



Australian Capital Territory

Annual Reports (Government Agencies) Act 2004

A2004-8

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2003 143B

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Australian Capital Territory

Annual Reports (Government Agencies) Act 2004

A2004-8

An Act relating to annual reports for certain government agencies, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

2003 143B

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Part 1 Preliminary

1 Name of Act

This Act is the *Annual Reports (Government Agencies) Act 2004*.

2 Commencement

This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

Note 2 A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

Note 3 If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see Legislation Act, s 79).

3 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 terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*chief executive annual report*—see section 5.’ means that the term ‘chief executive annual report’ is defined in that section.

Note 2 A definition in the dictionary (including a signpost definition) 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)).

4 Notes

A note included in this Act is explanatory and is not part of this Act.

Note See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

Part 2 Annual reports

5 Annual report of chief executive

- (1) The chief executive of an administrative unit must, for each financial year, prepare a report (a *chief executive annual report*) about the operations of the administrative unit during the year.
- (2) The report must comply with any applicable annual report direction.
- (3) In this section:

financial year includes, for an administrative unit that begins operation during a financial year, the part of the financial year during which the administrative unit operates.

Note This definition extends the meaning of *financial year* as defined in the Legislation Act, dict, pt 1.

6 Annual report of public authority

- (1) A public authority must, for each financial year, prepare a report (a *public authority annual report*) about the operations of the authority during the year.
- (2) The report must comply with any applicable annual report direction.
- (3) In this section:

financial year includes—

- (a) for a public authority for which a direction under section 9 (3) (d) (Annual report direction) is in effect—the period stated in the direction; and

- (b) for a public authority that begins operation during a financial year and for which no direction under section 9 (3) (d) is in effect—the part of the financial year during which the public authority operates.

Note 1 This definition extends the meaning of *financial year* as defined in the Legislation Act, dict, pt 1.

Note 2 The auditor-general is a public authority (see dict, def *public authority*). However, the auditor-general is not required to comply with this Act in certain circumstances (see the *Auditor-General Act 1996*, s 9A (Reports for Annual Reports (Government Agencies) Act 2004)).

7 Annual report of commissioner for public administration

- (1) The commissioner for public administration must, for each financial year, prepare a report (a ***public administration annual report***) about the operations of the public service during the year.
- (2) The report must—
- (a) include an account of the management of the public service as a whole during the financial year; and
 - (b) comply with any applicable annual report direction.

8 Consultation about annual report direction

- (1) Before issuing an annual report direction under section 9, the Minister must consult the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.
- (2) The committee may make a recommendation to the Minister about the proposed direction.
- (3) The Minister must not issue the direction until the Minister has received a recommendation or 30 days have passed since the consultation took place, whichever happens first.

9 Annual report direction

- (1) The Minister must, in writing, issue a direction (an *annual report direction*) about annual reports.
- (2) In issuing an annual report direction, the Minister must have regard to any recommendation received under section 8.
- (3) An annual report direction may—
 - (a) require an annual report to be in a stated form or include stated information; or
 - (b) for a chief executive annual report—require the report to include (as an attachment or otherwise) a public authority annual report; or
 - (c) for a public authority annual report—require the report to be given to a chief executive for inclusion (as an attachment or otherwise) in a chief executive annual report; or
 - (d) for a public authority annual report—require the authority to prepare the report for a stated period other than a financial year; or
 - (e) require an annual report to be given by a stated person or stated public authority to the responsible Minister for the report by a stated day; or
 - (f) require a chief executive annual report to include stated matters if a public authority fails to comply with section 6 (Annual report of public authority) or an annual report direction.
- (4) An annual report direction is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.
- (5) An annual report direction must be presented to the Legislative Assembly within 6 sitting days after the day it is notified under the Legislation Act.

Part 3 Responsible Ministers

10 Responsible Minister for chief executive annual report

The responsible Minister for a chief executive annual report of the chief executive of an administrative unit is the Minister allocated responsibility for the administrative unit under the *Public Sector Management Act 1994*, section 14 (1) (a) (Ministerial responsibility and functions of administrative units).

11 Responsible Minister for public authority annual report

- (1) The responsible Minister for a public authority annual report is—
 - (a) for a public authority established or appointed under an Act—the Minister administering the Act in the relevant respect; or
 - (b) for any other public authority—the Minister declared under section 12 to be the responsible Minister for the public authority.
- (2) This section does not apply in relation to an annual report of the auditor-general.

12 Declaration of responsible Minister for public authority

- (1) The Chief Minister may, in writing, declare that a Minister is the responsible Minister for a public authority other than the auditor-general.
- (2) A declaration is a notifiable instrument.

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

Part 4 Presentation of annual reports

13 Responsible Minister to present annual report

- (1) Subject to subsection (4), the responsible Minister for an annual report must present the report to the Legislative Assembly—
 - (a) within 3 months after the end of the financial year (the *3-month period*); and
 - (b) on the day declared by the Chief Minister under subsection (2) for the report (if any).
- (2) The Chief Minister may, in writing, declare that an annual report must be presented to the Legislative Assembly on a stated day that is within the 3-month period.

- (3) A declaration is a notifiable instrument.

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

- (4) If an annual report has not been presented to the Legislative Assembly before the last 7 days of the 3-month period for the report, and there are no sitting days of the Legislative Assembly during the 7 days—
 - (a) the responsible Minister must give the report, and a copy for each member of the Legislative Assembly, to the Speaker before the end of the 3-month period; and
 - (b) the Speaker must arrange for a copy of the report to be given to each member of the Legislative Assembly on the day the responsible Minister gives it to the Speaker; and
 - (c) the responsible Minister must present the report to the Legislative Assembly—
 - (i) on the next sitting day after the end of the 3-month period; or

(ii) if the next sitting day is the first meeting of the Legislative Assembly after a general election of members of the Assembly—on the second sitting day after the election.

(5) This section has effect subject to section 14.

(6) In this section:

Speaker includes—

- (a) if the Speaker is unavailable—the Deputy Speaker; and
- (b) if both the Speaker and Deputy Speaker are unavailable—the clerk of the Legislative Assembly.

unavailable—the Speaker or Deputy Speaker is *unavailable* if—

- (a) he or she is absent from duty; or
- (b) there is a vacancy in the office of Speaker or Deputy Speaker.

14 Extension of time for presenting annual reports

- (1) The responsible Minister for an annual report may apply to the Chief Minister for an extension of the time when the Minister must present the report to the Legislative Assembly or, if section 13 (4) applies, when the responsible Minister must give the report to the Speaker.
- (2) An application for an extension must be made before the end of the 3-month period for the report and, if the Chief Minister has declared a day under section 13 (2) for the report, before that day.
- (3) The application must be accompanied by a written statement of the reasons for the failure to meet the time.
- (4) The Chief Minister may extend the time by—
 - (a) setting a period within which the report must be presented to the Legislative Assembly; or

- (b) fixing a day when the report must be presented to the Legislative Assembly.
- (5) If the extension has been granted, the responsible Minister must present the report to the Legislative Assembly in accordance with the extension.
- (6) However, if there are no sitting days of the Legislative Assembly during the period mentioned in subsection (4) (a), section 13 (4) (a) to (c) applies as if a reference to the 3-month period were a reference to the period mentioned in subsection (4) (a).
- (7) The statement mentioned in subsection (3) must be presented to the Legislative Assembly during the 3-month period for the report and, if the Chief Minister has declared a day under section 13 (2) for the report, on or before that day.
- (8) In this section:
3-month period—see section 13 (1).

15 Presentation of annual report of auditor-general

- (1) The Speaker must present an annual report of the auditor-general to the Legislative Assembly within 3 months after the end of the financial year (the *3-month period*).
- (2) However, if an annual report of the auditor-general has not been presented to the Legislative Assembly before the last 7 days of the 3-month period for the report, and there are no sitting days of the Legislative Assembly during the 7 days—
 - (a) the auditor-general must give a copy of the report for each member of the Legislative Assembly to the Speaker before the end of the 3-month period; and
 - (b) the Speaker must arrange for a copy of the report to be given to each member of the Legislative Assembly on the day the auditor-general gives it to the Speaker; and

- (c) the Speaker must present the report to the Legislative Assembly—
 - (i) on the next sitting day after the end of the 3-month period; or
 - (ii) if the next sitting day is the first meeting of the Legislative Assembly after a general election of members of the Assembly—on the second sitting day after the election.
- (3) At the request of the auditor-general, the Speaker may present a report of the auditor-general to the Legislative Assembly after the time required under subsection (1) or, if applicable, subsection (2).
- (4) If subsection (3) applies, the Speaker must present the report to the Legislative Assembly as soon as possible.

Part 5 Miscellaneous

16 Declaration of public authority

- (1) The Minister may, in writing, declare that a statutory office-holder is a public authority for the dictionary, definition of *public authority*.
- (2) The Minister may, in writing, declare that an authority, tribunal, commission, council, board, institute, committee, organisation or other entity established under an Act is a public authority for the dictionary, definition of *public authority*.
- (3) A declaration under this section is a notifiable instrument.

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

17 Combined reports

- (1) This section applies if—
 - (a) a person is required to prepare more than 1 report under this Act in relation to the same financial year; and
 - (b) the person considers that the reports can appropriately be combined into a single report that complies with this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act (see Legislation Act, s 104).

- (2) The preparation of a combined report, and presentation of the report to the Legislative Assembly, is taken to comply with the requirements of this Act about the preparation and presentation of the reports that have been combined.

18 Relationship to other laws

- (1) This Act is in addition to the requirements of any other Territory law.

- (2) If a public authority is required under any other law to prepare a report on the operation of the authority, the authority may prepare a report that complies with both this Act and the other law.

19 Application of Act

- (1) For an annual report, this Act applies in relation to a financial year that ends after the commencement of this section, whether or not the year includes a period that began before the commencement.
- (2) This section expires on 1 July 2005.

Note **Financial year** has an extended meaning in this Act (see dict).

Part 6 Amendments of section 5 and section 9—human rights

20 Application of pt 6

This part has effect on the commencement of the *Human Rights Act 2004*.

21 Act, section 5 (2)

substitute

- (2) The report must—
- (a) include a statement describing the measures taken by the administrative unit during the financial year to respect, protect and promote human rights; and
 - (b) comply with any applicable annual report direction.

22 Act, new section 9 (2) (da) and note

insert

- (da) for a public authority annual report—require the report to include a statement describing the measures taken by the public authority during the financial year to respect, protect and promote human rights; or

Note **Financial year** has an extended meaning in this Act (see dict).

23 Act, section 9 (2)

renumber paragraphs when Act next republished under Legislation Act

24 Expiry of pt 6

This part expires—

- (a) on the day after it has effect; or
- (b) if it has not had effect before 1 January 2005—on 1 January 2005.

Part 7 Repeals and consequential amendments

25 Act repealed

The *Annual Reports (Government Agencies) Act 1995* A1995-24 is repealed.

26 Instruments repealed

The following instruments are repealed:

- *Annual Reports (Government Agencies) Declaration and Direction 2003* NI2003-268
- *Annual Reports (Government Agencies) — Chief Minister's Annual Report Directions 2002 (No 1)* NI2002-214

27 Auditor-General Act 1996, new section 9A

insert

9A Reports for Annual Reports (Government Agencies) Act 2004

If the auditor-general considers that compliance with the *Annual Reports (Government Agencies) Act 2004* would prejudice the auditor-general's independence, the auditor-general is not required to comply with that Act to that extent.

Dictionary

(see s 3)

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:

- administrative unit
- auditor-general
- chief executive (see s 163)
- Chief Minister
- clerk (of the Legislative Assembly)
- commissioner for public administration
- entity
- Minister (see s 162)
- notifiable instrument (see s 10)
- public service
- sitting day
- statutory office-holder
- Territory owned corporation.

annual report means—

- (a) a chief executive annual report; or
- (b) a public authority annual report; or
- (c) a public administration annual report.

annual report direction—see section 9.

chief executive annual report—see section 5.

financial year—

- (a) for a chief executive annual report—see section 5 (3); or
- (b) for a public authority annual report—see section 6 (3).

public administration annual report—see section 7.

public authority means—

- (a) a Territory instrumentality; or
- (b) a statutory office-holder declared under section 16 (1) to be a public authority; or
- (c) an entity declared under section 16 (2) to be a public authority; or
- (d) the auditor-general.

public authority annual report—see section 6.

responsible Minister—

- (a) for a chief executive annual report—see section 10; or
- (b) for a public authority annual report—see section 11; or
- (c) for a public administration annual report—means the Chief Minister.

Speaker—see section 13 (6) (Responsible Minister to present annual report).

Territory instrumentality—

- (a) see the Legislation Act, dictionary, part 1; and
- (b) includes a Territory owned corporation.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 11 December 2003.

2 Notification

Notified under the Legislation Act on 19 March 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Annual Reports (Government Agencies) Bill 2004 which originated in the Assembly as the Annual Reports (Government Agencies) Bill 2003 and was passed by the Legislative Assembly on 9 March 2004.

Clerk of the Legislative Assembly

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