

# AUSTRALIAN CAPITAL TERRITORY

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## Evidence (Laws and Instruments) Ordinance 1989

No. 30 of 1989

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 9 May 1989.

BILL HAYDEN  
Governor-General

By His Excellency's Command,

CLYDE HOLDING  
Minister of State for the Arts  
and Territories

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An Ordinance to facilitate the proof of certain laws, instruments and other matters

(Ord. 38/89)—Cat. No.

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

**Short title**

1. This Ordinance may be cited as the *Evidence (Laws and Instruments) Ordinance 1989*.<sup>1</sup>

**Commencement**

2. This Ordinance commences on the date of commencement of section 22 of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

**Interpretation**

3. (1) In this Ordinance, unless the contrary intention appears, “court” includes any tribunal or person having authority under a law in force in the Territory or by consent of parties to receive evidence.

(2) In this Ordinance, a reference to the notification of an Act in the *Gazette* shall be read as a reference to the notification of the Act in the *Gazette* by the Chief Minister under subsection 25 (1) of the *Australian Capital Territory (Self-Government) Act 1988* of the Commonwealth.

**Judicial notice—Acts**

4. All courts shall take judicial notice of—

- (a) the passing of an Act by the Legislative Assembly;
- (b) the date on which an Act was notified in the *Gazette*; and
- (c) the commencement of an Act or of part of an Act.

**Judicial notice—enactments**

5. All courts shall take judicial notice of—

- (a) the making or passing of an enactment;
- (b) the date on which an enactment that is a converted Ordinance was notified in the Commonwealth *Gazette*; and
- (c) the commencement of an enactment or of part of an enactment.

**Judicial notice—subordinate laws**

6. All courts shall take judicial notice of—

- (a) the making of a subordinate law;

- (b) the date on which a subordinate law was notified in the *Gazette* or the Commonwealth *Gazette*; and
- (c) the commencement of a subordinate law or of part of a subordinate law.

**Subordinate laws printed by Government Printer**

7. A document that purports—

- (a) to be a copy of a subordinate law; and
- (b) to have been printed by the Government Printer;

is evidence that the subordinate law was duly made by the person or body authorised to make such a law.

**Proof of *Gazette***

8. A document that purports to be a copy of the *Gazette*, or an extract from a copy of the *Gazette*, and to have been printed by the Government Printer shall, in the absence of evidence to the contrary, be taken to be a copy of the *Gazette*, or an extract from a copy of the *Gazette*, as the case requires.

**Instruments required to be gazetted**

9. (1) In this section, “instrument” includes—

- (a) a by-law, determination, direction and notice and an order; and
- (b) a copy of an instrument.

(2) Where an Act or a subordinate law—

- (a) requires or permits an instrument to be published in the *Gazette*; or
- (b) before self-government day, required or permitted an instrument to be published in the Commonwealth *Gazette*;

a copy of the relevant *Gazette*, or an extract from a copy of the relevant *Gazette*, that purports to contain the instrument is evidence of—

- (c) the making of the instrument;
- (d) the terms of the instrument;
- (e) if the instrument recites that steps or conditions preliminary to the making of the instrument have been taken or fulfilled—the taking of those steps or the fulfilment of those conditions; and
- (f) the publication of the instrument in the relevant *Gazette*.

**(3)** Where an Act or a subordinate law—

- (a) requires or permits an instrument to be published in the *Gazette*; or
- (b) before self-government day, required or permitted an instrument to be published in the Commonwealth *Gazette*;

and the instrument has been published in the relevant *Gazette*, the instrument shall, in the absence of evidence to the contrary, be taken to be in force.

**Judicial notice—signatures etc.**

**10. (1)** All courts shall take judicial notice of—

- (a) the signature of each person who holds, or has held, any of the following offices:
  - (i) the Presiding Officer of the Legislative Assembly;
  - (ii) the Clerk to the Legislative Assembly;
  - (iii) the Chief Minister;
  - (iv) Minister (other than the Chief Minister or the Deputy Chief Minister);
  - (v) the Head of Administration;
  - (vi) member of the Australian Capital Territory Administrative Appeals Tribunal;
  - (vii) the Registrar of Titles, the Acting Registrar of Titles or a Deputy Registrar of Titles;
  - (viii) the Public Trustee for the Australian Capital Territory;
  - (ix) the Youth Advocate;
  - (x) an office to which the Executive, by order published in the *Gazette*, declares this section to apply;
- (b) the seal, if any, of such a person; and
- (c) the fact that such a person holds or held such an office;

if the signature or seal purports to be attached or appended to any judicial or official document.

**(2)** An order may be made under subsection (1) in relation to an office that has ceased to exist before the making of the order.

**(3)** An order under subsection (1) continues to apply in relation to an office, notwithstanding that the office ceases to exist after the making of the order.

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**NOTE**

1. Notified in the Commonwealth of Australia *Gazette* on 10 May 1989.