

**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

**PUBLIC ACCESS TO GOVERNMENT
CONTRACTS BILL 2000**

EXPLANATORY MEMORANDUM

**Circulated by authority of
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Independent**

Outline

This Bill provides for the publication, as far as possible, the terms of government contracts. This may be achieved by either making the contract available in a written form, or in an electronic form which could be placed on a website or distributed by e-mail.

Clause Notes

Clauses 1 and 2 refer to the title of the Bill and commencement of the Act.

Clause 3 contains the small number of definitions used in the Bill.

Clause 4 - states that the notes which are used throughout the Bill are for explanatory purposes and have no legal status. The notes are included under to section 12 of the *Interpretation Act 1967*.

Clause 5 - defines a government contract as being as written agreement to which a government agency is a party.

Clause 6 – within 21 days of making a contract a government agency must prepare a public text of the contract. The public text must include all of the text of the contract, other than information that is considered to be confidential.

If a term of the contract ceases to be confidential, the agency must prepare a new public text of the contract.

Clause 7 – the current public text of the contract is to be made available to the public by either making paper copies available for purchase, or making electronic copies available without charge eg on a website or distributed by e-mail.

Clause 8 – complying with this Act in good faith does not make a government agency liable to another party.

Clause 9 – If a government agency is to make certain information confidential it must only do so according to the terms used in a model confidentiality clause. The model clause is contained in a Schedule to the Bill.

Clause 10 – A government agency may only agree to make information confidential in a government contract if it satisfies certain criteria. These are: the unreasonable disclosure of information which is personal, has a commercial value, or concerns the business affairs of a person; if the information discloses a trade secret; or if it would breach an obligation of confidentiality from another source.

However, there are a number of criteria by which a government agency may not agree to make information confidential. These are: if it would

inappropriately restrict a government agency in the management or use of Territory assets, if it would not be in the public interest to do so, if the information is already public knowledge or has been obtained by the agency from another source, or if the agreement would require the confidentiality to apply for longer than is necessary to protect the interest concerned.