



Australian Capital Territory

# **Legislative Assembly (Office of the Legislative Assembly) Act 2012**

**A2012-26**

**Republication No 3**

**Effective: 1 September 2016 – 8 March 2017**

Republication date: 1 September 2016

Last amendment made by [A2016-52](#)

## About this republication

### The republished law

This is a republication of the *Legislative Assembly (Office of the Legislative Assembly) Act 2012* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 September 2016. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 September 2016.

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](http://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](http://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 \$150 for an individual and \$750 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Legislative Assembly (Office of the Legislative Assembly) Act 2012

## Contents

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	Page
<b>Part 1</b>	<b>Preliminary</b>
1	Name of Act 2
3	Dictionary 2
4	Notes 2
<b>Part 2</b>	<b>Office of the Legislative Assembly</b>
5	Establishment of Office of the Legislative Assembly 3
6	Functions of office 3
7	Clerk's staff 4
8	Independence of office 4

---

R3 Legislative Assembly (Office of the Legislative Assembly) contents 1  
01/09/16 Act 2012  
Effective: 01/09/16-08/03/17

	Page
<b>Part 3</b>	<b>Clerk of the Legislative Assembly</b>
9	Appointment of Clerk of the Legislative Assembly 5
10	Functions of clerk 6
11	Disclosure of interests by clerk 6
12	Delegation of clerk's functions 6
13	Suspension of clerk—general 6
14	Suspension of clerk—administration and procedure committee notice and meetings 7
15	Suspension of clerk—ending suspension 8
16	Ending of clerk's appointment 9
17	Retirement of clerk 10
18	Resignation of clerk 11
19	Acting appointment as clerk 12
<b>Part 4</b>	<b>Miscellaneous</b>
20	Regulation-making power 13
<b>Dictionary</b>	14
<b>Endnotes</b>	
1	About the endnotes 15
2	Abbreviation key 15
3	Legislation history 16
4	Amendment history 17
5	Earlier republications 18
6	Expired transitional or validating provisions 18



Australian Capital Territory

# Legislative Assembly (Office of the Legislative Assembly) Act 2012

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An Act to establish the Office of the Legislative Assembly, and for other purposes

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R3  
01/09/16

Legislative Assembly (Office of the Legislative Assembly)  
Act 2012

page 1

Effective: 01/09/16-08/03/17

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Legislative Assembly (Office of the Legislative Assembly) Act 2012*.

### 3 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 in this Act.

For example, the signpost definition '*office*—see section 5 (1).' means that the term '*office*' is defined in that section.

*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)).

### 4 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.

## Part 2                      Office of the Legislative    Assembly

### 5                      Establishment of Office of the Legislative Assembly

- (1) The Office of the Legislative Assembly (the *office*) is established.
- (2) The office consists of—
  - (a) the clerk; and
  - (b) the staff of the office.

### 6                      Functions of office

- (1) The office's function is to provide impartial advice and support to the Legislative Assembly and committees and members of the Assembly, including by—
  - (a) providing advice on parliamentary practice and procedure and the functions of the Assembly and committees; and
  - (b) reporting proceedings of the Assembly and meetings of committees; and
  - (c) maintaining an official record of proceedings of the Assembly; and
  - (d) providing library and information facilities and services for members; and
  - (e) providing staff to enable the Assembly and committees to operate efficiently; and
  - (f) providing business support functions, including administering the entitlements of members who are not part of the Executive; and
  - (g) maintaining the Assembly precincts.

- (2) The office also has the function of providing public education about the functions of the Assembly and committees.
- (3) The office may exercise any other function given to it under this Act or another territory law.

*Note* A provision of a law that gives an entity 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*).

- (4) In this section:

*Assembly precincts*—see the [Legislative Assembly Precincts Act 2001](#), dictionary.

## 7 Clerk's staff

- (1) The clerk may employ staff on behalf of the Territory.
- (2) The clerk's staff must be employed under the [Public Sector Management Act 1994](#).

*Note* The [Public Sector Management Act 1994](#), div 8.2 applies to the clerk in relation to the employment of staff (see [Public Sector Management Act 1994](#), s 152).

## 8 Independence of office

The clerk and the office's staff are not subject to direction by the Executive or any Minister in the exercise of their functions.



## Part 3 Clerk of the Legislative Assembly

### 9 Appointment of Clerk of the Legislative Assembly

- (1) The Speaker must, on behalf of the Territory, appoint a person as Clerk of the Legislative Assembly.
- (2) The appointment must be made—
  - (a) on the advice of the administration and procedure committee; and
  - (b) in consultation with the Chief Minister; and
  - (c) in consultation with the Leader of the Opposition; and
  - (d) in consultation with the leader (however described) of a registered party (other than the party to which the Chief Minister or Leader of the Opposition belongs) if at least 2 members of the Legislative Assembly are members of the party; and
  - (e) in accordance with an open and accountable selection process.

*Note* For the making of appointments, see the [Legislation Act](#), pt 19.3.

- (3) The Speaker must not appoint a person as clerk unless satisfied that the person has extensive knowledge of, and experience in, relevant parliamentary law, practice and procedure.
- (4) The clerk is appointed on the terms (if any) in relation to matters not provided for by this part or a determination under the [Remuneration Tribunal Act 1995](#) that are prescribed by the management standards under the [Public Sector Management Act 1994](#).
- (5) In this section:  
**registered party**—see the [Electoral Act 1992](#), dictionary.

## 10 Functions of clerk

- (1) The clerk is responsible for the management of the office.
- (2) The clerk may exercise any other function given to the clerk under this Act or another territory law.

*Note* A provision of a law that gives an entity 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*).

## 11 Disclosure of interests by clerk

The clerk must give a written statement of the clerk's personal and financial interests to the Speaker within 7 days after—

- (a) the day the clerk is appointed; and
- (b) the first day of each financial year; and
- (c) the day there is a change in an interest.

## 12 Delegation of clerk's functions

The clerk may delegate the clerk's functions under this Act or another territory law to a member of the office's staff.

*Note* For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

## 13 Suspension of clerk—general

- (1) The Speaker may suspend the clerk on the ground of—
  - (a) misbehaviour; or
  - (b) physical or mental incapacity, if the incapacity substantially affects the exercise of the clerk's functions.

*Note* Power given by a law to make a decision includes power to reverse or change the decision. The power to reverse or change the decision is exercisable in the same way, and subject to the same conditions, as the power to make the decision (see [Legislation Act](#), s 180).

- (2) If the Speaker is considering suspending the clerk, the Speaker may ask 1 or more of the following for advice about the proposed suspension:
- (a) the public sector standards commissioner;
  - (b) the auditor-general;
  - (c) anyone else the Speaker considers appropriate.
- (3) If the Speaker suspends the clerk, the Speaker must give written notice of the suspension and a copy of a statement of the reasons for the suspension to the clerk.
- Note* The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.
- (4) The suspension takes effect when the notice and statement are given to the clerk under subsection (3).
- (5) The clerk may be suspended only under this section.
- (6) The clerk is entitled to be paid salary and allowances while suspended.

#### **14 Suspension of clerk—administration and procedure committee notice and meetings**

- (1) If the Speaker suspends the clerk, the Speaker must give written notice of the suspension and a copy of the statement of the reasons for the suspension to each other member of the administration and procedure committee not later than the next business day (the *notice day*).
- (2) The administration and procedure committee must meet in relation to the clerk's suspension—
- (a) not later than 3 business days after the notice day; and
  - (b) at subsequent intervals of not longer than 30 days while the clerk is suspended (a *regular meeting*).

- (3) The administration and procedure committee must give the clerk written notice that a regular meeting will be held at least 3 business days before the day the meeting is to be held.
- (4) The clerk may make an oral or written submission (or both) to the committee about the clerk's suspension.
- (5) At each regular meeting the administration and procedure committee must review the clerk's suspension and may at any time pass a resolution about the suspension, including a resolution—
  - (a) recommending to the Speaker that the Speaker end the suspension; or
  - (b) to make a statement to the Legislative Assembly recommending that the Speaker end the clerk's appointment.

## **15 Suspension of clerk—ending suspension**

- (1) If the Speaker does not comply with section 14 (1), the suspension ends at the end of the notice day.
- (2) If the administration and procedure committee fails to hold a meeting as required under section 14 (2), the suspension ends on the day after the last day when the meeting could have been held.
- (3) The following provisions apply if the administration and procedure committee makes a recommendation mentioned in section 14 (5) (a) and the Speaker does not end the suspension within 1 business day after the day the recommendation is made:
  - (a) the committee may at any time resolve to make a statement to the Legislative Assembly recommending that the suspension be ended;
  - (b) if the committee makes a statement mentioned in paragraph (a) and the Legislative Assembly resolves to end the suspension—the suspension ends on the passing of the resolution;

- (c) if the committee makes a statement mentioned in paragraph (a) and the Legislative Assembly does not deal with the statement within 3 sitting days—the suspension ends at the end of the 3rd sitting day.
- (4) If the administration and procedure committee makes a statement mentioned in section 14 (5) (b)—
  - (a) the Legislative Assembly may resolve to require the Speaker to end the clerk’s appointment; or
  - (b) if the Legislative Assembly does not, within 3 sitting days, pass a resolution mentioned in paragraph (a)—the suspension ends at the end of the 3rd sitting day.
- (5) If the Speaker ends the clerk’s suspension, the Speaker must give written notice of the ending of the suspension and a copy of a statement of the reasons for ending the suspension to the clerk and administration and procedure committee.

*Note* The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.

- (6) In this section:  
*notice day*—see section 14 (1).

## **16 Ending of clerk’s appointment**

- (1) The Speaker must end the clerk’s appointment if the Legislative Assembly—
  - (a) passes a resolution under section 15 (4) (a); or
  - (b) otherwise resolves to require the Speaker to end the clerk’s appointment—
    - (i) for misbehaviour; or
    - (ii) for physical or mental incapacity, if the incapacity substantially affects the exercise of the clerk’s functions.

- (2) For a resolution mentioned in subsection (1) (b), notice of the motion to which the resolution relates must be given at least 7 days before the day the motion is first debated in the Legislative Assembly.
- (3) The Speaker may end the clerk's appointment if the clerk is absent from duty, except on leave granted by the Speaker, for 14 consecutive days or for 28 days in any 12 months.
- (4) The clerk's appointment may be ended by the Speaker only under this section or section 17.

## 17 Retirement of clerk

- (1) The Speaker may retire the clerk on the ground of physical or mental incapacity if—
  - (a) the incapacity substantially affects the exercise of the clerk's functions; and
  - (b) the clerk consents to the retirement.
- (2) However, the clerk must not be retired on the ground of invalidity unless—
  - (a) if the clerk is an eligible employee for the *Superannuation Act 1976* (Cwlth)—
    - (i) the clerk is under the clerk's maximum retiring age within the meaning of the Act; and
    - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 2 under the Act, section 54C for the clerk; or
  - (b) if the clerk is a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—
    - (i) the clerk is under 60 years old; and

- (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under the Act, section 13 for the clerk; or
  - (c) if the clerk is an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—
    - (i) the clerk is under 60 years old; and
    - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under the Act, section 43 for the clerk.
- (3) In this section:
- invalidity* means—
- (a) for an eligible employee for the *Superannuation Act 1976* (Cwlth)—invalidity under the Act; or
  - (b) for a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—invalidity under the Act; or
  - (c) for an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—invalidity under the Act.

*physical or mental incapacity* includes invalidity.

## 18 Resignation of clerk

- (1) The clerk may resign by signed notice given to the Speaker.
- (2) The Speaker must give a copy of a notice received under subsection (1) to each member of the Legislative Assembly not later than 5 business days after the day the notice is received by the Speaker.

**19 Acting appointment as clerk**

- (1) The Speaker may appoint the following to act as clerk:
- (a) the deputy clerk;
  - (b) in the absence of the deputy clerk—
    - (i) any other member of the office’s staff; or
    - (ii) if the Speaker is satisfied that no-one mentioned in subparagraph (i) is a suitable person—a suitable person.

*Note* For the making of acting appointments, see the [Legislation Act](#), div 19.3.2.

- (2) In this section:

***suitable person*** means a person who has extensive knowledge of, and experience in, relevant parliamentary law, practice and procedure.



## Part 4                      Miscellaneous

### 20                      Regulation-making power

- (1) The Executive may make regulations for this Act.

*Note*                      A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) The Executive must consult the Speaker before making a regulation for this Act.

## Dictionary

(see s 3)

*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:

- auditor-general
- business day
- Executive
- Legislative Assembly
- public sector standards commissioner
- Speaker.

*administration and procedure committee* means the standing committee of the Legislative Assembly responsible for the administration and procedure of the Assembly.

*clerk* means the person appointed as Clerk of the Legislative Assembly under section 9.

*office*—see section 5 (1).

*Office of the Legislative Assembly* means the Office of the Legislative Assembly established under section 5.

## 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

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Legislative Assembly (Office of the Legislative Assembly) Act 2012 A2012-26**

notified LR 24 May 2012

s 1, s 2 commenced 24 May 2012 (LA s 75 (1))

remainder commenced 1 July 2012 (s 2)

as amended by

#### **Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.47**

notified LR 25 August 2016

s 1, s 2 commenced 25 August 2016 (LA s 75 (1))

sch 1 pt 1.47 commenced 1 September 2016 (s 2)

## 4 Amendment history

### Commencement

s 2 om LA s 89 (4)

### Clerk's staff

s 7 sub [A2016-52](#) amdt 1.127

### Appointment of Clerk of the Legislative Assembly

s 9 am [A2016-52](#) amdt 1.128

### Suspension of clerk—general

s 13 am [A2016-52](#) amdt 1.129

### Legislation amended—sch 1

s 21 om LA s 89 (3)

### Transitional

pt 10 hdg exp 1 July 2014 (s 53)

### Change of name—references to old name

s 50 exp 1 July 2014 (s 53)

### Clerk of the Legislative Assembly

s 51 exp 1 July 2014 (s 53)

### Staff of the Legislative Assembly

s 52 exp 1 July 2014 (s 53)

### Expiry—pt 10

s 53 exp 1 July 2014 (s 53)

### Consequential and other amendments

sch 1 om LA s 89 (3)

### Dictionary

dict am [A2016-52](#) amdt 1.130, amdt 1.131

## Endnotes

5 Earlier republications

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### 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 and date	Effective	Last amendment made by	Republication for
R1 1 July 2012	1 July 2012– 1 July 2014	not amended	new Act
R2 2 July 2014	2 July 2014– 31 Aug 2016	not amended	expiry of transitional provisions (pt 10)

### 6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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