



Australian Capital Territory

# **Government Solicitor Act 1989**

**A1989-36**

**Republication No 7**

**Effective: 12 April 2007 – 30 August 2011**

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 *Government Solicitor Act 1989* (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](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 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

# Government Solicitor Act 1989

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R7  
12/04/07

Government Solicitor Act 1989  
Effective: 12/04/07-30/08/11

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Australian Capital Territory

## Government Solicitor Act 1989

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An Act to establish a government solicitor for the Australian Capital Territory,  
and for related purposes

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**1 Name of Act**

This Act is the *Government Solicitor Act 1989*.

**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)).

**3 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.

**5 Government solicitor**

- (1) There is hereby established a Government Solicitor for the Australian Capital Territory.
- (2) The government solicitor is a body corporate.
- (3) The government solicitor may act as legal practitioner for—
  - (a) the Crown in right of the Territory; or
  - (b) the Territory; or
  - (c) a person suing or being sued on behalf of the Territory; or
  - (d) a Minister; or
  - (e) a body established by or under an enactment; or
  - (f) a company, joint venture or trust in which the Territory or a Territory entity has a controlling interest; or

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- (g) a person who—
- (i) is a public employee; or
  - (ii) was a public employee; or
  - (iii) is or was an officer or employee of a company, joint venture or trust in which the Territory or a Territory entity has a controlling interest; or
- (h) a person holding office under an enactment; or
- (i) a person who is or was a trustee, director or board member of a company, joint venture or trust in which the Territory or a Territory entity has a controlling interest; or
  - (j) the government solicitor (however described) of the Commonwealth, a State, another Territory or a foreign country, by arrangement, as agent on behalf of clients of that solicitor; or
- (k) any other person, or body, for whom the Minister requests the government solicitor to act;

and is, for the purposes of so acting, entitled to practise as a legal practitioner in any court and entitled to all the rights and privileges of a legal practitioner of the Supreme Court of the Australian Capital Territory who holds a current unrestricted practising certificate under the *Legal Profession Act 2006*.

- (4) Subsection (3) (f), (g) (ii) and (iii) and (i) apply to a matter only if the chief solicitor decides that the Territory has an interest in the outcome of the matter.
- (5) The chief solicitor may act personally in the name of the government solicitor and may also, either generally or otherwise as provided by the instrument of authorisation, by writing signed by him or her, authorise a qualified officer of the relevant administrative unit to act in the name of the government solicitor.

- (6) An authorisation is a notifiable instrument.

*Note* A notifiable instrument must be notified under the *Legislation Act 2001*.

- (7) Any act or thing done in the name of the government solicitor by, or under the direction or authority of—

- (a) the chief solicitor; or
- (b) a person authorised under subsection (5);

shall be deemed to have been done by the government solicitor.

- (8) In or in relation to the doing by a person of any act or thing under an authorisation under subsection (5), the person is responsible to the chief solicitor and, through the chief solicitor, to the Minister, and shall comply with the directions (if any) given to him or her by the chief solicitor.

- (9) An act or thing done or omitted to be done by a person in the name of the government solicitor under a direction given by the chief solicitor shall be deemed to have been done or omitted to be done by the chief solicitor personally.

- (10) The chief solicitor is, for the purposes of acting in the name of the government solicitor, entitled to do all things necessary or convenient and entitled to all the rights and privileges of a legal practitioner whether or not he or she is entitled to practise as a legal practitioner.

- (11) Notwithstanding subsection (7), but subject to subsection (10)—

- (a) the chief solicitor; or
- (b) a person authorised under subsection (5);

is, in relation to any act or thing done or omitted to be done by him or her, or by any person at his or her direction or under his or her authority, in the name of the government solicitor, subject to the duties and obligations to which he or she would be subject if that act



or thing had been done or omitted to be done in the course of practise by him or her as a legal practitioner.

(12) In this section:

*controlling interest*—see the *Auditor-General Act 1996*, section 5.

*qualified officer* means an officer who is a legal practitioner of the Supreme Court.

*Territory entity*—see the *Auditor-General Act 1996*, dictionary.

## **6 Judicial notice of signatures**

All courts and tribunals, and all judges and persons acting judicially or authorised by law or consent of parties to hear, receive or examine evidence, shall take judicial notice of the signature of a person who holds, or has held, the office of chief solicitor or who is, or has been, authorised under section 5 (5) to act in the name of the government solicitor.

## **7 Certain references taken to include reference to the government solicitor**

In—

- (a) any statutory instrument; or
- (b) any award or other determination or order or any industrial agreement; or
- (c) any other order (whether executive, judicial or otherwise); or
- (d) any contract, agreement or arrangement; or
- (e) any pleading in, or process issued in connection with, any legal or other proceedings; or

(f) any other instrument;

relating to the Territory, the government of the Territory or any asset, right, liability or obligation of the Territory, a reference to *the Crown Solicitor for the Commonwealth, a Deputy Crown Solicitor for the Commonwealth, the Australian Government Solicitor or a director of legal services for the Commonwealth* includes a reference to the government solicitor.

## 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:

- Chief Minister
- Minister (see s 162)
- person
- the Territory.

***chief solicitor*** means the person for the time being occupying, or exercising the duties of, the office of Chief Solicitor in the public service.

***enactment*** means an Act or subordinate law.

***relevant administrative unit*** means the administrative unit to which the Chief Minister has, under the *Public Sector Management Act 1994*, section 14 (b) allocated responsibility for this Act.

## Endnotes

1 About the endnotes

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## 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

This Act was originally a Commonwealth ordinance—the *Government Solicitor Ordinance 1989* No 36 (Cwlth).

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

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).

#### Legislation before becoming Territory enactment

##### **Government Solicitor Act 1989 No 36**

notified 10 May 1989

s 1, s 2 commenced 10 May 1989 (s 2 (1))

remainder commenced 11 May 1989 (s 2 (2) and see Gaz 1989 No S164)

as amended by

#### Legislation after becoming Territory enactment

##### **Government Solicitor (Amendment) Act 1991 No 61**

notified 29 October 1991 (Gaz 1991 No S117)

commenced 29 October 1991

##### **Act Revision (Position of Crown) Act 1993 No 44 sch 2**

notified 27 August 1993 (Gaz 1993 No S165)

sch 2 commenced 27 August 1993 (s 2 and see Gaz 1993 No S165))

##### **Statute Law Revision Act 1994 No 26 sch**

notified 31 May 1994 (Gaz 1994 No S93)

sch commenced 31 May 1994 (s 2)

## Endnotes

4 Amendment history

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**Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 42**

notified 30 June 1994 (Gaz 1994 No S121)  
s 1, s 2 commenced 30 June 1994 (s 2 (1))  
sch 1 pt 42 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

**Legal Practitioners (Consequential Amendments) 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
sch 1 commenced 1 June 1998 (s 2 (2))

**Justice and Community Safety Legislation Amendment Act 2000 No 1 sch**

notified 9 March 2000 (Gaz 2000 No 10)  
s 1, s 2 commenced 9 March 2000 (s 2 (1))  
amds commenced 9 March 2000 (s 2 (2))

**Legislation (Consequential Amendments) Act 2001 No 44 pt 170**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 170 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Statute Law Amendment Act 2002 No 30 pt 3.34**

notified LR 16 September 2002  
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))  
pt 3.34 commenced 17 September 2002 (s 2 (1))

**Legal Profession Act 2006 A2006-25 sch 2 pt 2.6**

notified LR 21 June 2006  
s 1, s 2 commenced 21 June 2006 (LA s 75 (1))  
sch 2 pt 2.6 commenced 1 July 2006 (s 2)

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.52**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.52 commenced 12 April 2007 (s 2 (1))

## 4 Amendment history

### Dictionary

s 2 om 2001 No 44 amdt 1.1984  
ins A2007-3 amdt 3.285

### Notes

s 3 defs reloc to dict A2007-3 amdt 3.284  
sub A2007-3 amdt 3.285  
def **government law office** om 1991 No 61 s 3  
def **transitional Territory staff** om 1994 No 38 sch 1 pt 42

### Act binds Crown

s 4 om 1993 No 44 sch 2

### Government solicitor

s 5 am 1991 No 61 s 4; 1994 No 26 sch; 1994 No 38 sch 1 pt 42;  
1997 No 96 sch 1; 2000 No 1 sch; 2001 No 44 amdt 1.1986,  
amdt 1.1988, amdt 1 1989; pars and ss renum R4 LA (see  
2001 No 44 amdt 1.1987, amdt 1.1990); 2002 No 30  
amdt 3.397; A2006-25 amdt 2.7

### Certain references taken to include reference to government solicitor

s 7 am 2001 No 44 amdt 1.1991

### Amendments of other Acts

s 8 om 1994 No 26 sch

### Schedule

sch om 1994 No 26 sch

### Dictionary

dict ins A2007-3 amdt 3.286  
def **chief solicitor** am 1994 No 38 sch 1 pt 42  
reloc from s 3 A2007-3 amdt 3.284  
def **enactment** sub 2001 No 44 amdt 1.1985  
reloc from s 3 A2007-3 amdt 3.284  
def **relevant administrative unit** ins 1991 No 61 s 3  
sub 1994 No 38 sch 1 pt 42  
reloc from s 3 A2007-3 amdt 3.284

## 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	Amendments to	Republication date
1	Act 1991 No 61	31 March 1992
2	Act 1993 No 44	31 January 1994
3	Act 1997 No 96	31 March 1999
4	Act 2001 No 44	31 January 2002
5	A2002-30	27 September 2002
6	A2006-25	1 July 2006

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