

Archives Act 1983

Act No. 79 of 1983 as amended

This compilation was prepared on 27 December 2011
taking into account amendments up to Act No. 46 of 2011

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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Division 2—Dealings with Commonwealth records

24 Disposal, destruction etc. of Commonwealth records

(1) Subject to this Part, a person must not engage in conduct that results in:

- (a) the destruction or other disposal of a Commonwealth record; or
- (b) the transfer of the custody or ownership of a Commonwealth record; or
- (c) damage to or alteration of a Commonwealth record.

Penalty: 20 penalty units.

(1A) For the purposes of an offence against subsection (1), strict liability applies to the physical element of circumstance of the offence, that the record is a Commonwealth record.

Note: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(2) Subsection (1) does not apply to anything done:

- (a) as required by any law;
- (b) with the permission of the Archives or in accordance with a practice or procedure approved by the Archives;
- (c) in accordance with a normal administrative practice, other than a practice of a Department or authority of the Commonwealth of which the Archives has notified the Department or authority that it disapproves; or
- (d) for the purpose of placing Commonwealth records that are not in the custody of the Commonwealth or of a Commonwealth institution in the custody of

the Commonwealth or of a Commonwealth institution that is entitled to custody of the records.

(3) Subsection (1) does not apply to the destruction of a Commonwealth record, being a record to which subsection 47(1), 70(1) or 107(1) of the *Copyright Act 1968* applies, where the Director-General has declined to consent to the delivery of the record to the Archives.

(4) This section does not authorize the Archives to permit the destruction or other disposal of a Commonwealth record that is in the possession of, or has been transferred to the care of the Archives by, a Commonwealth institution, without the consent of that institution or of a Commonwealth institution that has succeeded to the relevant functions of that institution.

(5) For the purposes of the application of subsection (1) to a record of a kind used by means of any mechanical or electronic device or equipment, including a computer, any treatment or modification of the record that would prevent the obtaining from the record of information or matter that could previously have been obtained from the record shall be deemed to be destruction of the record.