

2003

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Chief Minister)

Annual Reports (Government Agencies) Bill 2003

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(Chief Minister)

Annual Reports (Government Agencies) Bill 2003

A Bill for

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:

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Annual Reports (Government Agencies) Act 2003*.

4 **2 Commencement**

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

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

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

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

15 **3 Dictionary**

16 The dictionary at the end of this Act is part of this Act.

17 *Note 1* The dictionary at the end of this Act defines terms used in this Act, and
18 includes references (*signpost definitions*) to other terms defined
19 elsewhere in this Act.

20 For example, the signpost definition '*chief executive annual report*—
21 see section 5.' means that the term 'chief executive annual report' is
22 defined in that section.

23 *Note 2* A definition in the dictionary (including a signpost definition) applies to
24 the entire Act unless the definition, or another provision of the Act,
25 provides otherwise or the contrary intention otherwise appears (see
26 Legislation Act, s 155 and s 156 (1)).

1 **4 Notes**

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

3 *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 8 (2) (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 8 (2) (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 include an account of the management of the public service as a whole during the financial year.

8 Annual report direction

- (1) The Minister may, in writing, issue a direction (an ***annual report direction***) about annual reports.
- (2) 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

Part 2 Annual reports

Section 8

- 1 (d) for a public authority annual report—require the authority to
2 prepare the report for a stated period other than a financial
3 year; or
- 4 (e) require an annual report to be given by a stated person or stated
5 public authority to the responsible Minister for the report by a
6 stated day; or
- 7 (f) require a chief executive annual report to include stated matters
8 if a public authority fails to comply with section 6 (Annual
9 report of public authority) or an annual report direction.
- 10 (3) An annual report direction is a notifiable instrument.
- 11 *Note* A notifiable instrument must be notified under the Legislation Act.
- 12 (4) An annual report direction must be presented to the Legislative
13 Assembly within 6 sitting days after the day it is notified under the
14 Legislation Act.

Part 3 Responsible Ministers

9 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).

10 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 11 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.

11 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

12 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

-
- 1 (ii) if the next sitting day is the first meeting of the
2 Legislative Assembly after a general election of members
3 of the Assembly—on the second sitting day after the
4 election.
- 5 (5) This section has effect subject to section 13.
- 6 (6) In this section:
- 7 *Speaker* includes—
- 8 (a) if the Speaker is unavailable—the Deputy Speaker; and
- 9 (b) if both the Speaker and Deputy Speaker are unavailable—the
10 clerk of the Legislative Assembly.
- 11 *unavailable*—the Speaker or Deputy Speaker is *unavailable* if—
- 12 (a) he or she is absent from duty; or
- 13 (b) there is a vacancy in the office of Speaker or Deputy Speaker.
- 14 **13 Extension of time for presenting annual reports**
- 15 (1) The responsible Minister for an annual report may apply to the
16 Chief Minister for an extension of the time when the Minister must
17 present the report to the Legislative Assembly or, if section 12 (4)
18 applies, when the responsible Minister must give the report to the
19 Speaker.
- 20 (2) An application for an extension must be made before the end of the
21 3-month period for the report and, if the Chief Minister has declared
22 a day under section 12 (2) for the report, before that day.
- 23 (3) The application must be accompanied by a written statement of the
24 reasons for the failure to meet the time.
- 25 (4) The Chief Minister may extend the time by—
- 26 (a) setting a period within which the report must be presented to
27 the Legislative Assembly; or

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- 1 (b) fixing a day when the report must be presented to the
2 Legislative Assembly.
- 3 (5) If the extension has been granted, the responsible Minister must
4 present the report to the Legislative Assembly in accordance with
5 the extension.
- 6 (6) However, if there are no sitting days of the Legislative Assembly
7 during the period mentioned in subsection (4) (a), section 12 (4) (a)
8 to (c) applies as if a reference to the 3-month period were a
9 reference to the period mentioned in subsection (4) (a).
- 10 (7) The statement mentioned in subsection (3) must be presented to the
11 Legislative Assembly during the 3-month period for the report and,
12 if the Chief Minister has declared a day under section 12 (2) for the
13 report, on or before that day.
- 14 (8) In this section:
15 *3-month period*—see section 12 (1).

14 Presentation of annual report of auditor-general

- 17 (1) The Speaker must present an annual report of the auditor-general to
18 the Legislative Assembly within 3 months after the end of the
19 financial year (the *3-month period*).
- 20 (2) However, if an annual report of the auditor-general has not been
21 presented to the Legislative Assembly before the last 7 days of the
22 3-month period for the report, and there are no sitting days of the
23 Legislative Assembly during the 7 days—
- 24 (a) the auditor-general must give a copy of the report for each
25 member of the Legislative Assembly to the Speaker before the
26 end of the 3-month period; and
- 27 (b) the Speaker must arrange for a copy of the report to be given to
28 each member of the Legislative Assembly on the day the
29 auditor-general gives it to the Speaker; and

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

Part 5 Miscellaneous

15 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.

16 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.

1 **17 Relationship to other laws**

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

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

7 **18 Application of Act**

8 (1) For an annual report, this Act applies in relation to a financial year
9 that ends after the commencement of this section, whether or not the
10 year includes a period that began before the commencement.

11 (2) This section expires on 1 July 2005.

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

1 **Part 6** **Amendments of section 5 and**
2 **section 8—human rights**

3 **19 Application of pt 6**

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

6 **20 Act, section 5 (2)**

7 *substitute*

8 (2) The report must—

9 (a) include a statement describing the measures taken by the
10 administrative unit during the financial year to respect, protect
11 and promote human rights; and

12 (b) comply with any applicable annual report direction.

13 **21 Act, new section 8 (2) (da) and note**

14 *insert*

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

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

20 **22 Act, section 8 (2)**

21 *renumber paragraphs when Act next republished under Legislation*
22 *Act*

1 **23 Expiry of pt 6**

2 This part expires—

3 (a) on the day after it has effect; or

4 (b) if it has not had effect before 1 January 2005—on
5 1 January 2005.

- 1 **Part 7** **Repeals and consequential**
2 **amendments**
- 3 **24 Act repealed**
- 4 The *Annual Reports (Government Agencies) Act 1995* A1995-24 is
5 repealed.
- 6 **25 Instruments repealed**
- 7 The following instruments are repealed:
- 8 • *Annual Reports (Government Agencies) Declaration and*
9 *Direction 2003* NI2003-268
- 10 • *Annual Reports (Government Agencies) — Chief Minister's*
11 *Annual Report Directions 2002 (No 1)* NI2002-214
- 12 **26 Auditor-General Act 1996, new section 9A**
- 13 *insert*
- 14 **9A Reports for Annual Reports (Government Agencies)**
15 **Act 2004**
- 16 If the auditor-general considers that compliance with the *Annual*
17 *Reports (Government Agencies) Act 2004* would prejudice the
18 auditor-general's independence, the auditor-general is not required
19 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 8.

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).

- 1 ***public administration annual report***—see section 7.
- 2 ***public authority*** means—
- 3 (a) a Territory instrumentality; or
- 4 (b) a statutory office-holder declared under section 15 (1) to be a
- 5 public authority; or
- 6 (c) an entity declared under section 15 (2) to be a public authority;
- 7 or
- 8 (d) the auditor-general.
- 9 ***public authority annual report***—see section 6.
- 10 ***responsible Minister***—
- 11 (a) for a chief executive annual report—see section 9; or
- 12 (b) for a public authority annual report—see section 10; or
- 13 (c) for a public administration annual report—means the Chief
- 14 Minister.
- 15 ***Speaker***—see section 12 (6) (Responsible Minister to present
- 16 annual report).
- 17 ***Territory instrumentality***—
- 18 (a) see the Legislation Act, dictionary, part 1; and
- 19 (b) includes a Territory owned corporation.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2003.

2 Notification

Notified under the Legislation Act on 2003.

3 Republications of amended laws

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

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