



Australian Capital Territory

Epidemiological Studies (Confidentiality) Act 1992 No 26

Republication No 3

Republication date: 31 January 2002

Last amendment made by Act 2001 No 44

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Epidemiological Studies (Confidentiality) Act 1992* as in force on 31 January 2002. It includes any amendment, repeal or expiry affecting the republished law to 12 September 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):

- 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.

Amendments incorporated to
12 September 2001



Australian Capital Territory

Epidemiological Studies (Confidentiality) Act 1992

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Amendments incorporated to
12 September 2001



Australian Capital Territory

Epidemiological Studies (Confidentiality) Act 1992

An Act to provide for confidentiality in relation to certain epidemiological studies

1 Short title

This Act may be cited as the *Epidemiological Studies (Confidentiality) Act 1992*.

3 Interpretation for Act

(1) In this Act:

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

Territory epidemiological study means an epidemiological study conducted in the ACT.

Canberra drug users study means the Territory epidemiological study known as Canberra Drug Users, Their Networks and HIV: Establishing Risks and Harm Minimisation Strategies, being the study that—

- (a) relates to the networks, the infection with human immunodeficiency virus, the risks and the strategies for minimising the risks, of drug users in the ACT; and
- (b) is conducted by Phyll Dance of the National Centre for Epidemiology and Population Health; and
- (c) commenced in January 1990.

court includes a tribunal, authority or person having power to require the production of documents or the answering of questions, but does not include the ombudsman.

epidemiological study means a study of—

- (a) the incidence or distribution, within the population of a country, or a part of a country, or within a particular group of persons, or within a sample or sub-sample of such a population or group, of—
 - (i) a disease; or
 - (ii) a physical or mental state; or

- (iii) a condition, circumstance, occurrence, activity, form of behaviour, course of conduct, or state of affairs, that is or may be disadvantageous to, or result in a disadvantage to, the person concerned or to the community; or
- (b) the factors responsible for such an incidence or distribution, or both, and includes a series of such studies.

prescribed study means—

- (a) the Canberra drug users study; or
 - (b) a Territory epidemiological study declared by the regulations to be a study to which this Act applies.
- (2) A reference in this Act to a person who has assisted, or is assisting, in the conduct of an epidemiological study includes a reference to a person who has conducted, or is conducting, or has supervised or is supervising the conduct of, the study but does not include a reference to a person who has assisted, or is assisting, in the conduct of the study by reason only that such person was or is 1 of the persons to whom the study related or relates or has provided, or is providing, information about 1 of the persons (whether himself or herself, as the case requires, or another person) to whom the study related or relates.
- (3) A reference in this Act to information concerning the affairs of a person includes—
- (a) a reference to information as to the existence or non-existence of a document concerning the affairs of a person; and
 - (b) a reference to information relating to the whereabouts of a document concerning the affairs of a person.
- (4) A reference in this Act to information or a document concerning the affairs of a person includes a reference to information or a document concerning the affairs of a deceased person.

4 Secrecy relating to prescribed studies

Subject to sections 5 and 7, a person who has assisted, or is assisting, in the conduct of a prescribed study shall not, directly or indirectly, except for the purpose of the conduct of that study, make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired by the firstmentioned person by reason of that person having assisted, or assisting, in the conduct of that study.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

5 Authority for access to documents

- (1) Notwithstanding section 4, the Minister may, in accordance with this section, authorise the giving of access to documents prepared or obtained in the conduct of a prescribed study to persons assisting in the conduct of another prescribed study where each such study was, or is being, conducted by, or on behalf of, the Territory.
- (2) An authorisation of the giving of access under subsection (1)—
 - (a) shall be in writing signed by the Minister; and
 - (b) shall specify the relevant form or forms of access to be given.
- (3) It is a defence to a prosecution for a contravention of section 4 that is constituted by the giving of access to a document if it is established that the access was given in accordance with an authorisation given under subsection (1).

6 Secrecy relating to certain documents

Subject to section 7, a person who has assisted, or is assisting, in the conduct of a prescribed study and has been given access, duly authorised under section 5, to a document prepared or obtained in the conduct of another prescribed study shall not, directly or indirectly, except for the purpose of the conduct of either of those studies, make a record of, or divulge or communicate to any person, any information concerning the affairs of another person acquired

by the firstmentioned person by reason of that person having been given access to that document.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

7 Certain persons may be given information

Sections 4 and 6 do not prevent a person who has assisted, or is assisting, in the conduct of a prescribed study from divulging or communicating information concerning the affairs of another person to—

- (a) the person who supplied the information; or
- (b) where the information concerns the affairs of only 1 person— that person; or
- (c) where the information concerns the affairs of 2 or more persons—any of those persons with the consent of the other person, or each other person, whose affairs that information concerns; or
- (d) a person nominated by a person to whom the information may be given under paragraph (a), (b) or (c) as a person to whom that information may be given.

8 Protection of information from court

- (1) A person who has assisted, or is assisting in the conduct of a prescribed study shall not be required—
 - (a) to produce in a court, or permit a court to have access to, a document prepared or obtained in the course of the conduct of that study, being a document concerning the affairs of another person; or
 - (b) to divulge or communicate to a court any information concerning the affairs of another person acquired by the firstmentioned person by reason of that person having assisted, or assisting, in the conduct of that study.

- (2) A person who has assisted, or is assisting, in the conduct of a prescribed study and has been given access, duly authorised under section 5, to a document shall not be required—
- (a) to produce in a court, or permit a court to have access to, that document, being a document concerning the affairs of another person; or
 - (b) to divulge or communicate to a court any information concerning the affairs of another person acquired by the firstmentioned person by reason of that person having had, or having, that access.

9 Extension

Without limiting sections 4, 6 and 8, those sections extend to a person who has assisted, or is assisting, in the conduct of a prescribed study—

- (a) as an officer or employee of the public service of the Commonwealth, a State or another Territory; or
- (b) as an employee of a body corporate, or of another person, involved in the conduct of the study; or
- (c) in accordance with a contract for the provision of that person's services;

and extend to a person whether or not the person received or receives, or was or is entitled to receive, remuneration in respect of the assistance provided by that person.

10 Oaths and declarations of secrecy

A person who is, or is about to become, a person to whom section 4 or 6 applies shall, if and when required to do so by the Minister, or by a person authorised in writing by the Minister for this section, take an oath, or make an affirmation or declaration, in a manner and form, and before a person, prescribed by the regulations, not to make a record of, or divulge or communicate, information in

contravention of this Act in its application to a prescribed study conducted by, or on behalf of, the Territory.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

11 Publication of results of studies

(1) Nothing in this Act prevents the publication of conclusions based on, statistics derived from, or particulars of procedures used in, a prescribed study, but such conclusions, statistics or particulars shall not be published in a manner that enables the identification of an individual person, including a deceased person.

(2) In this section:

publication, in relation to conclusions, statistics or particulars, includes—

- (a) the divulging or communication to a court of the conclusions, statistics or particulars; and
- (b) the production to a court of, or the permitting of a court to have access to, a document containing the conclusions, statistics or particulars.

12 Information supplied for prescribed study

Information concerning the affairs of a person to whom a prescribed study relates may be disclosed to a person assisting in the conduct of that study without breach of any law or any principle of professional ethics.

13 Application of Act

(1) For the purposes of the application of this Act in relation to the Canberra drug users study, this Act extends to information acquired, and documents prepared or obtained, before the commencement of this Act.

(2) For the purposes of the application of this Act in relation to a Territory epidemiological study declared by the regulations to be a

study to which this Act applies, this Act extends to information acquired, and information prepared or obtained, before the commencement of those regulations.

14 Regulation-making power

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

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

Endnotes

3 Legislation history

3 Legislation history

Epidemiological Studies (Confidentiality) Act 1992 No 26

notified 26 June 1992 (Gaz 1992 No S89)
s 1, s 2 commenced 26 June 1992 (s 2 (1))
remainder (ss 3-14) commenced 28 October 1992 (s 2 (2) and Gaz 1992 No S188)

as amended by

Epidemiological Studies (Confidentiality) (Amendment) Act 1992 No 78

notified 24 December 1992 (Gaz 1992 No S236)
commenced 24 December 1992 (s 2)

Ombudsman (Amendment) Act 1996 No 17 s 12

notified 1 May 1996 (Gaz 1992 No S71)
s 12 commenced 1 May 1996 (s 2)

Statute Law Revision (Penalties) Act 1998 No 54 sch

notified 27 November 1998 (Gaz 1992 No S207)
s 1, s 2 commenced 27 November 1998 (s 2 (1))
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

Legislation (Consequential Amendments) Act 2001 No 44 pt 132

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 132 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

4 Amendment history

Commencement

s 2 om 2001 No 44 amdt 1.1574

Interpretation for Act

s 3 def *Canberra drug users study* sub 1992 No 78 s 4
def *court* am 1996 No 17 s 12

Secrecy relating to prescribed studies

s 4 am 1998 No 54 sch

Secrecy relating to certain documents

s 6 am 1998 No 54 sch

Oaths and declarations of secrecy

s 10 am 1998 No 54 sch

Regulation-making power
s 14 sub 2001 No 44 amdt 1.1575

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	Act 1992 No 78	31 August 1993
2	Act 1998 No 54	31 March 1999

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