



Australian Capital Territory

Evidence Regulation 2012

SL2012-6

made under the

Evidence Act 2011

Republication No 1

Effective: 1 March 2012

Republication date: 1 March 2012

Regulation not amended

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Evidence Regulation 2012*, made under the *Evidence Act 2011* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 March 2012. It also includes any commencement, repeal or expiry affecting this republished law.

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 amendments

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, 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).



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Australian Capital Territory

Evidence Regulation 2012

made under the

[Evidence Act 2011](#)

1 Name of regulation

This regulation is the *Evidence Regulation 2012*.

3 Dictionary

The dictionary at the end of this regulation is part of this regulation.

Note 1 The dictionary at the end of this regulation defines certain terms used in this regulation.

Note 2 A definition in the dictionary applies to the entire regulation unless the definition, or another provision of the regulation, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

4 Notes

A note included in this regulation is explanatory and is not part of this regulation.

Note See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.

5 Notice of previous representation—Act, s 67 (2)

- (1) A notice of previous representation must state—
 - (a) subject to section 6 (2), the substance of evidence of a previous representation that the notifying party intends to present; and
 - (b) the substance of all other relevant representations made by the person who made the previous representation, so far as they are known to the notifying party; and
 - (c) so far as they are known to the notifying party, details of—
 - (i) the date, time, place and circumstances at or in which each of the representations mentioned in paragraph (a) or (b) was made; and
 - (ii) the names of the people by whom, and the people to whom, each of the representations was made; and

- (iii) in a civil proceeding—the address of each person mentioned in subparagraph (ii).
- (2) Subsection (3) applies if a notifying party intends to rely on any of the following provisions of the [Act](#):
 - (a) section 63 (2) (a) or (b);
 - (b) section 65 (2) (a), (b), (c) or (d);
 - (c) section 65 (3) (a) or (b);
 - (d) section 65 (8) (a) or (b).
- (3) The notifying party's notice of previous representation must state details of the facts on the basis of which it is alleged that the person who made a representation mentioned in the notice is not available to testify about the fact to be proved by presenting evidence of the representation.
- (4) Subsection (5) applies if a notifying party intends to rely on the [Act](#), section 64 (2) (a) or (b).
- (5) The notifying party's notice of previous representation must state details of the facts that the party will rely on to establish the grounds stated in the [Act](#), section 64 (2).

6 Notice of previous representation—written previous representation—Act, s 67 (2)

- (1) If a notice of previous representation mentions a previous representation that is in writing—
 - (a) a copy of the document, or of the relevant part of the document, containing the representation must be attached to the notice; and
 - (b) the notice must identify the document unless—
 - (i) a copy of the document is attached to the notice; and

- (ii) the identity of the document is apparent on the face of the copy.
- (2) If a copy of a document, or of a part of a document, is attached to a notice it is a sufficient compliance for section 5 (1) (a) to state in the notice, or in the copy of a document or part of a document attached to the notice, the representation evidence of which the notifying party intends to present.

7 Notice of previous representation—criminal proceeding—Act, s 67 (2)

- (1) On application by a party in a criminal proceeding, the court may make an order directing the notifying party to disclose the address of a person named in a notice of previous representation.
- (2) The direction may be given on the terms the court considers appropriate.

8 Notice of tendency evidence—Act, s 99

A notice of tendency evidence must state—

- (a) the substance of the tendency evidence that the notifying party intends to present; and
- (b) if the tendency evidence consists of, or includes, evidence of the conduct of a person—so far as is known to the notifying party, details of—
 - (i) the date, time, place and circumstances at or in which the conduct occurred; and
 - (ii) the names of each person who saw, heard or otherwise perceived the conduct; and
 - (iii) in a civil proceeding—the address of each person mentioned in subparagraph (ii).

9 Notice of coincidence evidence—Act, s 99

A notice of coincidence evidence must state—

- (a) the substance of the coincidence evidence that the notifying party intends to present; and
- (b) so far as is known to the notifying party, details of—
 - (i) the date, time, place and circumstances at or in which each of the events the subject of the evidence occurred; and
 - (ii) the names of each person who saw, heard or otherwise perceived each of the events; and
 - (iii) in a civil proceeding—the address of each person mentioned in subparagraph (ii).

10 Notice of tendency or coincidence evidence—criminal proceeding—Act, s 99

- (1) On application by a party in a criminal proceeding, the court may make an order directing the notifying party to disclose the address of any person named in a notice of tendency or coincidence evidence.
- (2) The direction may be given on the terms the court considers appropriate.

11 Self-incrimination certificates—State and Territory provisions—Act, s 128 (14)

The following provisions are prescribed:

- (a) the *Evidence Act 2004* (Norfolk Island), section 128;
- (b) the *Coroners Act 2009* (NSW), section 61;
- (c) the *Evidence Act 1995* (NSW), section 128;
- (d) the *Evidence Act 2001* (Tas), section 128.

- (e) the *Coroners Act 2008* (Vic), section 57;
- (f) the *Evidence Act 2008* (Vic), section 128;
- (g) the *Coroners Act 1996* (WA), section 47;
- (h) the *Evidence Act 1906* (WA), section 11.

12 Self-incrimination certificates—State and Territory provisions—Act, s 128A (13)

The following provisions are prescribed:

- (a) the *Evidence Act 1995* (NSW), section 128A;
- (b) the *Evidence Act 2001* (Tas), section 128A;
- (c) the *Evidence Act 2008* (Vic), section 128A.

13 Fingerprint evidence of identity—affidavits by State or Territory police officers—Act, s 179 (1) (a)

A form approved under section 15 for this section is prescribed.

14 Fingerprint evidence of identity—affidavits by Australian Federal Police officers—Act, s 180 (1) (a)

A form approved under section 15 for this section is prescribed.

15 Approved forms

- (1) The Minister may approve forms for this regulation.
- (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](#).

Dictionary

(see s 3)

Note 1 The [Legislation Act](#) contains definitions and other provisions relevant to this regulation.

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- document
- writing.

Note 3 Terms used in this regulation have the same meaning that they have in the [Evidence Act 2011](#) (see [Legislation Act](#), s 148). For example, the following terms are defined in the [Evidence Act 2011](#), dict:

- civil proceeding
- coincidence evidence
- criminal proceeding
- document
- previous representation
- tendency evidence.

address includes a private, business or official address.

notice of coincidence evidence means a notice under the [Act](#), section 98 (1).

notice of previous representation means a notice under the [Act](#), section 67.

notice of tendency evidence means a notice under the [Act](#), section 97 (1).

notifying party, in relation to a notice, means the party giving the notice.

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

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notified LR 27 February 2012

s 1, s 2 commenced 27 February 2012 (LA s 75 (1))

remainder commenced 1 March 2012 (s 2 and see [Evidence Act 2011](#) A2011-12, s 2 and [CN2012-4](#))

4 Amendment history

Commencement

s 2 om LA s 89 (4)

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