legislative Assembly or a committee of the Legislative Assembly nominated by the Speaker for this Act.

***earliest release day***, for an executive document, means the later of the following days:

- (a) the next 1 July after the end of 10 years after the document's submission day;
- (b) 1 July 2001.

### **Example**

If an executive document's submission day was 1 May 1997, its ***earliest release day*** is 1 July 2007.

***Executive*** includes a committee of the Executive.

***executive document*** means—

- (a) an official record of a meeting of the Executive; or
- (b) a document that was—
  - (i) formally submitted by a Minister to a meeting of the Executive for its consideration in relation to a matter on the official record; and
  - (ii) created for that purpose; or
- (c) part of a document mentioned in paragraph (a) or (b).

*later release day*—see section 8 (7) (Release delayed or denied).

*protected private information*—see section 8 (2) (b).

*release restraint determination*—see section 8 (2).

*submission day*, of an executive document, means the day of the meeting of the Executive to which the document relates.

#### **4 Notes**

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

*Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

#### **5 Application to previous executive documents**

This Act applies to an executive document even if its submission day was before this Act commenced.

#### **6 List of released executive documents must be published**

- (1) The chief executive must arrange for a list of all accessible executive documents to be available to the public, without charge, in printed and in electronic form.

##### **Example**

To make the list available to the public in electronic form, the chief executive might make an electronic copy of the list available on a website.

*Note* An executive document becomes an *accessible executive document* on its *earliest release day* (see s 3, defs of *accessible executive document* and *earliest release day*).

- (2) The chief executive must also arrange for any release restraint determination to be listed in relation to the relevant executive document while the determination is in force.
- (3) The entry on the list for any release restraint determination must include a notice in accordance with the requirements of the code of

practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

## **7 Availability of released documents**

- (1) On request by a person, the chief executive must, without charge, give the person a copy of an accessible executive document as soon as practicable after receiving the request, unless—
  - (a) the chief executive has decided, or decides, to make a release restraint determination about the document (see section 8 (Release delayed or denied)); and
  - (b) the release restraint determination is in force.
- (2) If a release restraint determination about the document is in force, the chief executive must, without charge—
  - (a) for any part of the document to which the determination does not apply—give the person a copy of the part as soon as practicable after receiving the request; and
  - (b) for any part of the document to which the determination applies—
    - (i) if the request is made before the later release day for the part—refuse the request; or
    - (ii) if the request is made on or after the later release day for the part—give the person a copy of the part as soon as practicable after receiving the request.
- (3) However, the chief executive must refuse a request for a copy of a part of a document if—
  - (a) a release restraint determination is in force determining the part to contain protected private information; and
  - (b) the determination provides that the part is not to be released at all.



- (4) Despite subsections (2) (b) (i) and (3), the chief executive must give a person a copy of a part of the document as soon as practicable after receiving the request if—
- (a) a release restraint determination is in force determining the part to contain protected private information; and
  - (b) either—
    - (i) the protected private information relates to that person, and that person only; or
    - (ii) if the person to which the information relates is dead—the person requesting the copy is the dead person’s legal personal representative.

**Example**

If the protected private information relates to a number of people, and is made jointly by all those people, or by a person with the authority of all those people, subsection (4) (b) would apply to allow the request to be granted.

- (5) If the chief executive has made a release restraint determination about the document that is in force, the chief executive must (whether or not the chief executive gives the person a copy of any part of the document), as soon as practicable after receiving the request, give the person—
- (a) a copy of the determination; and
  - (b) if the determination was made after the request was received—a copy of the notice about the determination mentioned in section 6 (3).

## **8 Release delayed or denied**

- (1) Before giving a copy of an accessible executive document to a person under section 7, the chief executive must assess whether it contains information that would, at the time of the assessment, make it an exempt document under the *Freedom of Information Act 1989*, part 4 (Exempt documents), other than section 35 (Executive documents).

- (2) The chief executive may (by a ***release restraint determination***) determine—
  - (a) that any part of the document containing such information is only to be released on or after the later release day; or
  - (b) for any information (***protected private information***) that would, at the time of the assessment, make it an exempt document under the *Freedom of Information Act 1989*, section 41 (Documents affecting personal privacy)—
    - (i) that the part containing the information is only to be released on or after the later release day; or
    - (ii) that the part containing the information is not to be released at all.
- (3) The determination must state the reasons for making the determination.
- (4) Unless the determination states that the relevant part of the document is not to be released at all (see subsection (2) (b) (ii)), it—
  - (a) may determine a day for subsection (7) (a), by stating a particular day or providing a way of working out the day; and
  - (b) must explain how the later release day for the document is worked out under subsection (7).
- (5) A copy of the determination must be kept with the document.
- (6) The determination commences on the day it is made.
- (7) The ***later release day*** for a part of the document is the earliest of the following:
  - (a) the determined day (if any) under subsection (4) (a);
  - (b) the day 5 years after the document's earliest release day;
  - (c) the next 1 July after the end of 20 years after the document's submission day;

- (d) if the determination ceases to be in force—the day it ceases to be in force.

*Note* The chief executive may, by instrument, change or revoke a release restraint determination at any time after its making. The power to change or revoke the determination is exercisable in the same way, and subject to the same conditions, as the power to make the determination. (See *Legislation Act 2001*, s 46.)

## **9 Freedom of Information Act access not prevented**

The Act must not be interpreted as restricting any right of access to information under the *Freedom of Information Act 1989*.

## **10 Review of release restraint determination by AAT**

Application may be made to the administrative appeals tribunal for review of a release restraint determination.

## **11 No liability for complying with Act**

The Territory is not liable to any person for anything done in good faith to comply with this Act.

## **12 Regulation-making powers**

The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

## 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 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 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 endnotes.

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.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

### 2 Abbreviation key

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

### 3 Legislation history

**Executive Documents Release Act 2001 No 53**

notified 12 July 2001 (Gaz 2001 No 28)

s 1, s 2 commenced 12 July 2001 (IA s 10B)

remainder (ss 3-12) commenced 19 July 2001 (Gaz 2001 No 29)

### 4 Amendment history

**Commencement**

s 2 om R1 (LA s 89 (4))

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