



Australian Capital Territory

Executive Documents Release Act 2001

A2001-53

Republication No 4

Effective: 2 February 2009 – 25 November 2010

Republication date: 2 February 2009

Last amendment made by A2008-36

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Executive Documents Release Act 2001* (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):

- 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 does not include 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

Executive Documents Release Act 2001

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Australian Capital Territory

Executive Documents Release Act 2001

An Act to require the publication of certain executive documents

1 Name of Act

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

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 in this Act.

For example, the signpost definition ‘*release restraint determination*—see section 8 (2).’ means that the term ‘release restraint determination’ is defined in that subsection.

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 the Legislation Act, 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 1 An executive document becomes an *accessible executive document* on its *earliest release day* (see dict, defs of *accessible executive document* and *earliest release day*).

Note 2 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).

- (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 a reviewable decision notice.

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.

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).

- (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 the 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, 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 by ACAT

- (1) A person whose interest are affected by a release restraint determination may apply to the ACAT for review of the determination.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

- (2) The chief executive must give notice of a release restraint determination to each person whose interests are affected by the determination.
- (3) The notice must be in accordance with a reviewable decision notice.

Note The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

11 No liability for complying with Act

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

12 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

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
- document
- Executive
- reviewable decision notice
- Speaker
- the Territory.

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.

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).

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.

Endnotes

1 About the endnotes

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 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

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)

as amended by

Statute Law Amendment Act 2002 No 30 pt 3.24

notified LR 16 September 2002
 s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
 pt 3.24 commenced 17 September 2002 (s 2 (1))

Statute Law Amendment Act 2007 (No 3) A2007-39 sch 3 pt 3.16

notified LR 6 December 2007
 s 1, s 2 commenced 6 December 2007 (LA s 75 (1))
 sch 3 pt 3.16 commenced 27 December 2007 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.22

notified LR 4 September 2008
 s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
 sch 1 pt 1.22 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 R1 (LA s 89 (4))

Dictionary

s 3 defs reloc to dict 2002 No 30 amdt 3.362
 sub 2002 No 30 amdt 3.363

List of released executive documents must be published

s 6 am A2008-36 amdt 1.262

Review by AAT

s 10 sub A2007-39 amdt 3.53; A2008-36 amdt 1.263

No liability for complying with Act

s 11 am 2002 No 30 amdt 3.364

Endnotes

5 Earlier republishings

Regulation-making power

s 12 hdg sub 2002 No 30 amdt 3.365

Dictionary

dict

ins 2002 No 30 amdt 3.366

am A2008-36 amdt 1.264

def **accessible executive document** reloc from s 3 2002
No 30 amdt 3.362

def **Assembly** reloc from s 3 2002 No 30 amdt 3.362

def **earliest release day** reloc from s 3 2002 No 30
amdt 3.362

def **Executive** reloc from s 3 2002 No 30 amdt 3.362

def **executive document** reloc from s 3 2002 No 30
amdt 3.362

def **later release day** reloc from s 3 2002 No 30 amdt 3.362

def **protected private information** reloc from s 3 2002 No 30
amdt 3.362

def **release restraint determination** reloc from s 3 2002
No 30 amdt 3.362

def **submission day** reloc from s 3 2002 No 30 amdt 3.362

5 Earlier republishings

Some earlier republishings 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 republishings have also been published in printed format. These republishings 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 19 July 2001	19 July 2001– 16 Sept 2002	not amended	new Act
R2 23 Sept 2002	17 Sept 2002– 26 Dec 2007	A2002-30	amendments by A2002-30
R3 27 Dec 2007	27 Dec 2007– 1 Feb 2009	A2007-39	amendments by A2007-39

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