NORTHERN TERRITORY OF AUSTRALIA

PUBLICATIONS (LEGAL DEPOSIT) ACT 2004

As in force at 1 March 2005

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NORTHERN TERRITORY OF AUSTRALIA

This reprint shows the Act as in force at 1 March 2005. Any amendments that commence after that date are not included.

PUBLICATIONS (LEGAL DEPOSIT) ACT 2004

An Act to provide for the deposit with the Territory of a copy of publications published in the Territory

1 Short title

This Act may be cited as the *Publications (Legal Deposit) Act 2004*.

2 Commencement

This Act comes into operation on the date fixed by the Administrator by notice in the *Gazette*.

3 Object

(1) The object of this Act is to assist in the preservation of the Territory's published documentary heritage.

(2) The object of this Act is to be achieved by:

(a) ensuring that a copy of each publication that is published in the Territory is deposited with the CEO; and

(b) authorising the CEO to copy Internet publications that are published in the Territory.

4 Definitions

In this Act, unless the contrary intention appears:

CEO means the Chief Executive Officer, within the meaning of the *Public Sector Employment and Management Act*, of the Agency principally responsible under the Minister for the administration of this Act.

document means a document in any form and includes:

(a) any writing on any material (for example – books, newspapers, magazines, periodicals, reports, newsletters, calendars, directories, handbooks, guides, sheet music, maps and pamphlets);

(b) information recorded or stored by means of a recording device, computer or other electronic device, or any other device, and material subsequently derived from information so recorded or stored (for example – audio cassettes, video cassettes, films, multimedia kits, computer magnetic tape, computer optical discs, floppy discs, compact discs, CDROMs, DVDs, websites and PDF files); and

(c) a later edition of a document referred to in paragraph (a) or (b).

electronic includes electrical, digital, magnetic, optical, electromagnetic, biometric and phototonic.

electronic document means a document in which information is stored or displayed by means of an electronic recording device, computer or other electronic medium.

information includes information in the form of a document, data, text, images, sound or speech.

Internet publication has the meaning in section 5.

printer, in relation to any printed publication, means the person who has the management and control of the device by which the document is printed or otherwise produced.

publication means a document:

(a) that is printed or produced by any other means in the Territory or is commissioned to be printed or otherwise produced outside the Territory by a person who is resident in the Territory or whose principal place of business is in the Territory; and

(b) of which one or more copies are:

(i) issued to the public;

(ii) available to the public upon request; or

(iii) available to the public on the Internet (whether or not there is any restriction on members of the public accessing or using the document).

publish means making publicly available, whether or not there is any restriction on members of the public accessing or using the document.

publisher means:

(a) in relation to a printed publication – the person who publishes the document;

(b) in relation to an Internet publication – the person who has control over the content of the website, or part of the website, on which the document is located; and

(c) in relation to any other publication – the person who produced in the Territory, or commissioned the production outside the Territory of, the copies of the document issued to, or available on request by, the public.

restriction, in relation to access to, or use of, a document of any kind, means a physical, technical or mechanical restriction such as a requirement to pay a fee or price, or the use of a password or other requirement that prevents or restricts free public access to the document, but does not include a legal restriction recorded in or claimed for the document.

5 Internet publication

(1) An Internet publication is an electronic document that is published on the Internet, whether or not there is any restriction on members of the public accessing or using the document, and includes the whole or part of a website.

(2) An Internet publication is the document for the time being and if that document is changed in any significant respect it becomes a new publication.

6 Act binds Crown

This Act binds the Crown in right of the Territory and, to the extent the legislative power of the Legislative Assembly permits, the Crown in all its other capacities.

7 Publisher to deposit copy of new publication

(1) The publisher of a new publication published in the Territory must, at the publisher's expense, deposit a copy of the publication with the CEO.

(2) Subsection (1) does not apply to a reprint of a document whose content and form are identical to the content and form of a document already deposited with the CEO under this Act.

8 Printer must ensure copy is deposited in certain cases

(1) This section applies if:

(a) the name of the publisher does not appear on a printed publication; and

(b) the printer of the publication is resident in the Territory or has its principal place of business in the Territory.

(2) The printer must ensure that a copy of the publication is deposited with the CEO.

9 Time and place for deposit

(1) If a copy of a printed publication is required under this Act to be deposited with the CEO, the copy must be deposited:

(a) within 2 months after the publication was first published; and

(b) by mailing or delivering it to the CEO, marked "Legal Deposit Copy".

(2) The CEO must acknowledge the receipt of a publication deposited under subsection (1) (other than issues of newspapers and serial publications).

10 Exemption of spatial information

(1) Section 7 does not apply in relation to spatial information generated from one or more dynamic spatial databases for a specific use or purpose unless that use or purpose involves distribution (whether without charge, by sale or by incorporation into another product) of the spatial information to a class or classes of persons or to the public generally.

(2) The CEO may negotiate access arrangements in relation to spatial information exempted under subsection (1).

(3) In this section:

spatial information means information about the location and shape of, and relationships among, geographical features, usually stored as coordinates and topology.

11 Exemption of publications containing culturally sensitive information

(1) Sections 7 and 8 do not apply in relation to an indigenous community publication that contains culturally sensitive information.

(2) Subsection (1) does not prevent the publisher of an indigenous community publication that contains culturally sensitive information from depositing a copy of the publication with the CEO for preservation and safekeeping.

12 Copies of publications

A copy of a publication deposited with the CEO in accordance with this Act must:

(a) be an identical copy and of the same standard as the best copy of the document that has been published in the Territory; and

(b) include any containers, wrapping material, notices, instructions or other material generally accompanying the published document.

13 Internet publications

(1) The publisher of an Internet publication for which no printed version is published must, within 2 months after the publication is first published, advise the CEO of the Uniform Resource Identifier (URI) of the publication on the publisher's website.

(2) The CEO may, for preserving the Territory's published documentary heritage, copy an Internet publication and, if it changes, may take further copies of the publication from time to time as the CEO considers appropriate.

(3) If an Internet publication is protected by technical means from being copied, the publisher must provide the CEO with:

(a) an electronic copy of the publication (whenever requested); or

(b) the means to capture an identical copy of the publication (from time to time, if appropriate) from the Internet.

14 CEO may make copies of publications

(1) For preserving the Territory's published documentary heritage, the CEO may keep, copy, store in electronic form (whether off-line or on-line) and use any copy of a deposited document.

(2) If a deposited document is made publicly available on the Internet by the publisher without restriction on its access or use by members of the public, the CEO may make the document available for access and use by members of the public on the Internet.

(3) If a deposited document is not publicly available on the Internet, the CEO must not, except with the publisher's agreement, make the document available on the Internet.

(4) In this section:

deposited document means a publication of which one or more copies have been given to, or made by, the CEO under this Act.

15 Documents to which access is restricted

(1) If a publisher deposits with the CEO a publication that contains culturally sensitive information, or information to which access is normally restricted on commercial or other grounds, the publisher must advise the CEO of the restrictions that are appropriate in relation to access to the publication.

(2) The CEO must ensure that the restrictions are complied with.

16 Intellectual property not affected

This Act does not affect any claim of intellectual property in any document deposited under the Act.

17 No offence created by Act

A failure to comply with a requirement under this Act does not constitute an offence.

18 Regulations

(1) The Administrator may make regulations, not inconsistent with this Act, prescribing matters:

(a) required or permitted by this Act to be prescribed; or

(b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The Regulations may provide for the following:

(a) the exemption from any requirement of this Act of:

(i) a document or class of documents; or

(ii) a publisher or class of publishers;

(b) access to documents;

(c) the type of Internet publications to be copied and the manner and frequency of making of copies of such publications.

ENDNOTES

1 KEY

Key to abbreviations

amd = amended
app = appendix
bl = by-law
ch = Chapter
cl = clause
div = Division
exp = expires/expired
f = forms
Gaz = *Gazette*
hdg = heading
ins = inserted
lt = long title
nc = not commenced
od = order
om = omitted
pt = Part
r = regulation/rule
rem = remainder
renum = renumbered
rep = repealed
s = section
sch = Schedule
sdiv = Subdivision
SL = Subordinate Legislation
sub = substituted

2 LIST OF LEGISLATION

Publications (Legal Deposit) Act 2004 (Act No. 53, 2004)

Assent date	15 September 2004
Commenced	1 March 2005 (*Gaz* G8, 23 February 2005, p 3)