



Australian Capital Territory

Epidemiological Studies (Confidentiality) Act 1992

A1992-26

Republication No 4

Effective: 12 April 2007

Republication date: 12 April 2007

Last amendment made by [A2007-3](#)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Epidemiological Studies (Confidentiality) Act 1992* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 12 April 2007. It also includes any amendment, repeal or expiry affecting the republished law to 12 April 2007.

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 is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Epidemiological Studies (Confidentiality) Act 1992

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R4
12/04/07

Epidemiological Studies (Confidentiality) Act 1992
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Australian Capital Territory

Epidemiological Studies (Confidentiality) Act 1992

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

1 Name of Act

This Act is the *Epidemiological Studies (Confidentiality) 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 References to certain things

- (1) A reference in this Act to a person who has assisted, or is assisting, in the conduct of an epidemiological study—
- (a) includes a reference to a person who has conducted, or is conducting, or has supervised or is supervising the conduct of, the study; but
 - (b) does not include a reference to a person who has assisted, or is assisting, in the conduct of the study only because the person—
 - (i) was or is 1 of the people to whom the study related or relates; or
 - (ii) has provided, or is providing, information about 1 of the people (whether the person or someone else) to whom the study related or relates.

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- (2) A reference in this Act to information concerning the affairs of a person includes a reference to—
- (a) information as to the existence or non-existence of a document concerning the affairs of a person; and
 - (b) information relating to the location of a document concerning the affairs of a person; and
 - (c) information concerning the affairs of a deceased person.
- (3) A reference in this Act to a *document* concerning the affairs of a person includes a reference to 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](#).

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:

- ACT
- Commonwealth
- State
- the Territory.

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.

document, concerning the affairs of a person—see section 3 (3).

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.

information, concerning the affairs of a person—see section 3 (2).

person, who has assisted, or is assisting, in the conduct of an epidemiological study—see section 3 (1).

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.

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

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 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

3 Legislation history

Epidemiological Studies (Confidentiality) Act 1992 A1992-26

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 A1992-78](#)

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

[Ombudsman \(Amendment\) Act 1996 A1996-17 s 12](#)

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

[Statute Law Revision \(Penalties\) Act 1998 A1998-54 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 A2001-44 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 see [Gaz 2001 No S65](#))

[Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.39](#)

notified LR 22 March 2007
 s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
 sch 3 pt 3.39 commenced 12 April 2007 (s 2 (1))

4 Amendment history

Name of Act

s 1 sub [A2007-3](#) amdt 3.203

Dictionary

s 2 om [A2001-44](#) amdt 1.1574
 ins [A2007-3](#) amdt 3.205

Endnotes

5 Earlier republications

Notes

s 2A ins [A2007-3](#) amdt 3.205

References to certain things

s 3 defs reloc to dict [A2007-3](#) amdt 3.204
sub [A2007-3](#) amdt 3.205

Secrecy relating to prescribed studies

s 4 am [A1998-54](#) sch

Secrecy relating to certain documents

s 6 am [A1998-54](#) sch

Oaths and declarations of secrecy

s 10 am [A1998-54](#) sch

Regulation-making power

s 14 sub [A2001-44](#) amdt 1.1575

Dictionary

dict ins [A2007-3](#) amdt 3.206
def **Canberra drug users study** sub [A1992-78](#) s 4
reloc from s 3 [A2007-3](#) amdt 3.204
def **court** am [A1996-17](#) s 12
reloc from s 3 [A2007-3](#) amdt 3.204
def **document** ins [A2007-3](#) amdt 3.206
def **epidemiological study** reloc from s 3 [A2007-3](#)
amdt 3.204
def **information** ins [A2007-3](#) amdt 3.206
def **person** ins [A2007-3](#) amdt 3.206
def **prescribed study** reloc from s 3 [A2007-3](#) amdt 3.204
def **Territory epidemiological study** reloc from s 3 [A2007-3](#)
amdt 3.204

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	A1992-78	31 August 1993
2	A1998-54	31 March 1999

Endnotes

Earlier republications 5

Republication No	Amendments to	Republication date
3	A2001-44	31 January 2002

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