

1994

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

ANNUAL REPORTING (GOVERNMENT AGENCIES) BILL 1994

EXPLANATORY MEMORANDUM

Circulated by the Authority of

**Rosemary Follett MLA
Chief Minister**

Annual Reporting (Government Agencies) Bill 1994

Outline

The Bill has the effect of establishing a framework of annual reporting for ACT Government Service agencies. The Bill sets consistent reporting requirements for ACT public bodies, and allows for the date by which reports should be tabled in the Legislative Assembly, the form and content of reports, and a scheme of consolidation of reports to be determined by instrument.

Financial Considerations

The Bill will not require any additional expenditure.

Explanation of Clauses

Clause 1 provides for the short title.

Clause 2 provides for the commencement of the Bill.

Clause 3 has the effect of making the reporting period beginning on or after 1 June 1994 the first reporting period to which the Act applies.

Clause 4 provides for a number of definitions.

Clause 5 This clause allows the Minister responsible for administering the *Annual Reporting (Government Agencies) Act 1994* to determine which department is the "appropriate department" for a particular public authority. The term "appropriate department" is used in sections 8, 9 and 10, and refers to the department to whose annual report the report of a public authority should be attached (under 8(1)) or subsumed into (under paragraph 8(2)(b)).

Clause 6 Subsection (1) requires the Head of Administration to produce an annual report on the management of the public service as a whole. Subsection (2) allows the Head of Administration to submit the same report for the purposes of both subsection (1) of this Act, and section 25 of the *Public Service Act 1922* (Cw) as modified by subsection 21(2) of the *ACT Self-Government (Consequential Provisions) Act 1988* (Cw). Subsection (2) has effect only while the Head of Administration is required to report under the Commonwealth Act.

Clause 7 requires principal officers to present to their responsible Ministers an annual report on the operation of the unit within their control. The report is required to be submitted to the relevant Minister by the date determined by clause 12.

Clause 8 requires the principal officer of a statutory authority to provide an annual report for attachment to the annual report of the relevant department (as determined under section 5), **unless** the Minister responsible for administering the *Annual Reporting(Government Agencies) Act 1994* directs that the authority either produce an independent report (ie, a report not attached to the report of a department) or provides information to the relevant department for inclusion into that department's annual report. This has the effect of allowing statutory authorities to report in one of three ways: by a report that is attached or annexed to the report of a department; by an independent report; or by having its report incorporated into that of the relevant department. The means of reporting that applies to any one statutory authority will be determined by the Minister responsible for administering the *Annual Reporting(Government Agencies) Act 1994*.

In the event of a statutory authority being required to report independently, the principal officer is required to submit that authority's annual report directly to the responsible Minister (or the Speaker, where appropriate). If the report of the authority is to be subsumed or incorporated into the report of a department, the principal officer of the public authority is responsible for both the accuracy and timeliness of the information to be provided to the relevant department.

Clause 9 Subsection 1 allows the Minister responsible for administering the *Annual Reporting (Government Agencies) Act 1994* to determine, by instrument, the form and content that a particular annual report (or groups of reports) should have. This clause also applies to that information required to be submitted by statutory authorities to departments in lieu of submitting a report (see paragraph 8(2)(b)).

It should be noted that this clause only determines a minimum requirement.

Subsection

(4) allows the principle officer to include any information he or she 'regards as relevant'.

Subsection (5) prevents the Minister responsible for administering the *Annual Reporting (Government Agencies) Act 1994* from requesting that information be disclosed in annual reports if that disclosure of that information is prohibited by any other Act.

Clause 9 does not apply to the report of the Head of Administration, the content of which is determined by clause 6.

Clause 10 applies to those public authorities that are required either to provide information to a department for inclusion in the annual report of that department, or to provide a report for attachment to the report of the department (clause 8(2)(b) and 8(1) respectively). In the event that a public authority fails to provide either an annual report or annual information, this clause requires the principal officer of the appropriate department to include a statement in his or her annual report to the effect that the particular public authority failed to provide either an annual report or annual information.

Clause 11 Subsection (1) allows the Minister to alter the reporting year of a public authority to other than the financial year with such a determination being by instrument. Subsection (2) allows such an instrument to have effect either for a given period, or indefinitely. This would be used in the event of a public authority needing to report to other than a financial year for, say, operational reasons. For example, an authority might work to a calendar year and this clause allows it to report to the same period.

Clause 12 Subsection (1) requires the Minister responsible for administering the *Annual Reporting (Government Agencies) Act 1994* to determine a date by which the report should be submitted to the appropriate Minister. Under subsection (2) this period may be extended if the Minister responsible for administering the *Annual Reporting Bill 1994* agrees to a request from a principal officer to extend the period. Subsection (3) requires that the principal officer submit the report to the responsible Minister, either within the time determined by the instrument issued under

subsection (1), or by the extended period, if the Minister has agreed to such an extension under subsection (2).

Subsection (4) requires that if a report has not been submitted to the responsible Minister by the date determined by subsections (1) or (2), the principal officer must write to the responsible Minister explaining why a report has not yet been submitted to that Minister. Such a written statement must be received within 14 days after the report's required submission date. The responsible Minister is then required to table the statement in the Legislative Assembly within 6 sitting days of having received it.

Even when the principal officer has provided the responsible Minister with a written statement, he or she is still required to submit an annual report to that Minister as soon as possible.

Clause 13 requires a responsible Minister to table an annual report within 6 sitting days of having received it.

Clause 14 requires the Minister responsible for the administration of the *Annual Reporting Bill 1994* to table any instrument in the Legislative Assembly made under that Act within 6 sitting days of the instrument being issued.

Clause 15 Subsection (1) allows that the principle officer of a department who is responsible to more than one Minister to submit a single report to each Minister he or she is responsible to. This might occur when the administrative arrangements split the functions of a department among two or more Ministers, but makes the principle officer responsible for both (or more) parts. Subsection (2) requires that if this is the case, each report must include a statement to the effect that the report is being submitted to more than one Minister.

Clause 16 has the effect of making the requirements of the *Annual Reporting (Government Agencies) Act 1994* in addition to any other Act. While the *Annual Reporting (Government Agencies) (Consequential Provisions) Act 1994* repeals most provisions that affect the content of annual reports, a number of provisions regarding the content of annual reports do exist in other Acts, for example, the *Audit Act 1989*.

The clause also allows that in the event that the *Annual Reporting (Government Agencies) Act 1994* makes a requirement in addition to any other requirement to

report on the operation of a department, the principle officer may prepare a single report that satisfies the requirements of both this and any other Act.