



Australian Capital Territory

Annual Leave Act 1973

A1973-46

Republication No 18

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Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Annual Leave Act 1973* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 21 September 2011. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 21 September 2011.

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, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

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 the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Annual Leave Act 1973

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21/09/11

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Effective: 21/09/11-21/09/12

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Australian Capital Territory

Annual Leave Act 1973

An Act relating to annual leave of employees

1 Name of Act

This Act is the *Annual Leave Act 1973*.

2 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.

For example, the signpost definition '*approved training contract*—see the *Training and Tertiary Education Act 2003*, dictionary.' means that the term 'approved training contract' is defined in that dictionary and the definition applies to this Act.

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)).

2A 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.

2B Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

3 Application of Act

This Act applies in relation to a year of employment that ends on or after 29 November 1973.

4 Annual leave

- (1) Subject to this Act, an employee is entitled to annual leave at the end of every year of the employee's employment by a person.
- (2) For the purpose of computing a year of employment—
 - (a) a period during which an employee was absent from the employee's employment, and in relation to which the employee received compensation under the *Workers Compensation Act 1951*, is, except to the extent to which the period exceeds 3 months, taken into account as if the employee had not been absent from the employee's employment; and
 - (b) a period during which an employee was absent from the employee's employment without the leave of the employee's employer or on leave of absence granted without pay (other than a period mentioned in paragraph (a)) is not taken into account.
- (3) An employee is not entitled to annual leave for a year of employment if—
 - (a) the employee received a pay loading for the year under an award or agreement; and
 - (b) the pay loading was in addition to the employee's base rate of pay and instead of annual leave for the year; and
 - (c) payment of the pay loading is identifiable in records kept, under section 13 (Annual leave records), by the employee's employer.
- (4) Subsection (3) does not affect any rights of the employee under an award or agreement.

5 Period of leave

- (1) The period of leave to which an employee is entitled under section 4 (1) is 4 weeks.
- (2) However, if, during a year of employment, an employee has been a shiftworker, the period of leave to which the employee is entitled under section 4 (1) is 5 weeks.
- (3) In this section:

week, in relation to an employee, means the employee's ordinary working week.

6 Annual leave pay

- (1) An employee who takes leave to which the employee is entitled under section 4 (1) is entitled to payment from the employee's employer of an amount equal to the ordinary remuneration the employee would have received in relation to the period of leave if the employee had not taken leave.
- (2) If, under an award or agreement, an employee is entitled to—
 - (a) less annual leave than the annual leave to which the employee is entitled under this Act; and
 - (b) payment of an amount (other than salary or wages) in relation to the taking by the employee of that annual leave;

there is payable to that employee, in addition to the amount payable under subsection (1), an amount worked out in accordance with the following formula:

$$AP \times \frac{ALACT}{ALAWAG}$$

where:

AP means the amount payable under the award or agreement (other than salary or wages) in relation to the taking of the annual leave.

ALACT means the amount of annual leave to which the employee is entitled under this Act.

ALAWAG means the amount of annual leave to which the employee is entitled under the award or agreement.

- (3) In relation to a year during which an employee has been remunerated partly by salary or wages and partly by commission, subsection (2) applies as if—
- (a) the employee were remunerated completely by salary or wages throughout that year; and
 - (b) the amount payable for salary or wages to the employee in relation to a week in that year were the amount worked out by dividing the total amount payable to the employee during the year in relation to—
 - (i) salary, wages or commission; or
 - (ii) a combination of salary, wages or commission;
- by 52.
- (4) If, during all or part of a year, an employee has been employed on terms providing for remuneration at a specified rate per hour, the employee is taken, for this section, to have worked during each week of the year the number of hours worked out by dividing the total number of hours worked by the employee during the year by 52.
- (5) In this section:
- ordinary remuneration**, in relation to an employee, means the total of—
- (a) the salary or wages payable to the employee; and
 - (b) any allowances payable to the employee in relation to skill, qualifications, board and lodging; and

- (c) any amounts payable to the employee under a bonus, performance pay or incentive scheme, and that are usually paid to the employee with the employee's salary or wages; and
- (d) if the employee is provided with board and lodging by his or her employer—an amount equal to the value of that board and lodging.

salary or wages does not include—

- (a) payments in relation to overtime; or
- (b) payments at penalty rates of pay; or
- (c) allowances that, under an award or agreement, are not to be taken into account in deciding a rate of remuneration in relation to overtime.

7 Leave to be taken within 6 months

- (1) Annual leave to which an employee is entitled under section 4 (1) must be taken in 1 period or, if the employee and employee's employer agree, in 2 periods.
- (2) Subject to this section, annual leave to which an employee is entitled under section 4 (1) must be taken before the end of 6 months after the date the employee becomes entitled to the leave or within the further period that the authorised officer, either before or after the end of the 6-month period, in writing, allows.
- (3) The authorised officer must not allow a further period for subsection (2) unless the officer is satisfied that the employee has not had a reasonable opportunity of taking the employee's leave.
- (4) The Minister may appoint a public servant to be the authorised officer for this section.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (5) An employer commits an offence if, not later than 4 weeks before the day the employee becomes entitled to annual leave under this Act, the employer does not give to the employee a written notice setting out—
- (a) the date the employee will become entitled to the annual leave; and
 - (b) the date the 6-month period mentioned in subsection (2) ends.

Maximum penalty: 50 penalty units.

- (6) An offence against this section is a strict liability offence.
- (7) Subsection (2) does not apply to an employee if the employee's employer fails to give notice to the employee in accordance with subsection (5).

8 Payment of leave pay

An amount to which an employee is entitled under section 6 is payable to the employee on the last day the employee is required to work before the start of the annual leave to which the payment relates.

9 Public holidays not to count as leave

If a public holiday or an award holiday falls during the period of annual leave taken by an employee in accordance with this Act, the period of the annual leave is increased by 1 day in relation to each such public holiday or award holiday.

10 Employer may require employee to take annual leave

- (1) If—
- (a) an employee is, or will be, at the end of the current year of employment, entitled under section 4 (1) to annual leave; and

- (b) the employer of the employee gives to the employee written notice that the employer requires the employee to take the annual leave from a date stated in the notice that is not earlier than 6 weeks after the day the notice is given to the employee;

the employee is not entitled to take the annual leave except in accordance with the requirement of the notice.

- (2) If—

- (a) an employee gives to the employee's employer written notice that the employee wishes to take annual leave at the end of a period stated in the notice, that is not earlier than 6 weeks after the day notice is given; and

- (b) the employee is, or will be, not later than the end of the period stated in the notice, entitled to annual leave;

the employee is entitled to take annual leave at the end of the period stated in the notice.

11 No payment instead of leave

- (1) Subject to this section, an employer must not make a payment to an employee in relation to the employee's entitlement under this Act to annual leave unless—

- (a) the employer has given notice to the employee under section 10 (1); or

- (b) the employee has given notice to the employer under section 10 (2).

- (2) If the employment of a person is terminated when the person is entitled under this Act to annual leave, the person is entitled to receive from the employer an amount equal to the amount that would have been payable to the person under this Act if the person had been taking the annual leave from the date the employee's employment is terminated.

- (3) If the employment of a person is terminated when the person has been employed by his or her employer—
- (a) for less than 12 months but not less than 1 month; or
 - (b) for not less than 1 month during a year of employment;
- the person is entitled to receive from the employer an amount equal to $\frac{1}{12}$ or, for a shiftworker, $\frac{5}{47}$, of the ordinary remuneration paid or payable to the person during the period of the person's employment or during the current year of employment, as the case may be.
- (4) In this section:
- ordinary remuneration*—see section 6.
- (5) An amount payable to a person by under subsection (2) or (3) is payable to the person on the last day the person is required to work.

12 Close-down

- (1) Subject to this section, an employer may give to an employee written notice that the employer requires the employee, in common with 1 or more other employees, to take his or her annual leave from a date, and during the period, stated in the notice.
- (2) A notice given for subsection (1) is not effective for that subsection if it states a period longer than 4 weeks or, for a notice given to an employee who would be entitled, on the date stated in the notice, to annual leave of 5 weeks, a period of 5 weeks.
- (3) If, on the date stated in a notice given for subsection (1), the employee to whom the notice was given is entitled under this Act to annual leave, the employee must take that annual leave from the date stated in the notice.
- (4) If, on the date stated in a notice under subsection (1), the employee to whom the notice was given is not entitled to annual leave under this Act or is entitled to part of an annual leave, the employee—

- (a) must absent himself or herself from the employee's employment during the period stated in the notice; and
- (b) is entitled to payment from the employee's employer of an amount equal to the ordinary remuneration the employee would have received in relation to the part of the period mentioned in paragraph (a) that is equal to the total of—
 - (i) the part of an annual leave (if any) to which the employee is entitled; and
 - (ii) a period equal to—
 - (A) $\frac{1}{12}$; or
 - (B) for a shiftworker— $\frac{5}{47}$;of the period of the employment of the employee during the current year of employment; and
- (iii) any public or award holidays that are observed during the period mentioned in paragraph (a); and
- (c) is entitled to receive from his or her employer an amount calculated in accordance with the formula—

$$\frac{AP \times SP}{AL}$$

where:

AP means the amount payable to the employee under section 6 (2) if the employee had been entitled to annual leave.

SP means the period equal to the total of the periods mentioned in paragraph (b) (i) and (ii).

AL means the period of the annual leave to which the employee would have been entitled if, immediately before the

date stated in the notice, the employee had completed a year of employment.

- (5) An amount to which an employee is entitled under subsection (4) is payable to the employee on the last day the employee is required to work before the date stated in the notice given to the employee for subsection (1).
- (6) If—
- (a) an employer gives notice for subsection (1) to an employee; and
 - (b) a payment is made to the employee in accordance with subsection (4); and
 - (c) the employee resumes his or her employment after the end of the period stated in the notice;

this Act applies to, and in relation to, the employee as if the employee's employment by the employer mentioned in paragraph (a) had started on the date stated in the notice given to the employee for subsection (1).

- (7) In this section:

ordinary remuneration—see section 6.

13 Annual leave records

- (1) An employer must keep a record for each of the employer's employees that includes—
- (a) the name, occupation and classification of the employee; and
 - (b) whether the employee is full-time, part-time or casual; and
 - (c) the employee's ordinary remuneration (including the gross and net amounts paid), the base rate of pay and any loading payable to the employee, and the purpose of the loading; and
 - (d) the number of hours worked each week by the employee; and

- (e) the date when the employee started service; and
- (f) the period of any annual leave taken by the employee; and
- (g) each other occasion when the employee has been absent from the employment; and
- (h) if the employee has ceased to be employed by the person—the date when, and how, the employment ceased; and
- (i) the date of birth of the employee as provided by the employee; and
- (j) the name of each award or agreement under which the employee has entitlements; and
- (k) if overtime may be paid to the employee under an award or agreement—
 - (i) the number of hours worked by the employee during each day; and
 - (ii) when the employee started and ceased work.

Maximum penalty: 20 penalty units.

- (2) An employer must keep a record mentioned in subsection (1) for 2 years after the day when the employee to whom the record relates ceases to be employed by the employer.

Maximum penalty: 20 penalty units.

- (3) If an authorised officer asks to inspect a record kept by an employer under subsection (1), the employer must make the record available for inspection by the authorised officer during ordinary business hours at the employer's place of business.

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

14 No contracting out

- (1) Subject to subsection (2), this Act has effect despite any award or agreement to the contrary.
- (2) This Act does not affect the operation of an award or agreement to the extent that the award or agreement gives an employee rights that are more advantageous to the employee than the rights given to the employee by this Act.

14A Registrar of Annual Leave

- (1) The director-general must appoint a public servant as the Registrar of Annual Leave.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

- (2) In addition to exercising the functions of the registrar under this Act, the registrar must exercise the other functions that the Minister directs.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including a regulation (see Legislation Act, s 104).

14B Authorised officers

The director-general may appoint a person (including an officer of the Australian Public Service constituted under the *Public Service Act 1999* (Cwlth)) as an authorised officer.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

14C Identity cards

- (1) The director-general must give an authorised person an identity card stating the person's name and position.
- (2) The identity card must show—
 - (a) a recent photograph of the person; and
 - (b) the card's date of issue and expiry; and
 - (c) anything else prescribed by regulation.
- (3) A person commits an offence if—
 - (a) the person stops being an authorised person; and
 - (b) the person does not return the person's identity card to the director-general as soon as practicable, but no later than 7 days after the day the person stops being an authorised person.

Maximum penalty: 1 penalty unit.

- (4) An offence against this section is a strict liability offence.
- (5) In this section:

authorised person means a person holding any of the following positions:

- (a) the registrar;
- (b) a delegate of the registrar with any delegated powers of an authorised officer;
- (c) an authorised officer.

14D Powers of entry of authorised officers

- (1) Subject to subsection (2), if an authorised officer has reasonable grounds for believing that it is necessary to do so for this Act an authorised officer may, at any time, enter premises of an employer and exercise the powers mentioned in subsection (4).

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- (2) An authorised officer must not enter premises under subsection (1) without the consent of the employer.
 - (3) An authorised officer who enters premises under subsection (1) is not authorised to remain on the premises, and a person is not required to comply with a requirement made by an authorised officer under subsection (4), if, on request by the employer, or the person in charge of the premises, the authorised officer does not produce his or her identity card.
 - (4) An authorised officer who enters premises under subsection (1) may—
 - (a) require the employer to make available for inspection records required to be kept under this Act; and
 - (b) make copies of, or take extracts from records mentioned in paragraph (a).

14E Complaints

- (1) If a complaint is made to the registrar by an employee, the registrar must refer the complaint to an authorised officer.

Note If a form is approved under s 16 (Approved forms) for a complaint, the form must be used.

- (2) If a complaint made by an employee—
 - (a) is made to an authorised officer; or
 - (b) is referred to an authorised officer under subsection (1);the authorised officer may, by written notice, require the complainant and the employer to whom the complaint relates, to attend a conference at a place, date and time stated in the notice to endeavour to resolve the complaint.
- (3) A conference must be conducted in the way that the authorised officer considers appropriate.
- (4) Except with the consent of the authorised officer—

- (a) an individual is not entitled to be represented at a conference by another person; and
 - (b) a body (whether incorporated or unincorporated) is not entitled to be represented at a conference by a person other than a member, officer or employee of the body.
- (5) In this section:
- complaint* means a complaint by an employee about his or her entitlements under this Act.

14F Notice to comply with Act

- (1) If an authorised officer is satisfied that an employer is not complying with this Act, the authorised officer may give the employer a written notice requiring the employer to comply with the Act within the period stated in the notice.
- (2) The period stated in the notice must not be less than 28 days after the day the employer is given the notice.
- (3) An employer must comply with a requirement made of the employer under subsection (1).

Maximum penalty: 50 penalty units.

- (4) An offence against this section is a strict liability offence.

14G Review of directions by registrar

- (1) An employer may apply to the registrar for a review of a requirement made of the employer under section 14F.
- (2) An application must be in writing.
- (3) The registrar may uphold, revoke or amend the terms of, the requirement.
- (4) If the registrar makes a decision under subsection (3), the registrar must give written notice of the decision to the applicant.

Note The notice must be in the form of a reviewable decision notice (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

14H Review by ACAT

- (1) This section applies to a decision (the *reviewable decision*) mentioned in table 14H, column 3, under a provision of this Act mentioned in column 2 in relation to the decision.
- (2) If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in table 14H, column 4 in relation to the decision.

Note 1 The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

- (3) The following may apply to the ACAT for review of a reviewable decision:
 - (a) an entity mentioned in table 14H, column 4 in relation to the decision;
 - (b) any other person whose interests are affected by the decision.

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

Table 14H column 1 item	Reviewable decisions column 2 section	column 3 decision	column 4 entity
1	7 (2)	further period within which annual leave must be taken	employee

column 1 item	column 2 section	column 3 decision	column 4 entity
2	14G	uphold, revoke or amend terms of requirement made of the employer	employer

14K Liability

An action or other proceeding, civil or criminal, does not lie against the registrar or an authorised officer for or in relation to any act done, or omission made, in good faith in relation to his or her powers under this Act.

14L Delegation by registrar

The registrar may delegate to a person the registrar’s functions under this Act, other than a function under section 14G (Review of directions by registrar).

Note For the making of delegations and the exercise of delegated functions, see the Legislation Act, pt 19.4.

15 Amount payable by employer—offence

- (1) An employer commits an offence if—
 - (a) an amount is payable by the employer to a person under this Act; and
 - (b) the employer does not pay the amount to the person on the day the amount is payable.

Maximum penalty: 50 penalty units.

- (2) An offence against this section is a strict liability offence.

16 Approved forms

- (1) The Minister may approve forms for this Act.

- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see the Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

17 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.

18 Transitional—Fair Work Act (Cwlth)

- (1) For the dictionary, definition of ***agreement***, a reference to an enterprise agreement made under the *Fair Work Act 2009* (Cwlth) includes a reference to an agreement-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.
- (2) For the dictionary, definition of ***award***, a reference to a modern award made under the *Fair Work Act 2009* (Cwlth) includes a reference to an award-based transitional instrument within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cwlth), schedule 3, part 2.
- (3) This section expires 1 year after the day it commences.

Dictionary

(see s 2)

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
- director-general (see s 163)
- person
- public holiday
- public servant
- reviewable decision notice.

agreement means an enterprise agreement made under the *Fair Work Act 2009* (Cwlth).

approved training contract—see the *Training and Tertiary Education Act 2003*, dictionary.

authorised officer means—

- (a) for this Act generally—a person appointed under section 14B; and
- (b) for section 7 (Leave to be taken within 6 months)—a person appointed under section 7 (4).

award means a modern award made under the *Fair Work Act 2009* (Cwlth).

award holiday means a day that is, under an award or agreement, a holiday for people employed in an industry.

employee—a person is taken to be an ***employee*** of someone else if—

- (a) the person performs work the remuneration for which is paid by the other person and consists, either in whole or part, of salary, wages or commission; or

- (b) the person is an apprentice of the other person or an employee of the other person; or
- (c) the person is a trainee with the other person or an employee of the other person.

registrar means the Registrar of Annual Leave under section 14A.

shiftworker means—

- (a) a person who is a shiftworker within the meaning of an award; or
- (b) a person who is a shiftworker within the meaning of an agreement; or
- (c) a person (other than a person to whom an award or an agreement applies) who—
 - (i) is rostered or required to start work after 8 pm and before 6.30 am; or
 - (ii) having started work before 8 pm, is required, for the purpose of completing the person's ordinary hours of work, to continue work until after that time.

trainee means the person who is obliged under an approved training contract to undertake training.

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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

This Act was originally a Commonwealth ordinance—the *Annual Holidays Ordinance 1973* No 46 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

The Act was later renamed as the *Annual Leave Act 1973* by the *Annual Leave (Amendment) Act 1997* (see s 5).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

Legislation before becoming Territory enactment

Annual Leave Act 1973 A1973-46

notified 29 November 1973 (Gaz 1973 No 181)

commenced 29 November 1973

as amended by

Annual Holidays Ordinance (No 2) 1973 Ord1973-47

notified 5 December 1973 (Gaz 1973 No 84C)

commenced 5 December 1973 (but see s 7)

Annual Holidays (Amendment) Ordinance 1976 Ord1976-58

notified 10 November 1976 (Gaz 1976 No S201)

commenced 10 November 1976

Self-Government (Consequential Amendments) Ordinance 1989 Ord1989-38 sch 1

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and Cwlth Gaz 1989 No S164)

Legislation after becoming Territory enactment

Workers' Compensation (Consequential Amendments) A1991-106 sch

notified 15 January 1992 (Gaz 1991 No S3)
s 1, s 2 commenced 15 January 1992 (s 2 (1))
s 3, sch commenced 22 January 1992 (s 2 (2) and see Gaz 1992 No S9)

Public Sector Management (Consequential and Transitional Provisions) A1994-38 sch 1 pt 6

notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 6 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

Statute Law Revision (Penalties) A1994-81 sch

notified 29 November 1994 (Gaz 1994 No S253)
s 1, s 2 commenced 29 November 1994 (s 2(1))
sch commenced 29 November 1994 (s 2 (2) and Gaz 1994 No S269)

Annual Leave (Amendment) A1997-67

notified 9 October 1997 (Gaz 1997 No S300)
ss 1-3 commenced 9 October 1997 (s 2 (1))
ss 4-15 commenced 17 December 1997 (s 2 (2) and Gaz 1997 No S415)

Legislation (Consequential Amendments) A2001-44 pt 20

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 20 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Vocational Education and Training Act 2003 A2003-37 sch 2 pt 2.1

notified LR 8 September 2003
s 1, s 2 commenced 8 September 2003 (LA s 75 (1))
sch 2 pt 2.1 commenced 1 November 2003 (s 2)

Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.5

notified LR 26 March 2004
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))
sch 2 pt 2.5 commenced 9 April 2004 (s 2 (1))

Annual Leave Amendment Act 2004 A2004-41

notified LR 9 July 2004

s 1, s 2 commenced 9 July 2004 (LA s 75 (1))

remainder commenced 10 July 2004 (s 2)

Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.6

notified LR 27 October 2005

s 1, s 2 commenced 27 October 2005 (LA s 75 (1))

sch 1 pt 1.6 commenced 24 November 2005 (s 2)

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.7

notified LR 22 March 2007

s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))

sch 3 pt 3.7 commenced 12 April 2007 (s 2 (1))

Training and Tertiary Education Legislation Amendment Act 2007 A2007-12 sch 1 pt 1.2

notified LR 13 June 2007

s 1, s 2 commenced 13 June 2007 (LA s 75 (1))

sch 1 pt 1.2 commenced 1 July 2007 (s 2 and CN2007-3)

Statute Law Amendment Act 2007 (No 2) A2007-16 sch 3 pt 3.3

notified LR 20 June 2007

s 1, s 2 taken to have commenced 12 April 2007 (LA s 75 (2))

sch 3 pt 3.3 commenced 11 July 2007 (s 2 (1))

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.9

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.9 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.11

notified LR 30 June 2011

s 1, s 2 commenced 30 June 2011 (LA s 75 (1))

sch 1 pt 1.11 commenced 1 July 2011 (s 2 (1))

Endnotes

3 Legislation history

Statute Law Amendment Act 2011 (No 2) A2011-28 sch 3 pt 3.2

notified LR 31 August 2011

s 1, s 2 commenced 31 August 2011 (LA s 75 (1))

sch 3 pt 3.2 commenced 21 September 2011 (s 2 (1))

4 Amendment history

Title	
title	sub A1997-67 s 4
Name of Act	
s 1	sub Ord1976-58 am A1997-67 s 5
Dictionary	
s 2	am A1997-67 s 6 defs reloc to dict A2007-3 amdt 3.25 sub A2007-3 amdt 3.26 def approved training agreement ins A1997-67 s 6 om A2003-37 amdt 2.1 def determination ins Ord1973-47 s 2 om A1997-67 s 6 def prescribed officer om A1994-38 sch 1 pt 6 def training agreement ins A1997-67 s 6 om A2003-37 amdt 2.4
Notes	
s 2A	ins A2005-54 amdt 1.36
Offences against Act—application of Criminal Code etc	
s 2B	ins A2005-54 amdt 1.36
Annual leave	
s 4	am Ord1973-47 s 3; Ord1976-58; A1991-106 sch; A1997-67 s 7; A2004-41 s 4
Period of leave	
s 5 hdg	am A1997-67 notes
s 5	am A1997-67 sch
Annual leave pay	
s 6	am Ord1973-47 s 4 sub A1997-67 s 8 am A2007-3 amdt 3.27, amdt 3.28
Leave to be taken within 6 months	
s 7	am A1994-38 sch 1 pt 6; A1997-67 s 9, sch; A2005-54 amdt 1.37; ss renum A2005-54 amdt 1.38; A2007-3 amdt 3.29; A2011-28 amdt 3.2
Payment of leave pay	
s 8 hdg	am A1997-67 notes
s 8	am A1997-67 sch
Public holidays not to count as leave	
s 9	am A1997-67 sch

Endnotes

4 Amendment history

Employer may require employee to take annual leave

s 10 hdg am A1997-67 notes
s 10 am A1997-67 sch

No payment instead of leave

s 11 hdg am A1997-67 notes
s 11 am Ord1973-47 s 5; A1997-67 sch

Close-down

s 12 am A1973-47 s 6; A1997-67 s 10, sch; A2007-3 amdt 3.30;
ss renum R12 LA

Annual leave records

s 13 am A1997-67 s 11; pars renum R6 LA
sub A2005-54 amdt 1.39

Registrar of Annual Leave

s 14A ins A1997-67 s 12
am A2001-44 amdt 1.211, amdt 1.212
sub A2007-3 amdt 3.31
(3)-(5) exp 12 April 2008 (s 14A (5))
am A2011-22 amdt 1.40

Authorised officers

s 14B ins A1997-67 s 12
sub A2007-3 amdt 3.31
(2)-(4) exp 12 April 2008 (s 14B (4))
am A2011-22 amdt 1.40

Identity cards

s 14C ins A1997-67 s 12
sub A2005-54 amdt 1.40
(6)-(8) exp 24 November 2005 (s 14C (8))
am A2011-22 amdt 1.40

Powers of entry of authorised officers

s 14D ins A1997-67 s 12

Complaints

s 14E ins A1997-67 s 12
am A2001-44 amdt 1.213-1.215

Notice to comply with Act

s 14F ins A1997-67 s 12
sub A2005-54 amdt 1.41

Review of directions by registrar

s 14G ins A1997-67 s 12
am A2008-37 amdt 1.31

Review by ACAT

s 14H ins A1997-67 s 12
sub A2008-37 amdt 1.32

Failing to comply with requirement of authorised officer

s 14J hdg sub A2004-15 amdt 2.13
s 14J ins A1997-67 s 12
am A2004-15 amdt 2.14, amdt 2.15
om A2005-54 amdt 1.42

Liability

s 14K ins A1997-67 s 12
am A2001-44 amdt 1.216

Delegation by registrar

s 14L ins A1997-67 s 12
am A2001-44 amdt 1.216
sub A2007-3 amdt 3.32

Amount payable by employer—offence

s 15 am A1994-81 sch; A1997-67 s 13; R6 LA
sub A2005-54 amdt 1.43

Approved forms

s 16 am Ord1989-38 sch 1
A1997-67 s 16; A2001-44 amdt 1.217; A2011-28 amdt 3.3

Regulation-making power

s 17 ins A2001-44 amdt 1.217

Transitional—Fair Work Act (Cwlth)

s 18 ins A2011-28 amdt 3.4
exp 21 September 2012 (s 18 (3))

Dictionary

dict ins A2007-3 amdt 3.33
am A2008-37 amdt 1.33; A2011-22 amdt 1.41; A2011-28
amdt 3.5
def **agreement** am A1991-106 sch; A1997-67 s 6
reloc from s 2 A2007-3 amdt 3.25
sub A2011-28 amdt 3.6
def **approved training contract** ins A2003-37 amdt 2.2
reloc from s 2 A2007-3 amdt 3.25
am A2007-12 amdt 1.5
def **authorised officer** am Ord1989-38 sch 1
sub A1997-67 s 6
reloc from s 2 A2007-3 amdt 3.25
om R14 LA
def **authorised officer** ins A2007-3 amdt 3.33
sub A2007-16 amdt 3.13

Endnotes

4 Amendment history

- def **award** am Ord1973-47 s 2; A1991-106 sch; A1997-67 s 6
reloc from s 2 A2007-3 amdt 3.25
sub A2011-28 amdt 3.7
- def **award holiday** reloc from s 2 A2007-3 amdt 3.25
- def **employee** ins A2007-3 amdt 3.33
- def **registrar** ins A2005-54 amdt 1.35
reloc from s 2 A2007-3 amdt 3.25
- def **shiftworker** sub Ord1973-47 s 2
am A1991-106 sch
reloc from s 2 A2007-3 amdt 3.25
sub A2011-28 amdt 3.8
- def **trainee** ins A1997-67 s 6
am A2003-37 amdt 2.3
reloc from s 2 A2007-3 amdt 3.25

5 Earlier republications

Some earlier republications 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 republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Ord1989-38	30 April 1991
2	A1991-106	31 January 1993
3	A1994-81	31 January 1995
4	A1994-81	31 January 1997
5	A1997-67	31 January 1998
6	A2001-44	11 January 2002
7	A2003-37	1 November 2003
8	A2004-15	9 April 2004
9	A2004-41	10 July 2004
10	A2005-54	24 November 2005
11	A2005-54	25 November 2005
12	A2007-3	12 April 2007
13	<u>A2007-16</u>	1 July 2007
14	A2007-16	11 July 2007
15*	A2007-16	13 April 2008
16	A2008-37	2 February 2009
17	A2011-22	1 July 2011

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