

Appendix 5

ACT Legislative Assembly Order for the Production of Documents

- 213A (1) The Assembly may order documents to be tabled in the Assembly. The Clerk is to communicate to the Chief Minister's Department all orders for documents made by the Assembly.
- (2) When returned, the documents (where no claim of privilege is made by the Chief Minister) will be laid on the Table by the Clerk.
- (3) A return under this order is to include an indexed list of all documents tabled, showing the date of creation of the document, a description of the document and the author of the document.
- (4) If at the time the documents are required to be tabled the Assembly is not sitting, the documents may be lodged with the Clerk, and unless privilege is claimed, are deemed to have been presented to the Assembly.
- (5) Where a document is considered by the Chief Minister to be privileged, a return is to be prepared showing the date of creation of the document, a description of the document, the author of the document and reasons for the claim of privilege.
- (5A) Where the Assembly requires a document to be returned, either the document requested or a claim of privilege must be given to the Clerk within 14 calendar days of the date of the order by the Assembly. *(Inserted 2 April 2009).*
- (6) Any Member may, by communication in writing to the Clerk, dispute the validity of the claim of privilege in relation to a particular document or documents. On receipt of such communication, the Clerk will advise the Chief Minister's Department, who will provide to the Clerk, within seven days, copies of the disputed document or documents. The Clerk is authorised to release the disputed document or documents to an independent legal arbiter, for evaluation and report within seven calendar days as to the validity of the claim.
- (7) The independent legal arbiter is to be appointed by the Speaker and must be a retired Supreme Court, Federal Court or High Court Judge.
- (8) A report from the independent legal arbiter is to be lodged with the Clerk and:
- (a) made available only to Members of the Assembly; and
 - (b) not published or copied without an order of the Assembly.

- (9) If the independent legal arbiter upholds the claim of privilege the Clerk shall return the document(s) to the Chief Minister's Department.
- (10) If the independent legal arbiter does not uphold the claim of privilege, the Clerk will table the document(s) that has been the subject of the claim of privilege. In the event that the Assembly is not sitting, the Clerk is authorised to release the document to any Member.
- (11) The Clerk is to maintain a register showing the name of any person examining documents tabled under this order. (*Temporary order adopted 12 February 2009*)