

Serial 33
Information Amendment Bill 2009
Ms Anderson

A Bill for an Act to amend the *Information Act*

NORTHERN TERRITORY OF AUSTRALIA

INFORMATION AMENDMENT ACT 2009

Act No. [] of 2009

TABLE OF PROVISIONS

| | | |
|---|--|---|
| 1 | Short title | 1 |
| 2 | Act amended | 1 |
| 3 | Amendment of section 4 (Definitions)..... | 1 |
| 4 | Repeal and substitution of section 132..... | 3 |
| | 131A Records functions | |
| | 131B Archives functions | |
| | 132 Performance of functions consistent with objects of Act | |
| 5 | Amendment of section 134 (Managing records) | 4 |
| 6 | Repeal and substitution of Part 9, Division 3 | 4 |
| | Division 2A Records retention and disposal schedules | |
| | 136A Preparation of records retention and disposal schedule | |
| | 136B Approval of records retention and disposal schedule | |
| | Division 3 Standards | |
| | 137 Definitions | |
| | 137A Records standards | |
| | 137B Archives standards | |
| | 137C Preparation of standards | |
| | 138 Minister may approve standards | |
| | 139 Review of standards | |
| | 140 Advice to public sector organisations | |
| 7 | Amendment of section 145 (Mishandling records)..... | 7 |
| 8 | Amendment of section 147 (Concealing or disposing of government information to prevent access or correction)..... | 7 |



NORTHERN TERRITORY OF AUSTRALIA

Act No. [] of 2009

An Act to amend the *Information Act*

[Assented to [] 2009]
[Second reading [] 2009]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Information Amendment Act 2009*.

2 Act amended

This Act amends the *Information Act*.

3 Amendment of section 4 (Definitions)

(1) Section 4

omit

Act, unless the contrary intention appears –

substitute

Act:

(2) Section 4, definitions ***archives service*** and ***standard***

omit

(3) Section 4

insert (in alphabetical order)

applicable standard, for a public sector organisation, means a standard approved by the Minister under section 138.

appraise, for a record, means to determine whether the record:

- (a) must be:
 - (i) retained as a permanent record or archive; or
 - (ii) retained for a specified period; or
- (b) may be destroyed.

archives functions, see section 131B.

archives service means the organisation (whether a public sector organisation or another organisation) established to perform the archives functions for the Territory.

archives standard means a standard mentioned in section 137B.

disposal, of a record, includes the following:

- (a) destroying or damaging the record;
- (b) abandoning, donating, selling or transferring the possession or control of the record.

permanent record means a record of permanent value to the Territory.

records functions, see section 131A.

records service means the organisation (whether a public sector organisation or another organisation) established to perform the records functions for the Territory.

records standard means a standard mentioned in section 137A.

standard, for Parts 9 and 10, means an archives standard or records standard.

4 Repeal and substitution of section 132

Section 132

repeal, substitute

131A Records functions

The ***records functions*** are:

- (a) to prepare, promote and monitor compliance with records standards; and
- (b) to facilitate and promote policy and systems to enable cost effective compliance with records standards; and
- (c) to provide advice (including training) to enable compliance with records standards; and
- (d) to facilitate the preparation of records retention and disposal schedules.

131B Archives functions

The ***archives functions*** are:

- (a) to appraise records; and
- (b) to collect, transfer and preserve archives and permanent records; and
- (c) to provide access to Territory Archives; and
- (d) to maintain a register of records retention and disposal schedules; and
- (e) to prepare, promote and monitor compliance with archives standards; and
- (f) to provide advice (including training) to enable compliance with archives standards.

132 Performance of functions consistent with objects of Act

The archives service and records service must perform their functions in a way that is consistent with the objects of this Act.

5 Amendment of section 134 (Managing records)

Section 134(c)

omit

archives service

substitute

records service and archives service

6 Repeal and substitution of Part 9, Division 3

Part 9, Division 3

repeal, substitute

Division 2A Records retention and disposal schedules

136A Preparation of records retention and disposal schedule

- (1) The records service must facilitate the preparation of records retention and disposal schedules.
- (2) A records retention and disposal schedule must be consistent with relevant records standards and archives standards.
- (3) A records retention and disposal schedule must specify classes of records and determine the following:
 - (a) whether a class of record has temporary or permanent status;
 - (b) the retention period for a temporary class of record;
 - (c) authorised disposal actions for a class of record.

136B Approval of records retention and disposal schedule

A records retention and disposal schedule must be approved by the records service, archives service and chief executive officer of the public sector organisation responsible for the schedule.

Division 3 Standards

137 Definitions

In this Division:

other service means:

- (a) for the records service – the archives service; and
- (b) for the archives service – the records service.

responsible service, for a standard, means the service responsible for preparing the standard under section 137A or 137B.

137A Records standards

- (1) The records service must prepare standards for managing records (other than archives and permanent records) for approval by the Minister.
- (2) The matters that must be dealt with in the standards include, but are not limited to, the creation, maintenance and security of records.

137B Archives standards

- (1) The archives service must prepare standards for managing archives and permanent records (whether those records are in the custody of the archives service or not) for approval by the Minister.
- (2) The matters that must be dealt with in the standards include, but are not limited to, the following:
 - (a) the transfer of permanent records from a public sector organisation to the archives service;
 - (b) access to Territory Archives;
 - (c) preservation formats for digital records (including archives).

137C Preparation of standards

When preparing a standard, the responsible service:

- (a) must seek comments or submissions from the public sector organisation to which the standard is intended to apply; and
- (b) must consult with the Commissioner to ensure that, if the standard is approved by the Minister, compliance with the standard will be consistent with the objects of this Act; and

(c) must seek comments or submissions from the other service;
and

(d) may seek comments or submissions from any other person.

138 Minister may approve standards

(1) The responsible service for a standard must submit the standard to the Minister for approval.

(2) The Minister may, by *Gazette* notice, approve the standard if the Minister is satisfied:

(a) the responsible service has complied with section 137C in the preparation of the standard; and

(b) the standard is consistent with the objects of this Act.

(3) The *Gazette* notice must include:

(a) the standard name and a short description of its contents; and

(b) a statement about how to obtain a copy of the standard.

(4) The standard takes effect on:

(a) the date the notice is published in the *Gazette*; or

(b) if the notice specifies a later date – that date.

139 Review of standards

(1) The responsible service for a standard must review the standard at least once every 3 years and, as a result of that review, may submit a revised or replacement standard to the Minister for approval.

(2) Sections 137 to 138 apply to the preparation and approval of a revised or replacement standard.

140 Advice to public sector organisations

The responsible service for a standard must provide a public sector organisation with the advice (including training) the service considers appropriate to enable the organisation to comply with the standard.

7 Amendment of section 145 (Mishandling records)

(1) Section 145(2)(b)

omit

relevant standard;

substitute

standard applicable to a public sector organisation; or

(2) Section 145(1)(a) to (c), (2)(a), (2)(c) to (e) and (3)(a), at the end

insert

or

8 Amendment of section 147 (Concealing or disposing of government information to prevent access or correction)

(1) Section 147(3)(c)

omit

relevant standard;

substitute

standard applicable to a public sector organisation; or

(2) Section 147(3)(a), (b) and (d), at the end

insert

or