

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Shane Rattenbury)

Officers of the Assembly Legislation Amendment Bill 2013

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2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr Shane Rattenbury)

Officers of the Assembly Legislation Amendment Bill 2013

A Bill for

An Act to amend the *Auditor-General Act 1996*, the *Electoral Act 1992* and the *Ombudsman Act 1989*, and for other purposes

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Officers of the Assembly Legislation Amendment*
4 *Act 2013*.

5 **2 Commencement**

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

8 *Note* The naming and commencement provisions automatically commence on
9 the notification day (see [Legislation Act](#), s 75 (1)).

10 **3 Legislation amended**

11 This Act amends the *Auditor-General Act 1996*, the *Electoral*
12 *Act 1992* and the *Ombudsman Act 1989*.

13 *Note* This Act also amends other legislation (see sch 1).
14

Part 2 Auditor-General Act 1996

4 New section 6A

insert

6A Officer of the Legislative Assembly

- (1) The auditor-general is an independent officer of the Legislative Assembly.
- (2) The functions, powers, rights, immunities and obligations of the auditor-general are as stated in this Act and other territory laws.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the auditor-general being an independent officer of the Legislative Assembly.
- (4) The powers of the Legislative Assembly to act in relation to the auditor-general are as stated in this Act and other territory laws.
- (5) In subsection (4):
Legislative Assembly includes—
 - (a) the members of the Legislative Assembly; and
 - (b) the committees of the Legislative Assembly.
- (6) There are no implied powers of the Legislative Assembly arising from the auditor-general being an independent officer of the Legislative Assembly.

5 Sections 7B and 8

substitute

8 Appointment

- (1) The Speaker must, on behalf of the Territory, appoint a person as auditor-general.

- 1 (2) The appointment must be made—
- 2 (a) on the advice of the public accounts committee; and
- 3 (b) in consultation with the Chief Minister; and
- 4 (c) in consultation with the Leader of the Opposition; and
- 5 (d) in consultation with the leader (however described) of a
- 6 registered party (other than the party to which the
- 7 Chief Minister or Leader of the Opposition belongs) if at least
- 8 2 members of the Legislative Assembly are members of the
- 9 party; and
- 10 (e) in accordance with the merit principles set out in the *Public*
- 11 *Sector Management Act 1994*, section 65 (Application of merit
- 12 principle).
- 13 (3) The Speaker must not appoint a person as auditor-general unless
- 14 satisfied that the person has extensive knowledge of, and experience
- 15 in—
- 16 (a) governance and risk management; or
- 17 (b) public administration.
- 18 (4) The Speaker must not appoint a person as auditor-general if the
- 19 person has been a public servant at any time during the preceding
- 20 2 years.
- 21 (5) However, subsection (4) does not apply to a person who has, during
- 22 the preceding 2 years, been employed as a member of the staff of an
- 23 officer of the Assembly.
- 24 (6) The auditor-general is appointed on the terms (if any) in relation to
- 25 matters not provided for by this part or a determination under the
- 26 *Remuneration Tribunal Act 1995* that are prescribed by the
- 27 management standards under the *Public Sector Management*
- 28 *Act 1994*.

1 (7) The appointment is a disallowable instrument.

2 *Note* A disallowable instrument must be notified, and presented to the
3 Legislative Assembly, under the [Legislation Act](#).

4 (8) In this section:

5 *registered party*—see the [Electoral Act 1992](#), dictionary.

6 **6 Acting auditor-general**
7 **Section 8A**

8 *substitute*

9 **8A Acting auditor-general**

10 (1) Before the Speaker appoints a person to act as auditor-general, the
11 Speaker must consult with the presiding member of the public
12 accounts committee about the proposed appointment.

13 (2) However, for a period of leave of absence approved by the Speaker
14 under section 9BD, the auditor-general may appoint a person to act
15 as auditor-general after consulting with the Speaker.

16 **7 Application of Legislation Act, div 19.3.3**
17 **Section 8B**

18 *omit*

19 **8 New sections 8B, 8C and 8D**

20 *in division 2.3, insert*

21 **8B Oath or affirmation of office**

22 Before a person is appointed as auditor-general, the person must
23 take an oath of office, or make an affirmation of office, before the
24 Speaker.

25 *Note* For the form of the oath and affirmation of office, see the [Oaths and](#)
26 [Affirmations Act 1984](#), s 6 and sch 1.

1 **8C Disclosure of interests**

2 The auditor-general must give a written statement of the
3 auditor-general's personal and financial interests to the Speaker
4 within 7 days after—

- 5 (a) the day the auditor-general is appointed; and
6 (b) the first day of each financial year; and
7 (c) the day there is a change in the interest.

8 *Note* The Speaker may only disclose the information in the statement in
9 certain circumstances (see s 36).

10 **8D Auditor-general must not do other work etc**

11 The auditor-general must not—

- 12 (a) have paid employment other than exercising the
13 auditor-general's functions; or
14 (b) engage in any unpaid activity that is inconsistent with the
15 auditor-general's functions.

16 **9 Resignation**
17 **Section 9**

18 *omit*

19 Chief Minister

20 *substitute*

21 Speaker

10 Sections 9A and 9B

substitute

9A Retirement

- (1) The Speaker may retire the auditor-general on the ground of physical or mental incapacity if—
- (a) the incapacity substantially affects the exercise of the auditor-general's functions; and
 - (b) the auditor-general consents to the retirement.
- (2) However, the auditor-general must not be retired on the ground of invalidity unless—
- (a) if the auditor-general is an eligible employee for the *Superannuation Act 1976* (Cwlth)—
 - (i) the auditor-general is under the auditor-general's maximum retiring age within the meaning of that *Act*; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 2 under that *Act*, section 54C for the auditor-general; or
 - (b) if the auditor-general is a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—
 - (i) the auditor-general is under 60 years old; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that *Act*, section 13 for the auditor-general; or
 - (c) if the auditor-general is an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—

- 1 (i) the auditor-general is under 60 years old; and
2 (ii) a certificate has been given by the Commonwealth
3 Superannuation Board of Trustees No 1 under that [Act](#),
4 section 43 for the auditor-general.

5 (3) In this section:

6 *invalidity* means—

- 7 (a) for an eligible employee for the [Superannuation Act 1976](#)
8 (Cwlth)—invalidity under that Act; or
9 (b) for a member of the superannuation scheme established under
10 the [Superannuation Act 1990](#) (Cwlth)—invalidity under that
11 Act; or
12 (c) for an ordinary employer-sponsored member of PSSAP within
13 the meaning of the [Superannuation Act 2005](#) (Cwlth)—
14 invalidity under that Act.

15 *physical or mental incapacity* includes invalidity.

16 **9B Suspension—generally**

- 17 (1) The Speaker may suspend the auditor-general on the ground of—
18 (a) misbehaviour; or
19 (b) physical or mental incapacity, if the incapacity substantially
20 affects the exercise of the auditor-general’s functions.

21 *Note* Power given by a law to make a decision includes power to reverse or
22 change the decision. The power to reverse or change the decision is
23 exercisable in the same way, and subject to the same conditions, as the
24 power to make the decision (see [Legislation Act](#), s 180).

25 (2) If the Speaker is considering suspending the auditor-general, the
26 Speaker may ask 1 or more of the following for advice about the
27 proposed suspension:

- 28 (a) the commissioner for public administration;

- 1 (b) anyone else the Speaker considers appropriate.
- 2 (3) If the Speaker suspends the auditor-general, the Speaker must give
3 the auditor-general written notice of the suspension and a copy of a
4 statement of the reasons for the suspension.
- 5 *Note* The [Legislation Act](#), s 179 deals with the information that must be
6 included in a statement of reasons.
- 7 (4) The suspension takes effect when the notice and statement are given
8 to the auditor-general under subsection (3).
- 9 (5) The auditor-general may be suspended only under this section.
- 10 (6) The auditor-general is entitled to be paid salary and allowances
11 while suspended.

12 **9BA Suspension—public accounts committee notice and**
13 **meetings**

- 14 (1) If the Speaker suspends the auditor-general, the Speaker must give
15 written notice of the suspension and a copy of the statement of the
16 reasons for the suspension to each member of the public accounts
17 committee not later than the next business day, or if the committee
18 has not been established, the next business day after the day the
19 committee is established.
- 20 (2) The public accounts committee must meet in relation to the
21 auditor-general's suspension—
- 22 (a) not later than 3 business days after the day the committee is
23 given written notice of the suspension (the *notice day*); and
- 24 (b) at subsequent intervals of not longer than 30 days while the
25 auditor-general is suspended (a *regular meeting*).
- 26 (3) The public accounts committee must give the auditor-general
27 written notice that a regular meeting will be held at least 3 business
28 days before the day the meeting is to be held.

- 1 (4) The auditor-general may make an oral or written submission (or
2 both) to the committee about the auditor-general's suspension.
- 3 (5) At each regular meeting, the public accounts committee must review
4 the auditor-general's suspension and may at any time pass a
5 resolution about the suspension, including a resolution—
- 6 (a) recommending to the Speaker that the Speaker end the
7 suspension; or
- 8 (b) to make a statement to the Legislative Assembly
9 recommending that the Speaker end the auditor-general's
10 appointment.

11 **9BB Suspension—ending suspension**

- 12 (1) If the Speaker does not comply with section 9BA (1), the suspension
13 ends at the end of the notice day.
- 14 (2) If the public accounts committee fails to hold a meeting as required
15 under section 9BA (2), the suspension ends on the day after the last
16 day when the meeting could have been held.
- 17 (3) If the public accounts committee makes a recommendation
18 mentioned in section 9BA (5) (a) and the Speaker does not end the
19 suspension within 1 business day after the day the recommendation
20 is made—
- 21 (a) the committee may at any time resolve to make a statement to
22 the Legislative Assembly recommending that the suspension
23 be ended; and
- 24 (b) if the committee makes a statement mentioned in paragraph (a)
25 and—
- 26 (i) the Legislative Assembly resolves to end the
27 suspension—the suspension ends on the passing of the
28 resolution; or

- 1 (ii) the Legislative Assembly does not deal with the
2 statement within 3 sitting days—the suspension ends at
3 the end of the 3rd sitting day.
- 4 (4) If the public accounts committee makes a statement mentioned in
5 section 9BA (5) (b)—
- 6 (a) the Legislative Assembly may resolve to require the Speaker to
7 end the auditor-general’s appointment; but
- 8 (b) if the Legislative Assembly does not, within 3 sitting days,
9 pass a resolution mentioned in paragraph (a)—the suspension
10 ends at the end of the 3rd sitting day.
- 11 (5) If the Speaker ends the auditor-general’s suspension, the Speaker
12 must give written notice of the ending of the suspension and a copy
13 of a statement of the reasons for ending the suspension to the
14 auditor-general and the public accounts committee.
- 15 *Note* The [Legislation Act](#), s 179 deals with the information that must be
16 included in a statement of reasons.
- 17 (6) In this section:
- 18 *notice day*—see section 9BA (2) (a).
- 19 **9BC Ending of appointment**
- 20 (1) The Speaker must end the auditor-general’s appointment if—
- 21 (a) the Legislative Assembly—
- 22 (i) passes a resolution under section 9BB (4) (a); or
- 23 (ii) otherwise resolves to require the Speaker to end the
24 auditor-general’s appointment—
- 25 (A) for misbehaviour; or
- 26 (B) for physical or mental incapacity, if the incapacity
27 substantially affects the exercise of the
28 auditor-general’s functions; or

- 1 (b) the auditor-general becomes bankrupt or personally insolvent.
- 2 (2) For a resolution mentioned in subsection (1) (a) (ii)—
- 3 (a) at least 7 days before the day the motion to which the
- 4 resolution relates is first debated in the Legislative Assembly—
- 5 (i) the Assembly must be given the notice of the motion and
- 6 a statement of reasons for the motion; and
- 7 (ii) the Speaker must—
- 8 (A) give the auditor-general a copy of the notice and the
- 9 statement of reasons; and
- 10 (B) tell the auditor-general that a written submission
- 11 about the motion may be made to the Speaker not
- 12 later than 3 days after the day the auditor-general is
- 13 given the notice; and
- 14 (b) the Speaker must give any written submission to the
- 15 Legislative Assembly before the day the motion is first debated
- 16 in the Legislative Assembly.
- 17 (3) The Speaker may end the auditor-general's appointment if the
- 18 auditor-general is absent from duty, except on leave granted by the
- 19 Speaker, for 14 consecutive days or for 28 days in any 12 months.
- 20 (4) The auditor-general's appointment may be ended by the Speaker
- 21 only under this section or section 9A (Retirement).

22 **9BD Leave of absence**

23 The Speaker may approve leave of absence for the auditor-general

24 on the terms the Speaker decides.

1 **11 Staff**
2 **Section 9C (3)**

3 *omit*

4 **12 New section 9DA**

5 *insert*

6 **9DA Staff not subject to direction from others**

7 (1) The auditor-general's staff are not subject to direction from anyone
8 other than the following people in relation to the exercise of the
9 auditor-general's functions:

10 (a) the auditor-general;

11 (b) another member of the auditor-general's staff authorised by the
12 auditor-general to give directions.

13 (2) In this section:

14 *staff* means—

15 (a) staff mentioned in section 9C; and

16 (b) a contractor mentioned in section 9D.

17 **13 Reports for Legislative Assembly**
18 **New section 17 (5A)**

19 *insert*

20 (5A) The Minister must present a written response to the report to the
21 Legislative Assembly within 3 months after the day the report was
22 presented to the Legislative Assembly.

1 **14 Regulation-making power**
2 **New section 38 (2) and (3)**

3 *insert*

- 4 (2) The Executive must consult with the auditor-general and the public
5 accounts committee before making a regulation under this Act.
- 6 (3) Subject to any disallowance or amendment under the [Legislation](#)
7 [Act](#), chapter 7, a regulation under this Act commences—
- 8 (a) if there is a motion to disallow the regulation and the motion is
9 negated by the Legislative Assembly—on the day after the
10 day the motion is negated; or
- 11 (b) on the day after the 6th sitting day after the day it is presented
12 to the Legislative Assembly under that chapter; or
- 13 (c) if the regulation provides for a later date or time of
14 commencement—on that date or at that time.

15 **15 New part 10**

16 *insert*

17 **Part 10 Transitional—Officers of the**
18 **Assembly Legislation**
19 **Amendment Act 2013**

20 **50 Existing appointment of auditor-general**

- 21 (1) This section applies to a person who, immediately before the
22 commencement day, is the auditor-general appointed under the
23 pre-amendment Act.
- 24 (2) The person is taken to be appointed as the auditor-general under the
25 post-amendment Act, section 8.

1 (3) The auditor-general must, within 1 month after the commencement
2 day—

3 (a) take an oath of office, or make an affirmation of office, before
4 the Speaker; and

5 *Note* For the form of the oath and affirmation of office, see the *Oaths*
6 *and Affirmations Act 1984*, s 6 and sch 1.

7 (b) give a written statement of the auditor-general's personal and
8 financial interests to the Speaker.

9 (4) In this section:

10 *commencement day* means the day the *Officers of the Assembly*
11 *Legislation Amendment Act 2013*, section 3 commences.

12 *post-amendment Act* means the Act as in force on the
13 commencement day.

14 *pre-amendment Act* means the Act as in force immediately before
15 the commencement day.

16 51 Expiry—pt 10

17 This part expires 1 year after the day it commences.

18 *Note* Transitional provisions are kept in the Act for a limited time.
19 A transitional provision is repealed on its expiry but continues to have
20 effect after its repeal (see *Legislation Act*, s 88).

21 16 Dictionary, note 2

22 *insert*

- 23 • officer of the Assembly
24 • territory law

25

1 **Part 3 Electoral Act 1992**

2 **17 Division 2.1 heading**

3 *substitute*

4 **Division 2.1 Establishment and independence of**
5 **electoral commission**

6 **18 New sections 6A and 6B**

7 *insert*

8 **6A Officer of the Legislative Assembly**

- 9 (1) A member of the electoral commission is an independent officer of
10 the Legislative Assembly.
- 11 (2) The functions, powers, rights, immunities and obligations of the
12 member of the electoral commission are as stated in this Act and
13 other territory laws.
- 14 (3) There are no implied functions, powers, rights, immunities or
15 obligations arising from the member of the electoral commission
16 being an independent officer of the Legislative Assembly.
- 17 (4) The powers of the Legislative Assembly to act in relation to the
18 member of the electoral commission are as stated in this Act and
19 other territory laws.
- 20 (5) In subsection (4):
- 21 ***Legislative Assembly*** includes—
- 22 (a) the members of the Legislative Assembly; and
- 23 (b) the committees of the Legislative Assembly.

- 1 (6) There are no implied powers of the Legislative Assembly arising
2 from the member of the electoral commission being an independent
3 officer of the Legislative Assembly.

4 **6B Independence of member of the electoral commission**

5 Subject to this Act and to other territory laws, a member of the
6 electoral commission has complete discretion in the exercise of the
7 member's functions.

8 **Division 2.2 Functions of electoral commission**

9 **19 Functions of electoral commission**
10 **Section 7 (1) (a) and (b)**

11 *omit*

12 Minister

13 *substitute*

14 Assembly

15 **20 Determination of fees**
16 **Section 8**

17 *relocate as section 340B*

18 **21 Special reports by electoral commission**
19 **Section 10A**

20 *omit*

21 Minister

22 *substitute*

23 Speaker

1 **22 Section 10A (2)**

2 *omit*

3 within 6 sitting days

4 *substitute*

5 on the next sitting day

6 **23 New section 10A (3)**

7 *insert*

8 (3) The Minister must present a written response to the report to the
9 Legislative Assembly within 3 months after the day the report was
10 presented to the Legislative Assembly.

11 **24 Division 2.2 heading and sections 11 and 12**

12 *substitute*

13 **Division 2.3 Functions of electoral commissioner**

14 **Division 2.4 Appointment of members of electoral**
15 **commission**

16 **12 Appointment**

17 (1) The Speaker must, on behalf of the Territory, appoint the members
18 of the electoral commission.

19 (2) The appointment must be made—

20 (a) on the advice of the relevant Assembly committee; and

21 (b) in consultation with the Chief Minister; and

22 (c) in consultation with the Leader of the Opposition; and

- 1 (d) in consultation with the leader (however described) of a
2 registered party (other than the party to which the
3 Chief Minister or Leader of the Opposition belongs) if at least
4 2 members of the Legislative Assembly are members of the
5 party; and
- 6 (e) in accordance with the merit principles set out in the *Public*
7 *Sector Management Act 1994*, section 65 (Application of merit
8 principle).
- 9 (3) The Speaker must not appoint a person as a member of the electoral
10 commission unless satisfied that the person has extensive
11 knowledge of, and experience in—
- 12 (a) for the commissioner—
- 13 (i) electoral systems or management; or
14 (ii) public administration; or
- 15 (b) for a member of the electoral commission other than the
16 commissioner—
- 17 (i) an area mentioned in paragraph (a); or
18 (ii) another area that is relevant to and consistent with the
19 functions of a member of the electoral commission.
- 20 (4) A member of the electoral commission is appointed on the terms (if
21 any) in relation to matters not provided for by this part or a
22 determination under the *Remuneration Tribunal Act 1995* that are
23 prescribed by the management standards under the *Public Sector*
24 *Management Act 1994*.
- 25 (5) The appointment is a disallowable instrument.
- 26 *Note* A disallowable instrument must be notified, and presented to the
27 Legislative Assembly, under the *Legislation Act*.

1 **12AA Acting appointment—commissioner**

2 (1) Before the Speaker appoints a person to act as the commissioner, the
3 Speaker must consult with the chair of the relevant Assembly
4 committee about the proposed appointment.

5 (2) However, for a period of leave of absence approved by the Speaker
6 under section 18E, the commissioner may appoint a person to act as
7 commissioner after consulting with the Speaker.

8 **25 Section 12A**

9 *omit everything before paragraph (a), substitute*

10 **12A Eligibility for appointment as electoral commission**
11 **member**

12 The Speaker must not appoint a person as a member of the electoral
13 commission if the person—

14 **26 Eligibility for appointment as chairperson**
15 **Section 12B**

16 *omit*

17 Executive

18 *substitute*

19 Speaker

20 **27 Sections 12AA, 12A and 12B (as amended)**

21 *renumber as sections 12A, 12B and 12C*

28 Sections 13 to 17 and division 2.3 heading

substitute

13 Term of appointment

A member of the electoral commission must be appointed for not longer than 5 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see [Legislation Act](#), s 208 and dict, pt 1, def *appoint*).

Division 2.5 Other provisions applying to electoral commission members**14 Oath or affirmation of office**

Before a person is appointed as a member of the electoral commission, the person must take an oath of office, or make an affirmation of office, before the Speaker.

Note For the form of the oath and affirmation of office, see the [Oaths and Affirmations Act 1984](#), s 6 and sch 1.

15 Disclosure of interests—generally

A member of the electoral commission must give a written statement of the member's personal and financial interests to the Speaker within 7 days after—

- (a) the day the member is appointed; and
- (b) the first day of each financial year; and
- (c) the day there is a change in the interest.

- 1 **16 Electoral commission member must not do inconsistent**
2 **work etc**
- 3 A member of the electoral commission must not—
- 4 (a) have paid employment that is inconsistent with the member’s
5 functions; or
- 6 (b) engage in any unpaid activity that is inconsistent with the
7 member’s functions.
- 8 **17 Resignation**
- 9 A member of the electoral commission may resign by giving a
10 signed notice of resignation to the Speaker.
- 11 **18 Retirement**
- 12 (1) The Speaker may retire a member of the electoral commission on
13 the ground of physical or mental incapacity if—
- 14 (a) the incapacity substantially affects the exercise of the
15 member’s functions; and
- 16 (b) the member consents to the retirement.
- 17 (2) However, a member of the electoral commission must not be retired
18 on the ground of invalidity unless—
- 19 (a) if the member of the electoral commission is an eligible
20 employee for the *Superannuation Act 1976* (Cwlth)—
- 21 (i) the member is under the member’s maximum retiring age
22 within the meaning of that *Act*; and
- 23 (ii) a certificate has been given by the Commonwealth
24 Superannuation Board of Trustees No 2 under that *Act*,
25 section 54C for the member; or

- 1 (b) if the member of the electoral commission is a member of the
2 superannuation scheme established under the *Superannuation*
3 *Act 1990* (Cwlth)—
- 4 (i) the member is under 60 years old; and
- 5 (ii) a certificate has been given by the Commonwealth
6 Superannuation Board of Trustees No 1 under that *Act*,
7 section 13 for the member; or
- 8 (c) if the member of the electoral commission is an ordinary
9 employer-sponsored member of PSSAP within the meaning of
10 the *Superannuation Act 2005* (Cwlth)—
- 11 (i) the member is under 60 years old; and
- 12 (ii) a certificate has been given by the Commonwealth
13 Superannuation Board of Trustees No 1 under that *Act*,
14 section 43 for the member.
- 15 (3) In this section:
- 16 *invalidity* means—
- 17 (a) for an eligible employee for the *Superannuation Act 1976*
18 (Cwlth)—invalidity under that Act; or
- 19 (b) for a member of the superannuation scheme established under
20 the *Superannuation Act 1990* (Cwlth)—invalidity under that
21 Act; or
- 22 (c) for an ordinary employer-sponsored member of PSSAP within
23 the meaning of the *Superannuation Act 2005* (Cwlth)—
24 invalidity under that Act.
- 25 *physical or mental incapacity* includes invalidity.

1 **18A Suspension—generally**

2 (1) The Speaker may suspend a member of the electoral commission on
3 the ground of—

4 (a) misbehaviour; or

5 (b) physical or mental incapacity, if the incapacity substantially
6 affects the exercise of the member's functions.

7 *Note* Power given by a law to make a decision includes power to reverse or
8 change the decision. The power to reverse or change the decision is
9 exercisable in the same way, and subject to the same conditions, as the
10 power to make the decision (see [Legislation Act](#), s 180).

11 (2) If the Speaker is considering suspending the member, the Speaker
12 may ask 1 or more of the following for advice about the proposed
13 suspension:

14 (a) the commissioner for public administration;

15 (b) anyone else the Speaker considers appropriate.

16 (3) If the Speaker suspends the member, the Speaker must give the
17 member written notice of the suspension and a copy of a statement
18 of the reasons for the suspension.

19 *Note* The [Legislation Act](#), s 179 deals with the information that must be
20 included in a statement of reasons.

21 (4) The suspension takes effect when the notice and statement are given
22 to the member under subsection (3).

23 (5) The member may be suspended only under this section.

24 (6) The member is entitled to be paid salary and allowances while
25 suspended.

- 1 **18B** **Suspension—relevant Assembly committee notice and**
2 **meetings**
- 3 (1) If the Speaker suspends a member of the electoral commission, the
4 Speaker must give written notice of the suspension and a copy of the
5 statement of the reasons for the suspension to each member of the
6 relevant Assembly committee not later than the next business day,
7 or if the committee has not been established, the next business day
8 after the day the committee is established.
- 9 (2) The relevant Assembly committee must meet in relation to the
10 member’s suspension—
- 11 (a) not later than 3 business days after the day the committee is
12 given written notice of the suspension (the *notice day*); and
- 13 (b) at subsequent intervals of not longer than 30 days while the
14 member is suspended (a *regular meeting*).
- 15 (3) The relevant Assembly committee must give the member of the
16 electoral commission written notice that a regular meeting will be
17 held at least 3 business days before the day the meeting is to be held.
- 18 (4) The member of the electoral commission may make an oral or
19 written submission (or both) to the committee about the member’s
20 suspension.
- 21 (5) At each regular meeting, the relevant Assembly committee must
22 review the member’s suspension and may at any time pass a
23 resolution about the suspension, including a resolution—
- 24 (a) recommending to the Speaker that the Speaker end the
25 suspension; or
- 26 (b) to make a statement to the Legislative Assembly
27 recommending that the Speaker end the member’s
28 appointment.

- 1 **18C Suspension—ending suspension**
- 2 (1) If the Speaker does not comply with section 18B (1), the suspension
- 3 ends at the end of the notice day.
- 4 (2) If the relevant Assembly committee fails to hold a meeting as
- 5 required under section 18B (2), the suspension ends on the day after
- 6 the last day when the meeting could have been held.
- 7 (3) If the relevant Assembly committee makes a recommendation
- 8 mentioned in section 18B (5) (a) and the Speaker does not end the
- 9 suspension within 1 business day after the day the recommendation
- 10 is made—
- 11 (a) the committee may at any time resolve to make a statement to
- 12 the Legislative Assembly recommending that the suspension
- 13 be ended; and
- 14 (b) if the committee makes a statement mentioned in paragraph (a)
- 15 and—
- 16 (i) the Legislative Assembly resolves to end the
- 17 suspension—the suspension ends on the passing of the
- 18 resolution; or
- 19 (ii) the Legislative Assembly does not deal with the
- 20 statement within 3 sitting days—the suspension ends at
- 21 the end of the 3rd sitting day.
- 22 (4) If the relevant Assembly committee makes a statement mentioned in
- 23 section 18B (5) (b)—
- 24 (a) the Legislative Assembly may resolve to require the Speaker to
- 25 end the member's appointment; but
- 26 (b) if the Legislative Assembly does not, within 3 sitting days,
- 27 pass a resolution mentioned in paragraph (a)—the suspension
- 28 ends at the end of the 3rd sitting day.

- 1 (5) If the Speaker ends the member's suspension, the Speaker must give
2 written notice of the ending of the suspension and a copy of a
3 statement of the reasons for ending the suspension to the member
4 and the relevant Assembly committee.

5 *Note* The [Legislation Act](#), s 179 deals with the information that must be
6 included in a statement of reasons.

- 7 (6) In this section:
8 *notice day*—see section 18B (2) (a).

9 **18D Ending of appointment**

- 10 (1) The Speaker must end the appointment of a member of the electoral
11 commission if—

12 (a) the Legislative Assembly—

13 (i) passes a resolution under section 18C (4) (a); or

14 (ii) otherwise resolves to require the Speaker to end the
15 member's appointment—

16 (A) for misbehaviour; or

17 (B) for physical or mental incapacity, if the incapacity
18 substantially affects the exercise of the member's
19 functions; or

20 (b) the member becomes bankrupt or personally insolvent.

- 21 (2) For a resolution mentioned in subsection (1) (a) (ii)—

22 (a) at least 7 days before the day the motion to which the
23 resolution relates is first debated in the Legislative Assembly—

24 (i) the Assembly must be given the notice of the motion and
25 a statement of reasons for the motion; and

- 1 (ii) the Speaker must—
- 2 (A) give the member a copy of the notice and the
- 3 statement of reasons; and
- 4 (B) tell the member that a written submission about the
- 5 motion may be made to the Speaker not later than 3
- 6 days after the day the member is given the notice;
- 7 and
- 8 (b) the Speaker must give any written submission to the
- 9 Legislative Assembly before the day the motion is first debated
- 10 in the Legislative Assembly.
- 11 (3) The Speaker may end a member's appointment if—
- 12 (a) the member contravenes section 21 (Disclosure of interests—
- 13 meetings) without reasonable excuse; or
- 14 (b) for the commissioner—the commissioner is absent from duty,
- 15 except on leave granted by the Speaker, for 14 consecutive
- 16 days or for 28 days in any 12 months; or
- 17 (c) for a member other than the commissioner—the member is
- 18 absent, except on leave granted by the Speaker, from 3
- 19 consecutive meetings of the electoral commission.
- 20 (4) The member's appointment may be ended by the Speaker only
- 21 under this section or section 18 (Retirement).

1 **18E Leave of absence**

2 The Speaker may approve leave of absence for a member of the
3 electoral commission on the terms the Speaker decides.

4 **Division 2.6 Electoral commission meetings**

5 **29 Delegation by electoral commission**
6 **Section 20**

7 *relocate to division 2.7 as section 33B*

8 **30 Section 21 heading**

9 *substitute*

10 **21 Disclosure of interests—meetings**

11 **31 Part 3 heading, division 3.1 heading and section 22**

12 *omit*

13 **32 Functions of commissioner etc**
14 **Section 23**

15 *relocate to division 2.3 as section 11*

16 **33 Delegation by commissioner**
17 **Section 24**

18 *relocate to division 2.7 as section 33C*

19 **34 Sections 25 to 29**

20 *omit*

1 **35 Division 3.2 heading and section 31**

2 *substitute*

3 **Division 2.7 Staff of electoral commissioner etc**

4 **31 Staff**

5 (1) The commissioner's staff (other than staff mentioned in
6 section 32 (1) (a)) must be employed under the *Public Sector*
7 *Management Act 1994*.

8 (2) The commissioner has the powers mentioned in the *Public Sector*
9 *Management Act 1994*, section 25 (3) (Powers of certain statutory
10 office-holders) in relation to the commissioner's staff.

11 **36 Temporary staff and consultants**
12 **Section 32 (2)**

13 *omit*

14 after consultation with the Executive

15 **37 New section 33A**

16 *insert*

17 **33A Staff not subject to direction from others**

18 (1) The commissioner's staff are not subject to direction from anyone
19 other than the following people in relation to the exercise of the
20 commissioner's functions:

21 (a) the commissioner;

22 (b) another member of the commissioner's staff authorised by the
23 commissioner to give directions.

- 1 (2) In this section:
2 *staff* means—
3 (a) staff mentioned in section 31 (1) and section 32 (1) (a); and
4 (b) a consultant mentioned in section 32 (1) (b); and
5 (c) an officer mentioned in section 33.

6 **38 Redistribution committees**
7 **Section 39 (4)**

- 8 *omit*
9 in consultation with the Minister

10 **39 Sections 53 (1) (a) and 54**

- 11 *omit*
12 Minister
13 *substitute*
14 Speaker

15 **40 Regulation-making power**
16 **New section 341 (3) and (4)**

- 17 *insert*
18 (3) The Executive must consult with the electoral commission and the
19 relevant Assembly committee before making a regulation under this
20 Act.
21 (4) Subject to any disallowance or amendment under the [Legislation](#)
22 [Act](#), chapter 7, a regulation under this Act commences—
23 (a) if there is a motion to disallow the regulation and the motion is
24 negated by the Legislative Assembly—on the day after the
25 day the motion is negated; or

- 1 (b) on the day after the 6th sitting day after the day it is presented
2 to the Legislative Assembly under that chapter; or
- 3 (c) if the regulation provides for a later date or time of
4 commencement—on that date or at that time.

5 **41 New part 32**

6 *insert*

7 **Part 32 Transitional—Officers of the**
8 **Assembly Legislation**
9 **Amendment Act 2013**

10 **515 Existing appointment of electoral commission members**

- 11 (1) This section applies to a person who, immediately before the
12 commencement day, is a member of the electoral commission
13 appointed under the pre-amendment Act.
- 14 (2) The person is taken to be appointed as a member of the electoral
15 commission under the post-amendment Act, section 12.
- 16 (3) The member must, within 1 month after the commencement day—
- 17 (a) take an oath of office, or make an affirmation of office, before
18 the Speaker; and
- 19 *Note* For the form of the oath and affirmation of office, see the *Oaths*
20 *and Affirmations Act 1984*, s 6 and sch 1.
- 21 (b) give a written statement of the member's personal and
22 financial interests to the Speaker.
- 23 (4) In this section:

24 *commencement day* means the day the *Officers of the Assembly*
25 *Legislation Amendment Act 2013*, section 3 commences.

1 *post-amendment Act* means the Act as in force on the
2 commencement day.

3 *pre-amendment Act* means the Act as in force immediately before
4 the commencement day.

5 **516 Expiry—pt 32**

6 This part expires 1 year after the day it commences.

7 *Note* Transitional provisions are kept in the Act for a limited time.
8 A transitional provision is repealed on its expiry but continues to have
9 effect after its repeal (see [Legislation Act](#), s 88).

10 **42 Dictionary, definition of *commissioner***

11 *omit*

12 section 22

13 *substitute*

14 section 12

15 **43 Dictionary, definition of *member***

16 *omit*

17 **44 Dictionary, new definition of *relevant Assembly*
18 *committee***

19 *insert*

20 *relevant Assembly committee* means the committee of the
21 Legislative Assembly whose functions include the examination of
22 electoral matters.

- 1 **45 Further amendments, mentions of s 8**
- 2 *omit*
- 3 s 8
- 4 *substitute*
- 5 s 340B
- 6 *in*
- 7 • section 61 (2), note
- 8 • section 62 (2), note
- 9 • section 243 (4), note
- 10 • section 333 (2), note

Part 4 Ombudsman Act 1989

46 Functions—generally Section 4A

renumber as section 4C

47 New sections 4A and 4B

insert

4A Officer of the Legislative Assembly

- (1) The ombudsman is an independent officer of the Legislative Assembly.
- (2) The functions, powers, rights, immunities and obligations of the ombudsman are as stated in this Act and other territory laws.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the ombudsman being an independent officer of the Legislative Assembly.
- (4) The powers of the Legislative Assembly to act in relation to the ombudsman are as stated in this Act and other territory laws.
- (5) In subsection (4):
Legislative Assembly includes—
 - (a) the members of the Legislative Assembly; and
 - (b) the committees of the Legislative Assembly.
- (6) There are no implied powers of the Legislative Assembly arising from the ombudsman being an independent officer of the Legislative Assembly.

1 **4B Independence of ombudsman**

2 Subject to this Act and to other territory laws, the ombudsman has
3 complete discretion in the exercise of the ombudsman’s functions.

4 **48 Power to obtain information and documents**
5 **Section 11 (5) and (6)**

6 *omit*

7 **49 Power to enter premises**
8 **Section 17 (2)**

9 *omit*

10 , other than documents to which a certificate under section 11 (5) or
11 (6) applies,

12 **50 Sections 19 and 20**

13 *substitute*

14 **19 Reports to Speaker**

15 (1) This section applies if the ombudsman—

16 (a) gives an agency a report under section 18; and

17 (b) considers that action that is adequate and appropriate in the
18 circumstances is not taken within a reasonable time in relation
19 to a matter or recommendation stated in the report.

20 (2) After having regard to any comments given to the ombudsman by
21 the agency in relation to the report, the ombudsman may give the
22 report and any comments from the agency about the report (the *final*
23 *report*)—

24 (a) to the Chief Minister for a written response; or

- 1 (b) if the ombudsman considers that in the circumstances it is
2 appropriate for the final report to be given directly to the
3 Speaker—to the Speaker.
- 4 (3) If the ombudsman gives the Chief Minister the final report under
5 subsection (2) (a), the ombudsman may give the Speaker the final
6 report if—
- 7 (a) the ombudsman considers that the Chief Minister’s written
8 response is not adequate or appropriate; or
- 9 (b) the Chief Minister has not given the ombudsman a written
10 response within a reasonable time.
- 11 (4) The Speaker must present the final report to the Legislative
12 Assembly on the first sitting day after receiving the report.
- 13 (5) The Minister must present a written response to the final report to
14 the Legislative Assembly within 3 months after the day the report
15 was presented to the Legislative Assembly.

16 **51 Reports to the Legislative Assembly**
17 **Section 21**

- 18 *omit*
- 19 Minister
- 20 *substitute*
- 21 Speaker

22 **52 Section 21**

- 23 *omit*
- 24 18, 19 and 20
- 25 *substitute*
- 26 18 and 19

1 **53 Section 21 (2)**

2 *omit*
3 within 15 sitting days
4 *substitute*
5 on the next sitting day

6 **54 New section 21 (3)**

7 *insert*
8 (3) The Minister must present a written response to the report to the
9 Legislative Assembly within 3 months after the day the report was
10 presented to the Legislative Assembly.

11 **55 Section 22**

12 *substitute*

13 **22 Appointment**

14 (1) The Speaker may, on behalf of the Territory, appoint a person who
15 is not the Commonwealth ombudsman as the ombudsman.

16 *Note* The person holding office as the Commonwealth ombudsman is taken
17 to be the ACT ombudsman until an appointment is made under this Act
18 (see *A.C.T. Self-Government (Consequential Provisions) Act 1988*
19 (Cwlth), s 28).

20 (2) The appointment must be made—
21 (a) on the advice of the relevant Assembly committee; and
22 (b) in consultation with the Chief Minister; and
23 (c) in consultation with the Leader of the Opposition; and

- 1 (d) in consultation with the leader (however described) of a
2 registered party (other than the party to which the
3 Chief Minister or Leader of the Opposition belongs) if at least
4 2 members of the Legislative Assembly are members of the
5 party; and
- 6 (e) in accordance with the merit principles set out in the *Public*
7 *Sector Management Act 1994*, section 65 (Application of merit
8 principle).
- 9 (3) The Speaker must not appoint a person as the ombudsman unless
10 satisfied that the person has extensive knowledge of, and experience
11 in—
- 12 (a) public administration; or
13 (b) dispute resolution; or
14 (c) complaint handling.
- 15 (4) The Speaker must not appoint a person as the ombudsman if the
16 person has been a public servant at any time during the preceding
17 2 years.
- 18 (5) However, subsection (4) does not apply to a person who has, during
19 the preceding 2 years, been employed as a member of the staff of an
20 officer of the Assembly.
- 21 (6) The appointment is a disallowable instrument.
- 22 *Note* A disallowable instrument must be notified, and presented to the
23 Legislative Assembly, under the [Legislation Act](#).

1 **56 Section 24 (1) and heading**

2 *substitute*

3 **24 Terms of appointment**

4 (1) The ombudsman is appointed on the terms (if any) in relation to
5 matters not provided for by this part or a determination under the
6 *Remuneration Tribunal Act 1995* that are prescribed by the
7 management standards under the *Public Sector Management*
8 *Act 1994*.

9 **57 New sections 24A to 24C**

10 *insert*

11 **24A Oath or affirmation of office**

12 Before a person is appointed as ombudsman, the person must take
13 an oath of office, or make an affirmation of office, before the
14 Speaker.

15 *Note* For the form of the oath and affirmation of office, see the *Oaths and*
16 *Affirmations Act 1984*, s 6 and sch 1.

17 **24B Disclosure of interests**

18 The ombudsman must give a written statement of the ombudsman's
19 personal and financial interests to the Speaker within 7 days after—

- 20 (a) the day the ombudsman is appointed; and
21 (b) the first day of each financial year; and
22 (c) the day there is a change in the interest.

23 **24C Ombudsman must not do inconsistent work etc**

24 The ombudsman must not—

- 25 (a) have paid employment that is inconsistent with the
26 ombudsman's functions; or

- 1 (b) engage in any unpaid activity that is inconsistent with the
2 ombudsman's functions.

3 **58 Leave of absence**
4 **Section 25 (1)**

5 *substitute*

- 6 (1) The Speaker may approve leave of absence for the ombudsman on
7 the terms the Speaker decides.

8 **59 Sections 27 and 28**

9 *substitute*

10 **27 Retirement**

- 11 (1) The Speaker may retire the ombudsman on the ground of physical or
12 mental incapacity if—

13 (a) the incapacity substantially affects the exercise of the
14 ombudsman's functions; and

15 (b) the ombudsman consents to the retirement.

- 16 (2) However, the ombudsman must not be retired on the ground of
17 invalidity unless—

18 (a) if the ombudsman is an eligible employee for the
19 *Superannuation Act 1976* (Cwlth)—

20 (i) the ombudsman is under the ombudsman's maximum
21 retiring age within the meaning of that [Act](#); and

22 (ii) a certificate has been given by the Commonwealth
23 Superannuation Board of Trustees No 2 under that [Act](#),
24 section 54C for the ombudsman; or

25 (b) if the ombudsman is a member of the superannuation scheme
26 established under the *Superannuation Act 1990* (Cwlth)—

27 (i) the ombudsman is under 60 years old; and

- 1 (ii) a certificate has been given by the Commonwealth
2 Superannuation Board of Trustees No 1 under that Act,
3 section 13 for the ombudsman; or
- 4 (c) if the ombudsman is an ordinary employer-sponsored member
5 of PSSAP within the meaning of the *Superannuation Act 2005*
6 (Cwlth)—
- 7 (i) the ombudsman is under 60 years old; and
- 8 (ii) a certificate has been given by the Commonwealth
9 Superannuation Board of Trustees No 1 under that Act,
10 section 43 for the ombudsman.
- 11 (3) In this section:

12 *invalidity* means—

- 13 (a) for an eligible employee for the *Superannuation Act 1976*
14 (Cwlth)—invalidity under that Act; or
- 15 (b) for a member of the superannuation scheme established under
16 the *Superannuation Act 1990* (Cwlth)—invalidity under that
17 Act; or
- 18 (c) for an ordinary employer-sponsored member of PSSAP within
19 the meaning of the *Superannuation Act 2005* (Cwlth)—
20 invalidity under that Act.

21 *physical or mental incapacity* includes invalidity.

22 **28 Resignation**

23 The ombudsman may resign by giving a signed notice of resignation
24 to the Speaker.

25 **28A Suspension—generally**

26 (1) The Speaker may suspend the ombudsman on the ground of—

- 27 (a) misbehaviour; or

1 (b) physical or mental incapacity, if the incapacity substantially
2 affects the exercise of the ombudsman's functions.

3 *Note* Power given by a law to make a decision includes power to reverse or
4 change the decision. The power to reverse or change the decision is
5 exercisable in the same way, and subject to the same conditions, as the
6 power to make the decision (see [Legislation Act](#), s 180).

7 (2) If the Speaker is considering suspending the ombudsman, the
8 Speaker may ask 1 or more of the following for advice about the
9 proposed suspension:

10 (a) the commissioner for public administration;

11 (b) anyone else the Speaker considers appropriate.

12 (3) If the Speaker suspends the ombudsman, the Speaker must give the
13 ombudsman written notice of the suspension and a copy of a
14 statement of the reasons for the suspension.

15 *Note* The [Legislation Act](#), s 179 deals with the information that must be
16 included in a statement of reasons.

17 (4) The suspension takes effect when the notice and statement are given
18 to the ombudsman under subsection (3).

19 (5) The ombudsman may be suspended only under this section.

20 (6) The ombudsman is entitled to be paid salary and allowances while
21 suspended.

22 **28B Suspension—relevant Assembly committee notice and**
23 **meetings**

24 (1) If the Speaker suspends the ombudsman, the Speaker must give
25 written notice of the suspension and a copy of the statement of the
26 reasons for the suspension to each member of the relevant Assembly
27 committee not later than the next business day, or if the committee
28 has not been established, the next business day after the day the
29 committee is established.

- 1 (2) The relevant Assembly committee must meet in relation to the
2 ombudsman's suspension—
- 3 (a) not later than 3 business days after the day the committee is
4 given written notice of the suspension (the *notice day*); and
- 5 (b) at subsequent intervals of not longer than 30 days while the
6 ombudsman is suspended (a *regular meeting*).
- 7 (3) The relevant Assembly committee must give the ombudsman
8 written notice that a regular meeting will be held at least 3 business
9 days before the day the meeting is to be held.
- 10 (4) The ombudsman may make an oral or written submission (or both)
11 to the committee about the ombudsman's suspension.
- 12 (5) At each regular meeting, the relevant Assembly committee must
13 review the ombudsman's suspension and may at any time pass a
14 resolution about the suspension, including a resolution—
- 15 (a) recommending to the Speaker that the Speaker end the
16 suspension; or
- 17 (b) to make a statement to the Legislative Assembly
18 recommending that the Speaker end the ombudsman's
19 appointment.

20 **28C Suspension—ending suspension**

- 21 (1) If the Speaker does not comply with section 28B (1), the suspension
22 ends at the end of the notice day.
- 23 (2) If the relevant Assembly committee fails to hold a meeting as
24 required under section 28B (2), the suspension ends on the day after
25 the last day when the meeting could have been held.
- 26 (3) If the relevant Assembly committee makes a recommendation
27 mentioned in section 28B (5) (a) and the Speaker does not end the
28 suspension within 1 business day after the day the recommendation
29 is made—

- 1 (a) the committee may at any time resolve to make a statement to
2 the Legislative Assembly recommending that the suspension
3 be ended; and
- 4 (b) if the committee makes a statement mentioned in paragraph (a)
5 and—
- 6 (i) the Legislative Assembly resolves to end the
7 suspension—the suspension ends on the passing of the
8 resolution; or
- 9 (ii) the Legislative Assembly does not deal with the
10 statement within 3 sitting days—the suspension ends at
11 the end of the 3rd sitting day.
- 12 (4) If the relevant Assembly committee makes a statement mentioned in
13 section 28B (5) (b)—
- 14 (a) the Legislative Assembly may resolve to require the Speaker to
15 end the ombudsman’s appointment; but
- 16 (b) if the Legislative Assembly does not, within 3 sitting days,
17 pass a resolution mentioned in paragraph (a)—the suspension
18 ends at the end of the 3rd sitting day.
- 19 (5) If the Speaker ends the ombudsman’s suspension, the Speaker must
20 give written notice of the ending of the suspension and a copy of a
21 statement of the reasons for ending the suspension to the
22 ombudsman and the relevant Assembly committee.
- 23 *Note* The [Legislation Act](#), s 179 deals with the information that must be
24 included in a statement of reasons.
- 25 (6) In this section:
26 ***notice day***—see section 28B (2) (a).

- 1 **28D Ending of appointment**
- 2 (1) The Speaker must end the ombudsman's appointment if—
- 3 (a) the Legislative Assembly—
- 4 (i) passes a resolution under section 28C (4) (a); or
- 5 (ii) otherwise resolves to require the Speaker to end the
- 6 ombudsman's appointment—
- 7 (A) for misbehaviour; or
- 8 (B) for physical or mental incapacity, if the incapacity
- 9 substantially affects the exercise of the
- 10 ombudsman's functions; or
- 11 (b) the ombudsman becomes bankrupt or personally insolvent.
- 12 (2) For a resolution mentioned in subsection (1) (a) (ii)—
- 13 (a) at least 7 days before the day the motion to which the
- 14 resolution relates is first debated in the Legislative Assembly—
- 15 (i) the Assembly must be given the notice of the motion and
- 16 a statement of reasons for the motion; and
- 17 (ii) the Speaker must—
- 18 (A) give the ombudsman a copy of the notice and the
- 19 statement of reasons; and
- 20 (B) tell the ombudsman that a written submission about
- 21 the motion may be made to the Speaker not later
- 22 than 3 days after the day the ombudsman is given
- 23 the notice; and
- 24 (b) the Speaker must give any written submission to the
- 25 Legislative Assembly before the day the motion is first debated
- 26 in the Legislative Assembly.

- 1 (3) The Speaker may end the ombudsman's appointment if the
2 ombudsman is absent from duty, except on leave granted by the
3 Speaker, for 14 consecutive days or for 28 days in any 12 months.
- 4 (4) The ombudsman's appointment may be ended by the Speaker only
5 under this section or section 27 (Retirement).

6 **60 Acting appointment**
7 **New section 29 (2) and (3)**

8 *insert*

- 9 (2) If the Commonwealth ombudsman does not hold the office of
10 ombudsman, before the Speaker appoints a person to act as the
11 ombudsman, the Speaker must consult with the chair of the relevant
12 Assembly committee about the proposed appointment.
- 13 (3) However, for a period of leave of absence approved by the Speaker
14 under section 25 (1) or mentioned in section 25 (2), the ombudsman
15 may appoint a person to act as ombudsman after consulting with the
16 Speaker.

17 **61 Section 30**

18 *substitute*

19 **30 Staff**

- 20 (1) The ombudsman's staff must—
- 21 (a) be employed under the *Public Sector Management Act 1994*;
22 and
- 23 (b) if the Commonwealth ombudsman holds the office of
24 ombudsman—be a person mentioned in paragraph (a) or a
25 person appointed or employed under the *Public Service*
26 *Act 1999* (Cwlth).

1 (2) The ombudsman's staff are not subject to direction from anyone
2 other than the following people in relation to the exercise of the
3 ombudsman's functions:

4 (a) the ombudsman;

5 (b) another member of the ombudsman's staff authorised by the
6 ombudsman to give directions.

7 **62 Section 32**

8 *substitute*

9 **32 Delegation**

10 The ombudsman may delegate the ombudsman's functions under
11 this Act to a member of the staff assisting the ombudsman.

12 **63 Section 33 (5)**

13 *omit*

14 **64 Disclosure of information by ombudsman**
15 **Section 34 (4)**

16 *omit*

17 (other than section 33 (5))

18 **65 Determination of fees and witness expenses etc**
19 **Section 37**

20 *omit*

21 The Minister may

22 *substitute*

23 The Speaker may, after consulting with the ombudsman,

1 **66 Regulation-making power**
2 **New section 38 (2) and (3)**

3 *after the note, insert*

- 4 (2) The Executive must consult with the ombudsman and the relevant
5 Assembly committee before making a regulation under this Act.
- 6 (3) Subject to any disallowance or amendment under the [Legislation](#)
7 [Act](#), chapter 7, a regulation under this Act commences—
- 8 (a) if there is a motion to disallow the regulation and the motion is
9 negated by the Legislative Assembly—on the day after the
10 day the motion is negated; or
- 11 (b) on the day after the 6th sitting day after the day it is presented
12 to the Legislative Assembly under that chapter; or
- 13 (c) if the regulation provides for a later date or time of
14 commencement—on that date or at that time.

15 **67 New part 10**

16 *insert*

17 **Part 10 Transitional—Officers of the**
18 **Assembly Legislation**
19 **Amendment Act 2013**

20 **50 Existing appointment of ombudsman**

- 21 (1) This section applies to a person who, immediately before the
22 commencement day, is the ombudsman appointed under the
23 pre-amendment Act.
- 24 (2) The person is taken to be appointed as the ombudsman under the
25 post-amendment Act, section 22.

1 (3) The ombudsman must, within 1 month after the commencement
2 day—

3 (a) take an oath of office, or make an affirmation of office, before
4 the Speaker; and

5 *Note* For the form of the oath and affirmation of office, see the *Oaths*
6 *and Affirmations Act 1984*, s 6 and sch 1.

7 (b) give a written statement of the ombudsman’s personal and
8 financial interests to the Speaker.

9 (4) In this section:

10 *commencement day* means the day the *Officers of the Assembly*
11 *Legislation Amendment Act 2013*, section 3 commences.

12 *post-amendment Act* means the Act as in force on the
13 commencement day.

14 *pre-amendment Act* means the Act as in force immediately before
15 the commencement day.

16 **51 Expiry—pt 10**

17 This part expires 1 year after the day it commences.

18 *Note* Transitional provisions are kept in the Act for a limited time.
19 A transitional provision is repealed on its expiry but continues to have
20 effect after its repeal (see *Legislation Act*, s 88).

21 **68 Dictionary, note 2**

22 *insert*

- 23 • Legislative Assembly
24 • officer of the Assembly
25 • Speaker

1 **69 Dictionary, new definition of *relevant Assembly***
2 ***committee***

3 *insert*

4 *relevant Assembly committee* means the committee of the
5 Legislative Assembly whose functions include the examination of
6 matters related to the integrity and accountability of public
7 administration.

1 **Schedule 1 Other amendments**

2 (see s 3)

3 **Part 1.1 Annual Reports (Government**
4 **Agencies) Act 2004**

5 **[1.1] Section 6 (2), note**

6 *substitute*

7 *Note* An annual report direction does not apply to an annual report of the
8 Office of the Legislative Assembly or an officer of the Assembly (see
9 s 9 (2)).

10 **[1.2] Section 6 (3)**

11 *substitute*

12 (3) The report of the following entities must include an account of the
13 management of the entity's office during the financial year:

14 (a) the Office of the Legislative Assembly;

15 (b) an officer of the Assembly.

16 **[1.3] Section 9 (2)**

17 *substitute*

18 (2) However, an annual report direction does not apply to an annual
19 report of—

20 (a) the Office of the Legislative Assembly; or

21 (b) an officer of the Assembly.

1 **[1.4] Section 11 (2)**

2 *substitute*

- 3 (2) This section does not apply to an annual report of—
4 (a) the Office of the Legislative Assembly; or
5 (b) an officer of the Assembly.

6 **[1.5] Section 12 (1)**

7 *substitute*

- 8 (1) The Chief Minister may declare that a Minister is the responsible
9 Minister for a public authority other than—
10 (a) the Office of the Legislative Assembly; or
11 (b) an officer of the Assembly.

12 **[1.6] Section 15**

13 *substitute*

14 **15 Presentation of annual reports of Office of the Legislative**
15 **Assembly and officers of the Assembly**

- 16 (1) This section applies to an annual report of the following entities:
17 (a) the Office of the Legislative Assembly;
18 (b) an officer of the Assembly.
- 19 (2) The Speaker must present the report to the Legislative Assembly
20 within 3 months after the end of the financial year (the ***3-month***
21 ***period***).
- 22 (3) However, if the report has not been presented to the Legislative
23 Assembly before the last 7 days of the 3-month period for the report,
24 and there are no sitting days of the Legislative Assembly during the
25 7 days—

- 1 (a) the clerk of the Legislative Assembly or the officer of the
2 Assembly must give a copy of the report for each member of
3 the Legislative Assembly to the Speaker before the end of the
4 3-month period; and
- 5 (b) the Speaker must arrange for a copy of the report to be given to
6 each member of the Legislative Assembly on the day the clerk
7 or officer gives it to the Speaker; and
- 8 (c) the Speaker must present the report to the Legislative
9 Assembly—
- 10 (i) on the next sitting day after the end of the 3-month
11 period; or
- 12 (ii) if the next sitting day is the first meeting of the
13 Legislative Assembly after a general election of members
14 of the Assembly—on the second sitting day after the
15 election.
- 16 (4) At the request of the clerk or officer, the Speaker may present the
17 report to the Legislative Assembly after the time required under
18 subsection (2) or (3).
- 19 (5) If subsection (4) applies, the Speaker must present the report to the
20 Legislative Assembly as soon as practicable.

21 **[1.7] New section 19**

22 *insert*

23 **19 References to *officer of the Assembly***

24 For this Act, a reference to an *officer of the Assembly*, in relation to
25 the electoral commissioner, includes the other members of the
26 electoral commission.

27 *Note* The electoral commissioner is an *officer of the Assembly* (see
28 [Legislation Act](#), dict, pt 1). All members of the electoral commission
29 are independent officers of the Legislative Assembly (see the [Electoral](#)
30 [Act 1992](#), s 6A).

1 **[1.8] Dictionary, note 2**

2 *insert*

- 3 • electoral commission
- 4 • electoral commissioner
- 5 • officer of the Assembly

6 **[1.9] Dictionary, definition of *public authority*, paragraph (d)**
7 **and (e)**

8 *substitute*

9 (d) the Office of the Legislative Assembly; or

10 (e) an officer of the Assembly.

11 **Part 1.2 Financial Management Act 1996**

12 **[1.10] Section 4**

13 *substitute*

14 **4 Application of pts 2 to 5—Office of the Legislative**
15 **Assembly and officers of the Assembly**

16 (1) Unless the contrary intention appears, the provisions of parts 2 to 5
17 apply to—

18 (a) the Office of the Legislative Assembly as if—

- 19 (i) a reference in those provisions to a directorate included a
20 reference to the office; and
- 21 (ii) a reference in those provisions to the responsible Minister
22 of a directorate were a reference to the Speaker; and
- 23 (iii) a reference in those provisions to the responsible
24 director-general of a directorate included a reference to
25 the clerk of the Legislative Assembly; and

- 1 (b) an officer of the Assembly as if—
- 2 (i) a reference in those provisions to a directorate included a
- 3 reference to the officer; and
- 4 (ii) a reference in those provisions to the responsible Minister
- 5 of a directorate were a reference to the Speaker; and
- 6 (iii) a reference in those provisions to the responsible
- 7 director-general of a directorate included a reference to
- 8 the officer.
- 9 (2) For parts 2 to 5, a reference to an *officer of the Assembly*, in
- 10 relation to the electoral commissioner, includes the other members
- 11 of the electoral commission.

12 *Note* The electoral commissioner is an *officer of the Assembly* (see

13 [Legislation Act](#), dict, pt 1). All members of the electoral commission

14 are independent officers of the Legislative Assembly (see [Electoral](#)

15 [Act 1992](#), s 6A).

16 **[1.11] New section 8 (4)**

17 *insert*

- 18 (4) Any appropriation for an officer of the Assembly must be contained
- 19 in an Appropriation Act for an appropriation for the Office of the
- 20 Legislative Assembly.

21 **[1.12] Section 12 (2)**

22 *substitute*

- 23 (2) Subsection (1) (b) does not apply to—
- 24 (a) the Office of the Legislative Assembly; or
- 25 (b) an officer of the Assembly.

1 **[1.13] New sections 20AB and 20AC**

2 *in division 2.1, insert*

3 **20AB Recommended appropriation for officers of the Assembly**

4 Before the beginning of a financial year, the Speaker must for an
5 officer of the Assembly—

6 (a) after consultation with the officer and the appropriate
7 committee of the Legislative Assembly, advise the Treasurer of
8 the appropriation that the Speaker considers should be made
9 for the officer for the financial year (the *recommended*
10 *appropriation*); and

11 (b) present the recommended appropriation to the Assembly; and

12 (c) give the Treasurer a draft budget for the officer for the
13 financial year that contains the information mentioned in
14 section 12 that applies to the officer.

15 **20AC Appropriation for officers of the Assembly**

16 (1) This section applies if—

17 (a) the Treasurer presents a bill for an Appropriation Act for the
18 appropriation for an officer of the Assembly relating to a
19 financial year in the Legislative Assembly; and

20 (b) the appropriation is less than the recommended appropriation
21 for the office for the financial year.

22 (2) Immediately after presenting the bill, the Treasurer must present to
23 the Legislative Assembly a statement of reasons for departing from
24 the recommended appropriation.

25 (3) In this section:

26 *recommended appropriation*—see section 20AB.

1 **[1.14] Dictionary, note 2**

2 *insert*

- 3 • electoral commission
4 • electoral commissioner
5 • officer of the Assembly

6 **Part 1.3 Government Procurement**
7 **Act 2001**

8 **[1.15] Section 3 (1), definition of *Territory entity*, paragraph (a)**

9 *substitute*

- 10 (a) means—
11 (i) an administrative unit; or
12 (ii) a Territory entity under the *Auditor-General Act 1996*; or
13 (iii) the Office of the Legislative Assembly; or
14 (iv) an officer of the Assembly; and

15 **[1.16] Section 8 (2)**

16 *substitute*

- 17 (2) However, the Minister must not give written directions to the board
18 about the exercise of its functions in relation to—
19 (a) the Office of the Legislative Assembly; or
20 (b) an officer of the Assembly.

1 **[1.17] Section 9 (1) (b)**

2 *substitute*

3 (b) the Speaker the reports the Speaker requires in relation to—

4 (i) the Office of the Legislative Assembly; and

5 (ii) an officer of the Assembly.

6 **[1.18] Section 9 (2)**

7 *substitute*

8 (2) However, the Minister may not ask the board for a report in relation
9 to—

10 (a) the Office of the Legislative Assembly; or

11 (b) an officer of the Assembly.

12 **[1.19] Section 10 (2)**

13 *substitute*

14 (2) However, the Minister may not ask the board for information about
15 its operations in relation to—

16 (a) the Office of the Legislative Assembly; or

17 (b) an officer of the Assembly.

18 **[1.20] Section 22B (3), definition of *procurement proposal***

19 *substitute*

20 *procurement proposal* does not include a procurement proposal
21 by—

22 (a) the Office of the Legislative Assembly; and

23 (b) an officer of the Assembly.

1 **[1.21] Section 22C (2)**

2 *substitute*

3 (2) However, a procurement proposal or activity may only be referred
4 to the board for review and advice—

5 (a) for the Office of the Legislative Assembly—by the Speaker;
6 and

7 (a) for an officer of the Assembly—the officer.

8 **[1.22] Dictionary, note 2**

9 *insert*

- 10 • officer of the Assembly

11 **[1.23] Dictionary, definition of *responsible chief executive***
12 ***officer*, new paragraph (e)**

13 *insert*

14 (e) for an officer of the Assembly—the officer.

15 **Part 1.4 Government Procurement**
16 **Regulation 2007**

17 **[1.24] Section 13 (3), definition of *territory entities***

18 *substitute*

19 *territory entities* does not include—

20 (a) the Office of the Legislative Assembly; and

21 (b) an officer of the Assembly.

1 **Part 1.5** **Legislation Act 2001**

2 **[1.25] Dictionary, part 1, new definition of *officer of the***
3 ***Assembly***

4 *insert*

5 *officer of the Assembly* means—

- 6 (a) the auditor-general; or
7 (b) the electoral commissioner; or
8 (c) the ombudsman.

9 **Part 1.6** **Public Interest Disclosure**
10 **Act 2012**

11 **[1.26] Section 13 (b)**

12 *substitute*

- 13 (b) for a Legislative Assembly entity other than an officer of the
14 Assembly—the clerk of the Legislative Assembly;
15 (ba) for an officer of the Assembly—the officer;

16 **[1.27] Dictionary, note 2**

17 *insert*

- 18 • officer of the Assembly

19 **[1.28] Dictionary, definition of *Legislative Assembly entity*, new**
20 **paragraph (d)**

21 *insert*

- 22 (d) an officer of the Assembly.

1 **[1.33] Dictionary, note 2**

2 *insert*

- 3 • officer of the Assembly

4 **[1.34] Dictionary, definition of *autonomous instrumentality*,
5 paragraph (a)**

6 *omit*

7 **[1.35] Dictionary, definition of *autonomous instrumentality*, new
8 paragraph (d)**

9 *insert*

10 (d) an officer of the Assembly.

11 **[1.36] Dictionary, definition of *chief executive officer*,
12 paragraph (b) (i)**

13 *omit*

14 **[1.37] Dictionary, definition of *chief executive officer*, new
15 paragraph (b) (iv)**

16 *insert*

17 (iv) for an officer of the Assembly—the officer.

1 **Part 1.8 Referendum (Machinery**
2 **Provisions) Act 1994**

3 **[1.38] New section 21 (4), (5) and (6)**

4 *insert*

- 5 (4) The Executive must consult with the electoral commission and the
6 relevant Assembly committee before making a regulation under this
7 Act.
- 8 (5) Subject to any disallowance or amendment under the [Legislation](#)
9 [Act](#), chapter 7, a regulation under this Act commences—
- 10 (a) if there is a motion to disallow the regulation and the motion is
11 negated by the Legislative Assembly—on the day after the
12 day the motion is negated; or
- 13 (b) on the day after the 6th sitting day after the day it is presented
14 to the Legislative Assembly under that chapter; or
- 15 (c) if the regulation provides for a later date or time of
16 commencement—on that date or at that time.
- 17 (6) In this section:
- 18 *relevant Assembly committee*—has the same meaning as in the
19 Electoral Act, dictionary.

20 **Part 1.9 Territory Records Act 2002**

21 **[1.39] New section 7 (ea)**

22 *insert*

- 23 (ea) an officer of the Assembly; or

1 **[1.40] New section 8 (ea)**

2 *insert*

3 (ea) for the office of an officer of the Assembly—the officer; or

4 **[1.41] Dictionary, note 2**

5 *insert*

- 6 • officer of the Assembly
- 7
-

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 August 2013.

2 Notification

Notified under the [Legislation Act](#) on 2013.

3 Republications of amended laws

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