

2014

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

ANNUAL REPORTS (GOVERNMENT AGENCIES) BILL 2014

EXPLANATORY STATEMENT

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Outline

This Bill makes amendments to the *Annual Reports (Government Agencies) 2004 Act* (the Act) that will allow annual reports to have a more modern focus. The annual report remains a key accountability document for the Legislative Assembly, however the importance of annual reports within the community is changing and perhaps diminishing.

The information contained in annual reports provides useful information from an accountability perspective, at one point in time only, three months after the end of each reporting year.

The electorate wants access to relevant up to date information on specific matters of interest. Annual report content has been reviewed to complement an increasing presence of government agency information published online and updated frequently.

Currently, there are numerous Acts which require particular information to be included in one or more annual reports. This Bill facilitates annual report requirements to be consolidated into one piece of legislation. This repeal exercise makes the Annual Report Directions (the Directions) the main legislation to stipulate the content and place of most annual report information.

The Bill makes no change to annual report requirements in the *Financial Management Act 1996*. It also makes no change to legislation of independent agencies with

government accountability roles, such as the Auditor-General and the Ombudsman, as annual reporting requirements will be independently maintained in primary legislation.

The Bill also amends the Act to provide the option for whole of government annual reporting. This will allow a designated coordinating directorate to present relevant information on particular policy implementation across the ACT Public Service. For example, the Environment and Planning Directorate (EPD) annual report, could include all-directorate information on greenhouse gas emissions.

The Bill also extends the submission date for annual reports by one month, from three to four months after the end of the reporting period. The Auditor-General is required to audit annual report financial statements each year prior to submission of annual reports. Agency feedback indicates that the three month period does provide not sufficient time between the audit and submission of annual reports.

Amendments

Section 1 Name of Act

This is a technical provision stating the name of the Bill if enacted, which is the *Annual Reports (Government Agencies) Amendment Act 2014*.

Section 2 Commencement

This is a technical provision setting the commencement date for the Act.

Section 3 Legislation amended

This is a technical provision, naming the Act which is amended by the Bill, which is the *Annual Reports (Government Agencies) Act 2004* (the Act).

Section 4 Sections 5 to 9

Section 4 of the Bill omits and replaces Sections 5 to 9 of the Act. New Sections 5 to 7 of the Act still create the obligation for directors-general, public authorities and the commissioner for public administration, to produce annual reports, but are more clearly stated. They also refer to the new term ‘reporting year’ instead of ‘financial year’ to include those agencies that report against a different time period, where specified by the Directions (for example, some agencies in the education portfolio operate to a calendar year).

The Bill reverses the order of Sections 8 and 9 of the Act, and amends them as follows.

Section 8— Annual Report Direction – of the Act is amended to facilitate whole of government reporting by allowing stated information and parts of other annual reports to be published in a stated place. This complements the provision for combining single annual reports, where appropriate, under Section 17 of the Act.

Section 9 – Consultation about annual report direction – of the Act is worded more clearly but otherwise does not change the requirements for consultation of the Committee on the draft Directions.

Section 5 Responsible Minister to present annual report Section 13(1)(a)

Section 5 of the Bill amends Section 13(1)(a) of the Act to require that the responsible Minister for an annual report to present the annual report within four months after the end of the reporting year to the Legislative Assembly. This is known as the ‘4 month period’. The presentation of annual reports is increased from three months to allow for better rigour in the process.

Section 6 Sections 13 and 14

Section 6 of the Bill amends Sections 13 and 14 of the Act and is a consequential amendment to Section 5 of the Bill.

Section 7 Presentation of annual report of Office of the Legislative Assembly and officers of the Assembly Section 15(2)

Section 7 of the Bill is a consequential amendment to Section 5 of the Bill.

Section 8 Section 15(3)

Section 8 of the Bill is a consequential amendment to Section 5 of the Bill.

Section 9 Declaration of public authority Section 16(1) and (2)

Section 9 of the Bill amends Sections 16(1) and (2) of the Act with clearer wording. The Chief Minister is still required to make a declaration as to which bodies are producing annual reports.

Section 10 Combined reports Section 17(1)(a)

Section 10 of the Bill is a consequential amendment to Section 4 of the Bill.

Section 11 Dictionary, note 2

Section 11 of the Bill amends note 2 of the Dictionary, which lists examples of terms used in the Act that are defined in the *Legislation Act 2001*.

Section 12 Dictionary, definition of financial year

Section 12 of the Bill removes ‘financial year’ from the Dictionary of the Act.

Section 13 Dictionary, definition of public authority, new paragraph (aa)

Section 13 of the Bill amends the definition of a ‘public authority’ in the Dictionary so that it explicitly includes a territory-owned corporation. The Dictionary notes that a territory-owned corporation is defined under the *Legislation Act 2001*.

Section 14 Dictionary, definition of public authority paragraph (c)

Section 14 of the Bill amends the definition of a ‘public authority’ in the Dictionary, as declared under 16(2) of the Act, by omitting the term ‘entity’ and substituting it with ‘body’, consequential to Section 9 of the Bill.

Section 15 Dictionary, new definition reporting year

Section 15 of the Bill inserts a new definition of ‘reporting year’ in the Dictionary. The reporting year is a financial year unless it is specified in the Directions that a different period is to apply to a particular body.

Section 16 Dictionary, definition of Territory instrumentality

Section 16 of the Bill removes the term Territory instrumentality and is a consequential amendment to Section 11 of the Bill.

Schedule 1 Consequential amendments

Schedule 1 of the Bill removes annual reporting requirements from acts that follow, to allow for consolidation of these requirements into the Directions, as described in the Outline.

Part 1.1 ACT Civil and Administrative Tribunal Act 2008

[1.1] Sections 22P (4) and (6)

The amendment removes the requirement for the tribunal’s annual report to include details of time for deciding land, planning and environment applications.

Part 1.2 ACT Teacher Quality Institute Act 2010

[1.2] Section 26

The amendment removes the requirement for the institute’s annual report to include details of directions from the Minister, new teacher numbers and their professional development.

Part 1.3 Board of Senior Secondary Studies Act 1997

[1.3] Section 7(4) and note

The amendment removes the requirement for the board’s annual report to include details of directions from the Minister.

Part 1.4 Climate Change and Greenhouse Gas Reduction Act 2010

[1.4] Section 25

The amendment removes the requirement for all annual reports to provide details of climate change and greenhouse gas reduction policies and programs implemented.

Part 1.5 Cultural Facilities Corporation Act 1997

[1.5] Section 16

The amendment removes the requirement for the corporation’s annual report to include details of directions from the Minister.

Part 1.6 Dangerous Substances Act 2004

[1.6] Section 200(3)

The amendment removes the requirement for an agency, other than a territory-owned corporation, include details of non-compliance notices in their annual reports.

[1.7] Section 200(4), definition of annual report

The amendment removes Section 200(4) from this Act which defines an annual report.

Part 1.7 Director of Public Prosecution Act 1990

[1.8] Section 12(4)(b) and note

The amendment removes the requirement for the director of public prosecution to include the details of directions given by the director of public prosecution.

Part 1.8 Education Act 2004

[1.9] Section 22(3)

The amendment removes the requirement for the director-general of the administrative unit responsible for administering this Act, to include details of complaints investigated by the director-general.

[1.10] Section 39(3)

The amendment removes the requirement for the director-general of the administrative unit responsible for administering this Act, to include details of directions from the director-general to any particular school boards.

Part 1.9 Emergencies Act 2004

[1.11] Section 70, definition of annual report

The definition of annual report is removed from this Act.

[1.12] Section 85

The amendment removes the requirement for an agency which is either a manager, owner, lessee or occupier of Territory Land, to include an account of operations in relation to strategic bushfire management plans.

[1.13] Dictionary, definition of annual report

The definition of annual report under the Dictionary of this Act is removed.

Part 1.10 Environment Protection Act 1997

[1.14] Section 158A

The amendment removes the requirement for all annual reports to provide details of how actions of agencies accord with the principles of ecologically sustainable development, and their compliance with environmental laws and standards.

Part 1.11 Freedom of Information Act 1989

[1.15] Section 7 (2)

The amendment removes the requirement for an agency to include information concerning functions and documents maintained by those agencies.

Part 1.12 Gambling and Racing Control Act 1999

[1.16] Sections 6 (5) and 31 (3)

The amendment removes the requirement of the gambling and racing commission's annual report, to include details of directions from the Minister, and a statistical summary of complaints and results of any related investigations.

[1.17] Sections 8 (2) and 46 (2)

The amendment removes the requirement for the gambling and racing commission's annual report to describe the processes of community consultation used by the commission and to describe the findings from inquiries. Findings to inquiries are tabled separately.

Part 1.13 Gaming Machine Act 2004

[1.18] Section 163C

The amendment removes the requirement for the gambling and racing commission's annual report to include information on the problem gambling assistance fund, including details about the amounts paid into the fund.

Part 1.14 Government Procurement Act 2001

[1.19] Section 48

The amendment removes the requirement for a Territory entity to include a statement of the number of contracts administered by the entity that were excluded from the operation of Part 4 - Interest of commercial accounts.

Part 1.15 Law Officers Act 2011

[1.20] Section 15 (3)

The amendment removes the requirement for directors-general on compliance with legal services directions, to be included in the annual report of the director-general with responsibility for this Act.

Part 1.16 Medicines, Poisons and Therapeutic Goods Act 2008

[1.21] Section 177 (3)

The amendment removes the requirement for directors-general annual reports to include details of non-compliance notices under this Act.

[1.22] Section 177 (4), definition of annual report

The definition of annual report from this Act is removed.

Part 1.17 Mental Health (Treatment and Care) Act 1994

[1.23] Sections 120 and 120E

The amendment removes the requirement for the chief psychiatrist's and care coordinator's annual reports to include statistics in relation to people who have a mental illness/dysfunction.

Part 1.18 Nature Conservation Act 1980

[1.24] Section 15 (3) and note

The amendment removes the requirement for the conservator's annual report to include a copy of directions from the Minister to the flora and fauna committee.

Part 1.19 Planning and Development Act 2007

[1.25] Sections 19 and 40

The amendment removes the requirement for the planning and land authority's and land agency's annual reports to include details of directions from the Minister and actions taken to address them.

Part 1.20 Road Transport (Third-Party Insurance) Act 2008

[1.26] Section 46A

The amendment removes the requirement for the compulsory third party regulator's annual report to include the average risk premium amount for passenger vehicles.

Part 1.21 Tobacco Act 1927

[1.27] Section 42H

The amendment removes the requirement for the administrative unit responsible for the administration of this Act to include the number of compliance tests, contraventions and actions taken in regard to the supply of smoking products to people under 18 years old.

Part 1.22 Victims of Crime (Financial Assistance) Act 1983

[1.28] Section 71

The amendment removes the requirement for the registrar's annual report to include the number of applications made and granted, and the facts and circumstances to which the applications related.

Part 1.23 Waste Minimisation Act 2001

[1.29] Section 19

The amendment removes the requirement for the director-general of the administrative unit responsible for this Act, to include details of each contravention of a requirement of a notice under this Act.