



Australian Capital Territory

Law Officer Act 1992

A1992-54

Republication No 5

Effective: 3 September 2009 – 30 June 2011

Republication date: 3 September 2009

Last amendment made by A2009-21

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Law Officer Act 1992* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 3 September 2009. It also includes any amendment, repeal or expiry affecting the republished law to 3 September 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

Law Officer Act 1992

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03/09/09

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Australian Capital Territory

Law Officer Act 1992

An Act relating to the functions and powers of the Attorney-General, and for related purposes

1 Name of Act

This Act is the *Law Officer Act 1992*.

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.

Note 2 A definition in the dictionary 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.

3 Position of Attorney-General

The Attorney-General is the first law officer of the Territory.

4 Functions of Attorney-General

The functions of the Attorney-General are—

- (a) to be the chief legal representative of—
 - (i) the Crown in right of the Territory; and
 - (ii) the Territory;
- (b) to be the principal legal adviser to the Territory; and
- (c) to have responsibility for the administration of law and justice in the ACT; and

- (d) to institute and conduct litigation on behalf of—
 - (i) the Crown in right of the Territory; or
 - (ii) the Territory; or
 - (iii) a Minister; or
 - (iv) a person suing or being sued on behalf of the Territory;
and
- (e) to ensure that litigation mentioned in paragraph (d) is started and conducted in accordance with proper standards; and
- (f) to exercise any function given to the Attorney-General under another Act; and
- (g) to exercise any other function prescribed by regulation.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

5 Additional functions of Attorney-General

The Attorney-General also has, in relation to the Territory, the traditional functions, prerogatives and privileges of State Attorneys-General, subject to this Act and any other Territory law.

5A Effect of Attorney-General's functions on certain litigation

To remove any doubt, the functions of the Attorney-General, including the traditional functions, prerogatives and privileges of State Attorneys-General, do not prevent, and are taken never to have prevented, a person authorised by the Territory, or under a Territory law, from instituting or conducting litigation mentioned in section 4 (d) (Functions of Attorney-General).

5AA Model litigant guidelines

- (1) The Attorney-General must issue model litigant guidelines to ensure that proper standards in litigation apply to Territory legal work.
- (2) A guideline issued under subsection (1) is a notifiable instrument.
Note A notifiable instrument must be notified under the Legislation Act.
- (3) Anyone performing Territory legal work must comply with the model litigant guidelines.
- (4) The model litigant guidelines may be enforced only by, or on the application of, the Attorney-General.
- (5) The issue of non-compliance with the model litigant guidelines may not be raised in a proceeding (whether in a court, tribunal or other body) except by or on behalf of the Territory.

5AB Protection from liability

- (1) A person performing Territory legal work is not personally liable for anything done, or omitted to be done, honestly and without recklessness—
 - (a) in complying with a model litigant guideline; or
 - (b) in the reasonable belief that the act or omission complied with a model litigant guideline.
- (2) Any civil liability that would, apart from this section, attach to a person attaches instead to the Territory.

5AC Reporting on model litigant guidelines

- (1) Each report prepared by the chief executive under the *Annual Reports (Government Agencies) Act 2004* must—
 - (a) describe the measures taken by the administrative unit during the financial year to ensure compliance with the model litigant guidelines; and

- (b) provide information concerning any breaches of the model litigant guidelines during the financial year.
- (2) Each chief executive (other than the JACS chief executive) must—
 - (a) prepare a report setting out the matters mentioned in subsection (1) (a) and (b) for the administrative unit; and
 - (b) give the report to the JACS chief executive not later than 21 days after the end of the financial year.
- (3) The report prepared by the JACS chief executive under subsection (1) must include a summary of each report given to the chief executive under subsection (2) for the relevant financial year.

- (4) In this section:

JACS chief executive means the chief executive of the administrative unit responsible for this Act.

5B Judicial notice of Attorney-General's appointment etc

- (1) In any legal proceeding, a document apparently signed by the Attorney-General is presumed to have been signed by the Attorney-General in the absence of evidence to the contrary.
- (2) The instrument by which the Attorney-General is so designated must, on production to the Supreme Court, be noted in the records of the court.
- (3) No action, proceeding or matter (whether civil or criminal) by or against the Attorney-General abates or is affected by any change of office holder.

6 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*.

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:

- Attorney-General
- document
- Executive
- exercise
- function
- instrument (see s 14)
- Supreme Court
- the Territory.

Attorney-General includes, if no Minister is designated Attorney-General by the Chief Minister, the Minister for the time being administering this Act.

model litigant guidelines means the guidelines issued under section 5AA (1) (Model litigant guidelines).

Territory legal work means legal work associated with litigation conducted by a person for any of the following:

- (a) the Territory;
- (b) a body established by a law of the Territory;
- (c) a company in which the Territory has a controlling interest.

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

Endnotes

3 Legislation history

3 Legislation history

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

Law Officer Act 1992 No 54

notified 25 September 1992 (Gaz 1992 No S162)

commenced 25 September 1992

as amended by

Legislation (Consequential Amendments) Act 2001 No 44 pt 214

notified 26 July 2001 (Gaz 2001 No 30)

s 1, s 2 commenced 26 July 2001 (IA s 10B)

pt 214 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Justice and Community Safety Legislation Amendment Act 2003 A2003-2 pt 10

notified LR 3 March 2003

s 1, s 2 commenced 3 March 2003 (LA s 75 (1))

pt 10 commenced 31 March 2003 (s 2 (2))

Court Procedures (Consequential Amendments) Act 2004 A2004-60 amdt 1.131

notified LR 2 September 2004

s 1, s 2 commenced 2 September 2004 (LA s 75 (1))

amdt 1.131 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.56

notified LR 22 March 2007

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

sch 3 pt 3.56 commenced 12 April 2007 (s 2 (1))

Law Officer Amendment Act 2009 A2009-21

notified LR 2 September 2009

s 1, s 2 commenced 2 September 2009 (LA s 75 (1))

remainder commenced 3 September 2009 (s 2)

4 Amendment history

Dictionary

s 2 sub A2007-3 amdt 3.313

Notes

s 2A ins A2007-3 amdt 3.313

Functions of Attorney-General

s 4 hdg sub A2003-2 s 52

s 4 am A2003-2 s 53, s 54; A2009-21 s 4

Additional functions of Attorney-General

s 5 sub A2003-2 s 55

Effect of Attorney-General's functions on certain litigation

s 5A ins A2003-2 s 55

Model litigant guidelines

s 5AA ins A2009-21 s 5

Protection from liability

s 5AB ins A2009-21 s 5

Reporting on model litigant guidelines

s 5AC ins A2009-21 s 5

Judicial notice of Attorney-General's appointment etc

s 5B reloc from Crown Proceedings Act 1992 s 18 by A2004-60
amdt 1.131

Regulation-making power

s 6 sub 2001 No 44 amdt 1.2608

Amendment of *Legal Practitioners Act 1970*

s 7 om 2001 No 44 amdt 1.2608

Regulations

s 8 om 2001 No 44 amdt 1.2608

Dictionary

dict ins A2007-3 amdt 3.314

def **Attorney-General** ins A2007-3 amdt 3.314

def **model litigant guidelines** ins A2009-21 s 6

def **Territory legal work** ins A2009-21 s 6

Endnotes

5 Earlier republications

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	A2001-44	13 June 2002
2	A2003-2	31 March 2003
3	A2004-60	10 January 2005
4	A2007-3	12 April 2007

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