



Australian Capital Territory

Government Procurement Act 2001

A2001-28

Republication No 15

Effective: 1 July 2011 – 4 April 2012

Republication date: 1 July 2011

Last amendment made by A2011-22

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Government Procurement Act 2001* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 1 July 2011. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 1 July 2011.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$110 for an individual and \$550 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

Government Procurement Act 2001

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Dictionary 2
2A	Meaning of <i>procurement</i> 2
3	Meaning of <i>Territory entity</i> 2
3A	Application of Act to land sales etc 3
3B	Responsible chief executive officer to ensure Act complied with 3
4	Notes 3
4A	Offences against Act—application of Criminal Code etc 3
Part 2	Government procurement board
Division 2.1	Establishment and functions
5	Government Procurement Board 5
6	Functions of board 5

R15
01/07/11

Government Procurement Act 2001
Effective: 01/07/11-04/04/12

contents 1

Contents

	Page
8 Ministerial directions to board	6
9 Reports to Minister	6
10 Providing information to Minister	7
Division 2.2 Members of board	
11 Constitution of board	7
12 Appointment of members	7
13 Term of appointment of members	8
14 Honesty, care and diligence of members	8
15 Abuse of position	8
16 Ending of appointment of members	9
17 Conditions of appointment generally	9
Division 2.3 Proceedings of board	
18 Time and place of meetings	10
19 Procedure governing proceedings of board	10
19A Board quorum	11
20 Disclosure of interests by members	12
Division 2.4 Staff	
21 Arrangements for staff	13
Division 2.5 Other matters	
22 Power to obtain information and documents	14
Part 2A Procurement activities	
22A Procurement principle—value for money	15
22B Minister may declare procurement matters to be reviewed	15
22C Procurement proposal or activity may be referred to board	16
Part 3 Notifiable contracts	
Division 3.1 Preliminary	
23 Application—pt 3	17
24 Definitions for pt 3	17
25 What is a <i>notifiable contract</i>	19
26 Meaning of <i>notifiable amendment</i>	19
Division 3.2 Notifiable contracts register	
27 Keeping of register	20

	Page
28	21
29	23
30	23
Division 3.3	
Availability of notifiable contracts	
31	24
32	25
33	25
Division 3.4	
Confidential text	
34	26
35	26
36	28
37	28
38	29
39	29
39A	30
Division 3.5	
Other matters	
40	31
41	31
42	31
Part 4	
Interest on commercial accounts	
43	32
44	32
45	33
46	33
47	33
48	34
Part 5	
Miscellaneous	
51	35
52	35

Contents

Schedule 1	Model confidentiality clause	Page 36
Dictionary		38
Endnotes		
1	About the endnotes	40
2	Abbreviation key	40
3	Legislation history	41
4	Amendment history	42
5	Earlier republications	49



Australian Capital Territory

Government Procurement Act 2001

An Act about procurement by the Territory and territory entities, and for other purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Government Procurement Act 2001*.

2 Dictionary

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

Note 1 The dictionary at the end of this Act defines certain words and expressions used in this Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act.

For example, the signpost definition '*Territory entity*—see section 3.' means that the expression 'Territory entity' is defined in that section.

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

2A Meaning of *procurement*

In this Act:

procurement—

- (a) means the process of acquiring goods, services, works or property by purchase, lease, rental or exchange; and
- (b) includes the process of disposing of goods, works or property including by sale.

3 Meaning of *Territory entity*

(1) In this Act:

Territory entity—

- (a) means an administrative unit, or a Territory entity under the *Auditor-General Act 1996*; and

- (b) for an unincorporated Territory entity—includes a member of the entity acting on behalf of the Territory.
- (2) However, *territory entity* does not include—
- (a) The University of Canberra; or
 - (b) a Territory-owned corporation; or
 - (c) another entity established under the Corporations Act; or
 - (d) an entity declared under the regulations not to be a territory entity.

3A Application of Act to land sales etc

This Act does not apply to the grant of a licence or lease of land, or the sale of a lease of land, under the *Planning and Development Act 2007*.

3B Responsible chief executive officer to ensure Act complied with

The responsible chief executive officer for a territory entity must ensure that the entity complies with this Act.

4 Notes

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

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

4A Offences against Act—application of Criminal Code etc

Other legislation applies in relation to offences against this Act.

Note 1 *Criminal Code*

The Criminal Code, ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms

Part 1 Preliminary

Section 4A

used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

Note 2 *Penalty units*

The Legislation Act, s 133 deals with the meaning of offence penalties that are expressed in penalty units.

Part 2 Government procurement board

Division 2.1 Establishment and functions

5 Government Procurement Board

There is an Australian Capital Territory Government Procurement Board.

6 Functions of board

The functions of the board are—

- (a) to review, and give advice to territory entities on, procurement issues; and
- (b) to review, and give advice on—
 - (i) procurement proposals and activities referred to the board by a Minister or responsible chief executive officer; or
 - (ii) procurement proposals for procurement matters declared by the Minister; and
- (c) to review procurement proposals of territory entities in accordance with the regulations; and
- (d) to consider, advise on and, if appropriate, endorse procurement practices and methods for use by territory entities; and
- (e) to provide advice to the Minister on any issue relevant to the procurement activities of territory entities or the operation of this Act; and
- (f) to exercise any other function given to the board under this Act or any other Territory law.

Note A provision of a law that gives an entity (including a person) a function also gives the entity powers necessary and convenient to exercise the function (see Legislation Act, s 196 and dict, pt 1, def *entity*).

8 Ministerial directions to board

- (1) The Minister may give written directions to the board about the exercise of its functions.
- (2) Before giving a direction, the Minister must—
 - (a) tell the board of the intent of the proposed direction; and
 - (b) give the board a reasonable opportunity to comment on the proposed direction; and
 - (c) consider any comments made by the board.
- (3) The Minister must present a copy of a direction given under this section to the Legislative Assembly within 6 sitting days after it is given.
- (4) The board must comply with a direction given to it under this section.
- (5) For the *Competition and Consumer Act 2010* (Cwlth), this Act authorises—
 - (a) the giving of a direction under this section; and
 - (b) the doing of, or the failure to do, anything by the board to comply with a direction under this section.

9 Reports to Minister

- (1) In addition to any other reports that the board is required to make under this Act or any other law, the board must give the Minister the reports the Minister requires.
- (2) A report under this section must be prepared in the form, and be based on the accounting or other policies or practices, (if any) that the Minister requires.

10 Providing information to Minister

The board must give the Minister any information about its operations that the Minister requires.

Division 2.2 Members of board

11 Constitution of board

The board consists of the following 9 part-time members:

- (a) the chairperson;
- (b) the deputy chairperson;
- (c) 3 public employee members;
- (d) 4 non-public employee members.

12 Appointment of members

- (1) The members are to be appointed by the Minister.

Note 1 For the making of appointments (including acting appointments), see Legislation Act, pt 19.3.

Note 2 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) A person appointed as chairperson, deputy chairperson, or as a public employee member, must be a public employee.

Note **Public employee** is defined in the Legislation Act, dict, pt 1.

- (3) A person appointed as a non-public employee member must not be a public employee.

- (4) The instrument appointing, or evidencing the appointment of, a member must state whether the member is appointed as chairperson, deputy chairperson, a public employee member or a non-public employee member.

13 Term of appointment of members

A member must be appointed for a term of 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 2001*, s 208 and dict, pt 1, def of *appoint*).

14 Honesty, care and diligence of members

In exercising the functions of member, a member must exercise the degree of honesty, care and diligence required to be exercised by a director of a company in relation to the affairs of the company.

15 Abuse of position

(1) A person commits an offence if—

- (a) the person uses information gained because of being a member of the board; and
- (b) the person does so with the intention of dishonestly obtaining a benefit for the person or someone else.

Maximum penalty: imprisonment for 5 years.

(2) A person commits an offence if—

- (a) the person has stopped being a member of the board; and
- (b) the person uses information that the person obtained because of being a member; and
- (c) the person does so with the intention of dishonestly obtaining a benefit for the person or someone else.

Maximum penalty: imprisonment for 5 years.

(3) In this section:

dishonestly—a person acts dishonestly if—

- (a) the person's conduct is dishonest according to the standards of ordinary people; and
- (b) the person knows that the conduct is dishonest according to those standards.

16 Ending of appointment of members

- (1) The Minister must end the appointment of the chairperson, deputy chairperson, or a public employee member, if the person stops being a public employee.
- (2) The Minister must end the appointment of a non-public employee member if the member becomes a public employee.
- (3) The Minister may end the appointment of any member—
 - (a) for misbehaviour or physical or mental incapacity; or
 - (b) if the member—
 - (i) becomes bankrupt or personally insolvent; or
 - (ii) is absent, other than on leave approved by the Minister, from 3 consecutive meetings of the board; or
 - (iii) contravenes section 14 (Honesty, care and diligence of members) or 20 (Disclosure of interests by members) without reasonable excuse; or
 - (iv) commits an offence against section 15 (Improper use of information) or an indictable offence.

Note The appointment of a member also ends if the member resigns (see *Legislation Act 2001*, s 210).

17 Conditions of appointment generally

A member holds the position on the conditions not provided by this Act or any other Territory law that are decided by the Minister.

Division 2.3 Proceedings of board

18 Time and place of meetings

- (1) Meetings of the board are to be held at the times and places it decides.
- (2) The chairperson—
 - (a) may at any time call a meeting of the board; and
 - (b) must call a meeting if asked by the Minister or at least 3 members.
- (3) The chairperson must give the other members reasonable notice of the time and place of a meeting called by the chairperson.

19 Procedure governing proceedings of board

- (1) The chairperson presides at all meetings at which the chairperson is present.
- (2) If the chairperson is absent, the deputy chairperson presides.
- (3) If the chairperson and deputy chairperson are absent, the member chosen by the members present presides.
- (4) Business may be carried out at a meeting of the board constituted in accordance with section 19A.
- (5) At a meeting of the board each member has a vote on each question to be decided.
- (6) A question is to be decided by a majority of the votes of the members present and voting but, if the votes are equal, the member presiding has a casting vote.
- (7) The board may conduct its proceedings (including its meetings) as it considers appropriate.

- (8) The board may hold meetings, or allow members to take part in meetings, by telephone, closed-circuit communication or another form of communication.
- (9) A member who takes part in a meeting conducted under subsection (8) is taken to be present at the meeting.
- (10) If—
- (a) all members agree, in writing, to a proposed resolution; and
 - (b) notice of the resolution is given under procedures decided by the board;
- the resolution is a valid resolution of the board, even though it was not passed at a meeting of the board.
- (11) The board must keep minutes of its meetings.

19A Board quorum

- (1) Business may be carried out at a meeting of the board only if 4 members are present, including 1 non-public employee member.
- (2) However, the review of a prescribed procurement matter may be carried out at a meeting of the board consisting of—
- (a) the chairperson, or the deputy chairperson, and 1 non-public employee member; or
 - (b) 2 public employee members and 1 non-public employee member.

Note The board's functions include reviewing procurement proposals and activities referred to the board by a minister or responsible chief executive officer, and procurement proposals of territory entities in accordance with the regulations (see s 6 (b) and (c)).

- (3) Subsection (2) does not apply to a prescribed procurement matter if—

- (a) the chairperson gives a direction that the subsection does not apply to the matter; or
 - (b) a member tells the chairperson that the member objects to the matter being reviewed by the board as constituted under the subsection.
- (4) In this section:

prescribed procurement matter means any of the following that is approved, in writing, by the chairperson for subsection (2):

- (a) a procurement proposal referred to the board by a Minister or responsible chief executive officer;
- (b) a procurement activity referred to the board by a Minister or responsible chief executive officer;
- (c) a procurement proposal referred to the board in accordance with the regulations;
- (d) a procurement proposal for a procurement matter stated in a declaration under section 22B (Minister may declare procurement matters to be reviewed).

Note Power to make a statutory instrument includes power to make different provision for different classes (see Legislation Act, s 48).

procurement proposal means a proposal by a territory entity for procurement.

20 Disclosure of interests by members

- (1) This section applies to a member if—
- (a) the member has a direct or indirect financial interest, or a direct or indirect interest of any other kind, in an issue being considered, or about to be considered, by the board; and

- (b) the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.
- (2) As soon as practicable after the relevant facts come to the member's knowledge, the member must disclose the nature of the interest to a meeting of the board.
- (3) The disclosure must be recorded in the board's minutes and, unless the board otherwise decides, the member must not—
 - (a) be present when the board considers the issue; or
 - (b) take part in a decision of the board on the issue.
- (4) Any other member who also has a direct or indirect financial interest in the issue must not—
 - (a) be present when the board is considering its decision under subsection (3); or
 - (b) take part in making the decision.

Division 2.4 Staff

21 Arrangements for staff

- (1) The board may arrange with the director-general to use public servants in the administrative unit under the director-general's control.
- (2) The *Public Sector Management Act 1994* applies to the management by the board of public servants the subject of an arrangement under subsection (1).

Division 2.5 Other matters

22 Power to obtain information and documents

- (1) In relation to the exercise of its functions, the board may, in writing, ask a Territory entity to give stated information or a stated document to the board within a stated time and in a stated way.
- (2) The Territory entity must comply with the request.

Part 2A Procurement activities

22A Procurement principle—value for money

- (1) A territory entity must pursue value for money in undertaking any procurement activity.
- (2) Value for money means the best available procurement outcome.
- (3) In pursuing value for money, the entity must have regard to the following:
 - (a) probity and ethical behaviour;
 - (b) management of risk;
 - (c) open and effective competition;
 - (d) optimising whole of life costs;
 - (e) anything else prescribed by regulation.

22B Minister may declare procurement matters to be reviewed

- (1) The Minister may declare the procurement matters for which a procurement proposal must be reviewed by the board.

Examples of declarations

- 1 procurement matters with the same risk profile
- 2 procurement matters above a stated value threshold

Note 1 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Note 2 Power to make a statutory instrument includes power to make different provision for different classes (see Legislation Act, s 48).

- (2) A declaration under subsection (1) is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

22C Procurement proposal or activity may be referred to board

The responsible Minister or responsible chief executive officer may refer a procurement proposal or activity to the board for review and advice.

Part 3 **Notifiable contracts**

Division 3.1 **Preliminary**

23 **Application—pt 3**

- (1) To remove any doubt, this part applies in relation to a contract entered into by—
 - (a) a territory entity with an excluded body; or
 - (b) an excluded body as an agent of a territory entity.

Example

A directorate (representing the Territory) enters into a notifiable contract with a Territory owned corporation. The directorate, but not the Territory owned corporation, is required to notify the contract under pt 3 (Notifiable contracts).

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) In this section:

excluded body means a body that is not included as a territory entity under section 3 (2) (Meaning of *territory entity*).

24 **Definitions for pt 3**

In this part:

confidential text, of a notifiable contract, means that part of the contract that a party to the notifiable contract (including the Territory or a Territory entity) is required to keep confidential under—

- (a) a provision of a contract (including the notifiable contract) that requires a party to the notifiable contract to keep any part of the notifiable contract confidential; or

- (b) any other requirement imposed by law that has the effect of requiring a party to the notifiable contract to keep any part of the notifiable contract confidential.

contract includes a contract as amended.

notifiable amendment, of a notifiable contract—see section 26.

notifiable contract—see section 25.

notifiable contracts register—see section 27 (1).

public text—the *public text* of a notifiable contract is—

- (a) the text (if any) of the contract that is not confidential text; and
- (b) any confidential text of the contract—
- (i) that ceases to be confidential in accordance with the contract or by the agreement of the parties to the contract; or
- (ii) the substance of which has become public knowledge.

responsible Territory entity, for a contract or proposed contract, means—

- (a) the Territory entity that is, or will be, responsible for the administration of the contract; or
- (b) if a Territory entity administers, or will administer, the contract for another Territory entity—the other Territory entity.

Example for par (b)

A Territory owned corporation administers a contract for an unincorporated government body. The body is the responsible Territory entity for the contract.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

25 What is a *notifiable contract*

- (1) For this part, a *notifiable contract* is a written contract for procurement entered into by the Territory or a territory entity.
- (2) However, *notifiable contract* does not include the following:
 - (a) a contract with a total consideration, or estimated total consideration, worth less than \$20 000 (or, if another amount is prescribed under the regulations, the other amount);

Note *Contract* includes a contract as amended, see s 24.
 - (b) an intergovernmental agreement;
 - (c) a contract prescribed under the regulations.

Example—par (a)

The consideration for a contract for the purchase of swings by the Territory is \$18 500. The contract is later amended to increase the total consideration to \$25 500. The contract, as amended, is a notifiable contract.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) To remove any doubt, none of the following is a *notifiable contract*:
 - (a) a contract of employment;
 - (b) a contract for the settlement of a legal liability to an individual.

26 Meaning of *notifiable amendment*

For this part, a *notifiable amendment* of a notifiable contract is any amendment that, either alone or counted with another amendment or other amendments that have not been notified in the notifiable contracts register—

- (a) increases the total consideration for the contract by at least the greater of—

- (i) 10% (or, if another percentage is prescribed by regulation, the other percentage) of the total consideration for the contract as already notified in the notifiable contracts register; and
 - (ii) \$20 000 (or, if another amount is prescribed by regulation, the other amount); or
- (b) substantially changes the scope or nature of the goods, services, works or property to be procured under the contract.

Example

The consideration for a contract between the Territory and Acme Pty Ltd for the supply of road runner retention devices is \$190 000.

The minimum value for notification of an amendment, or a series of amendments, of the contract is \$20 000 (ie the greater of \$20 000 or 10% of the value of the contract which is \$19 000). The contract is amended on 3 occasions.

The 1st and 2nd amendments are for \$15 000 each. While neither of the amendments is separately notifiable, the total of the 2 amendments is \$30 000 and each of them is therefore a notifiable amendment. When the 2 amendments are notified on the register, the 2 amendments cannot be counted towards any other notifiable amendment. They increase the total consideration for the contract to \$220 000.

The 3rd amendment is for \$21 000. It is not a notifiable amendment because, even though it is more than \$20 000, it is less than 10% of the total consideration for the contract as amended by all previous notifiable amendments, ie \$22 000.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

Division 3.2 Notifiable contracts register

27 Keeping of register

- (1) The director-general must keep a register of notifiable contracts (the *notifiable contracts register*).

Note The reference to the director-general is to the director-general of the administrative unit that administers this provision (and not to the director-general of each administrative unit), see Legislation Act, s 163.

- (2) The register must be kept electronically.

Example of how register may be kept

The register may be kept in the form of, or as part of, 1 or more computer databases, and may include data compiled electronically from the databases.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (3) The director-general may correct any mistake, error or omission in the register subject to the requirements (if any) of the regulations.

28 Contents of register

- (1) The notifiable contracts register must include the following for each notifiable contract:
- (a) the parties to the contract;
 - (b) the responsible Territory entity for the contract and any change in the responsible Territory entity for the contract;
 - (c) a brief description of what the contract is for;
 - (d) the date the contract was made;
 - (e) the date the contract ends;
 - (f) the value of the total consideration, or estimated total consideration, for the contract;
 - (g) if a notifiable amendment of the contract is made—
 - (i) the change in—
 - (A) the value of the consideration to which the amendment relates; or
 - (B) the scope or nature of the goods, services, works or property to which the amendment relates; and

- (ii) the value of the total consideration, or estimated total consideration, for the contract because of the amendment; and
 - (iii) the date the amendment was made;
- (h) whether any part of the contract is confidential text;
- Note* **Contract** includes a contract as amended, see s 24.
- (i) if any part of the contract is confidential text—a brief indication of what the confidential text relates to;
 - (j) for a notifiable contract, and any notifiable amendment of the contract, held by the responsible Territory entity in electronic form—an electronic copy of the public text (if any) of the contract;
 - (k) where anyone can obtain a printed copy of the public text (if any) of the contract as made and of any notifiable amendment of the contract;
- (l) anything else prescribed under the regulations.

Examples for par (i)

see examples for s 35 (1) (a)

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) The register may include anything else the director-general considers appropriate.

Example

Information about and hypertext links to contracts that are not notifiable contracts.

- (3) The regulations may make provision in relation to documents that are to be entered in the register.

Example

requiring a document to be in portable document format (created in Adobe Acrobat 5.0) or in rich text format

29 Public access to material on register

- (1) The director-general must ensure, as far as practicable, that a copy of the material mentioned in section 28 (1) for a notifiable contract is accessible on a web site approved by the director-general—
 - (a) at all times; and
 - (b) for at least 2 years after the day the notifiable contract expires.
- (2) Access is to be provided without charge by the Territory.

30 Territory entities to provide material for register

- (1) The responsible Territory entity for a notifiable contract must, within 21 days after the day the contract is made—
 - (a) enter the material mentioned in section 28 (1) for the contract in the register; or
 - (b) give the material to the director-general for entry in the register.
- (2) The entity must also, within 21 days after the day a change in the material mentioned in section 28 (1) happens—
 - (a) update the material for the contract in the register; or
 - (b) give the updated material to the director-general for entry in the register.

Note **Contract** includes a contract as amended, see s 24.

- (3) However, subsection (2) only applies to a change mentioned in section 28 (1) (g) if the change is about a notifiable amendment.

Division 3.3 Availability of notifiable contracts

31 Public text of contracts to be made available

- (1) The responsible Territory entity for a notifiable contract must make the public text of the contract as made, and of any notifiable amendment of the contract, available to the public within—
 - (a) for the contract—21 days after the day the contract becomes a notifiable contract; or
 - (b) for the amendment—21 days after the day the amendment becomes a notifiable amendment.
- (2) The public text must be made available—
 - (a) if section 28 (1) (j) (Contents of register) applies to the public text—from the notifiable contracts register in accordance with section 29 (Public access to material on register); and
 - (b) by allowing anyone to buy a printed copy of the public text, at a place mentioned in section 28 (1) (k) in relation to the contract, on payment of the reasonable costs of reproducing it.

Example

A notifiable contract for public works consists of computer-written text in a form that can be included on the register and a hand-drawn plan. The public text of the contract that is computer-written must be made available both in hardcopy and electronically from the notifiable contracts register. The public text of the hand-drawn plan must be made available in hardcopy.

If the responsible Territory entity has an electronically scanned copy of the plan, the public text of the scanned copy must also be made available from the register.

Note 1 A responsible Territory entity is not required to create an electronic copy of a document that is not in electronic form, see s 33.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision when it appears (see Legislation Act, s 126 and s 132).

- (3) The requirement to make the public text of a notifiable contract (including any notifiable amendment of the contract) available ends when the contract ends, but the Territory entity may continue to make the public text available for any period after the contract ends.

Note **Contract** includes a contract as amended, see s 24.

32 Making information and contracts available apart from pt 3

- (1) This part does not prevent responsible Territory entities from making available information about, or the text of, government contracts otherwise than as required by this part if an agency is required under law to do so or can otherwise properly do so.

Examples

- 1 publishing information about a contract in a newspaper advertisement in addition to complying with s 28 (1) (Contents of register)
- 2 giving a person an electronic copy of a notifiable contract, without charge, on a floppy disk, CD or DVD

Note 1 The *Freedom of Information Act 1989* and *Territory Records Act 2002* provide for access to documents subject to certain exemptions.

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

- (2) In this section:

government contract means a notifiable contract and any other contract to which the Territory or a Territory entity is a party.

33 Entities not required to create electronic copies

If a responsible Territory entity does not have a notifiable contract in electronic form, this part does not require the entity to create an electronic copy of the contract.

Division 3.4 Confidential text

34 Notice of effect of div 3.4 to contracting parties

- (1) This section applies in relation to a proposed notifiable contract if—
 - (a) a party to the contract, including the Territory or a Territory entity, proposes that any part of the contract be confidential text; or
 - (b) any part of the contract will be confidential text because of a requirement imposed under law that requires a party to the contract to keep the part confidential.
- (2) The responsible Territory entity for the contract must ensure that this division is drawn to the attention of all the proposed parties to the contract (other than the Territory or a Territory entity).

35 Grounds for confidentiality of information

- (1) The responsible Territory entity for a contract to which section 34 applies must not propose that any part of the text of the contract be confidential text, or agree to any part of the contract being confidential text, unless satisfied that—
 - (a) the disclosure of the text would—
 - (i) be an unreasonable disclosure of personal information about a person; or
 - (ii) disclose a trade secret; or
 - (iii) disclose information (other than a trade secret) having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or
 - (iv) be an unreasonable disclosure of information about the business affairs of a person; or

- (v) disclose information that may put public safety or the security of the Territory at risk; or
 - (vi) disclose information prescribed by regulation for this section; or
- (b) a requirement imposed under law requires a party to the contract to keep the text confidential.

Example for par (a) (ii)

intellectual property including software source codes

Example for par (a) (iii)

information on the design and operation of goods

Examples for par (a) (iv)

- 1 hourly rates, on-costs and management fees
- 2 individual components of the total contract price

Examples for par (a) (v)

- 1 construction plans for a correctional facility or law enforcement facility
- 2 information about design, construction or operation of major infrastructure or public works

Example for par (b)

a failure to comply with the requirement would create an action for breach of confidence

Note 1 The Information Privacy Principles apply to a Territory entity. Personal information may be disclosed under a Territory law (see *Privacy Act 1988* (Cwlth), s 14, principle 11 (1) (d)).

Note 2 An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see *Legislation Act*, s 126 and s 132).

- (2) However, the responsible Territory entity for the contract must not propose that any part of the text of the contract be confidential text, or agree to any part of the contract being confidential text, if—
- (a) the substance of the information to which the text relates is public knowledge; or

- (b) the effect of the proposal or agreement—
 - (i) would be to inappropriately restrict a Territory entity in the management or use of Territory assets; or
 - (ii) would not be in the public interest; or
 - (iii) would be to require the obligation of confidentiality to apply for longer than is reasonably necessary to protect the interest to which it relates.
- (3) The responsible territory entity for the contract may delegate the entity's functions under this section to a public employee.
- (4) In this section:
 - personal information*—see the *Privacy Act 1988* (Cwlth), section 6.
 - public employee*—see the *Legislation Act*, dict, pt 1.

36 Model confidentiality clause required for confidential text

The text of a notifiable contract must not be made confidential text unless—

- (a) a confidentiality clause that incorporates the substance of the model confidentiality clause in schedule 1, as far as is applicable, is included in the contract; and
- (b) the confidentiality clause does not limit disclosure of information to a greater extent than provided in the model confidentiality clause.

37 Invalidity of non-complying confidentiality clauses

A confidentiality clause in or applying to a notifiable contract is void if—

- (a) the clause does not comply with section 36; or
- (b) the clause was included in the contract in contravention of section 35 (Grounds for confidentiality of information).

38 Contracts and information to be given to auditor-general

The responsible territory entity for a reportable contract must, if requested by the auditor-general, give the auditor-general the contracts and information the auditor-general requests.

39 Responsible territory entity's reporting obligations for contracts etc

- (1) The responsible territory entity for a reportable contract must, for each relevant reporting period, give the appropriate Legislative Assembly committee either—
 - (a) a list of the following:
 - (i) the reportable contracts that became notifiable contracts during the relevant period;
 - (ii) the reportable contracts that had confidential text changed during the relevant period; or
 - (b) a statement that no reportable contracts became notifiable or changed during the relevant period.
- (2) The list must contain—
 - (a) the following information for each reportable contract mentioned in subsection (1) (a) (i):
 - (i) the parties to the contract;
 - (ii) a brief description of what the contract is for;
 - (iii) the date the contract was made;
 - (iv) the date the contract ends;
 - (v) the value of the total consideration, or estimated total consideration, for the contract; and
 - (b) for each reportable contract mentioned in subsection (1) (a) (ii)—the thing that the change relates to; and

(c) any other information prescribed by regulation.

- (3) The entity may also give the committee any other information the entity considers appropriate.
- (4) The entity must give the list or statement to the committee within 21 days after the day each relevant reporting period ends.
- (5) The entity must, if asked by the committee, give the committee the information the committee requires about the decision to agree to the inclusion of confidential text in the contract.
- (6) In this section:

appropriate Legislative Assembly committee means a standing committee of the Legislative Assembly nominated, in writing, by the Speaker.

confidential text includes text that purports to be confidential text.

reportable contract means a notifiable contract that contains confidential text.

reporting period means a 6-month period ending on 31 March or 30 September.

- (7) A nomination under subsection (6) is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

39A Auditor-general's reporting obligations for contracts etc

- (1) This section applies if the auditor-general requests a copy of a reportable contract under section 38.
- (2) The auditor-general must report to the appropriate Legislative Assembly committee on whether the auditor-general is satisfied that confidential text in the contract complies with section 35 (1) (a) or (b) (Grounds for confidentiality of information).

(3) In this section:

appropriate Legislative Assembly committee—see section 39 (6).

confidential text includes text that purports to be confidential text.

Division 3.5 Other matters

40 Effect of disclosure of confidential information

- (1) This section applies if confidential text, or information about confidential text, is disclosed under this part.
- (2) The disclosure does not affect the continuing force of the obligation of confidence.

41 Effect of other disclosure laws

This part does not affect any other law in force in the Territory about the disclosure of documents or information.

Note 1 The *Freedom of Information Act 1989* and *Territory Records Act 2002* provide for access to documents subject to certain exemptions.

Note 2 The Information Privacy Principles under the *Privacy Act 1988* (Cwlth) provide for the disclosure of personal information in certain circumstances.

42 No liability for complying with pt 3

- (1) The Territory or a Territory entity is not civilly liable to another party to a reportable contract, or to anyone else, for anything done honestly under this part.
- (2) In this section:
reportable contract—see section 39 (6) (Contracts and information to be given to auditor-general).

Part 4 Interest on commercial accounts

43 Application—pt 4

This part applies to a contract entered into by the Territory or a territory entity for procurement, other than a contract—

- (a) with a consideration of at least \$10 000 (or, if another amount is prescribed by regulation, the other amount); and
- (b) that states that this part does not apply to it.

44 Definitions for pt 4

In this part:

commercial account means an account given to the Territory or a Territory entity for the payment of money in relation to goods, services or works provided to the Territory or a Territory entity under a contract.

Examples of payments

a deposit, part payment, instalment payment or a bond or other refundable money

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

payment date, for a commercial account, means—

- (a) the day worked out in accordance with the contract as the day when the account is payable; or
- (b) in any other case—the day on which the account is received by the Territory or the Territory entity.

relevant date, for the payment of a commercial account, means the 25th day of the month after the month in which the payment date for payment of the account happens.

Note **Month** means calendar month, see Legislation Act, dict, pt 1.

45 Interest on unpaid accounts

- (1) This section applies if—
 - (a) the Territory or a territory entity does not pay a commercial account in full by the relevant date for the account; and
 - (b) the person to whom the account is payable requests, in writing, that the Territory, or the territory entity, pay interest on the amount of the account that remains unpaid from time to time after the payment date.
- (2) The Territory or the Territory entity is liable to pay the creditor a further amount by way of interest on the amount of the account that remains unpaid from time to time.
- (3) Interest is payable at the rate worked out in accordance with the rules under the *Court Procedures Act 2004* applying to the Supreme Court as if the unpaid amount were a judgment of the Supreme Court.
- (4) If payment of the account is made by mail, the payment is taken to be made when it is posted.

46 Exclusion of inconsistent contractual terms

A term in a contract is void if—

- (a) for a contract with a total consideration worth less than the prescribed amount for section 43—the term excludes the application of this part to the contract; or
- (b) the term provides for the payment of interest on an unpaid commercial account that has been rendered under the contract.

47 Availability of funds to pay interest

- (1) Interest payable under this part is payable whether or not there is an appropriation available for the purpose.

- (2) If a commercial account is payable out of a trust banking account under the *Financial Management Act 1996*, section 51 (Directorate trust banking accounts), any interest payable under this part for the account is also payable out of the account.

48 Reporting of excluded contracts

- (1) The responsible chief executive officer for a Territory entity must include in the entity's annual report a statement of the number of contracts administered by the entity that were excluded from the operation of this part during the period to which the report relates.
- (2) In this section:

annual report means the report that the entity is required to prepare under the *Annual Reports (Government Agencies) Act 2004*.

Part 5 Miscellaneous

51 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.

Note For other provisions about forms, see Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the Legislation Act.

52 Regulation-making power

- (1) The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the Legislation Act.

- (2) The regulations may—
 - (a) make provision in relation to procurement by territory entities; and
 - (b) provide that prescribed things are, or are not, goods, services, works or property for this Act; and
 - (c) provide that prescribed activities are, or are not, for this Act—
 - (i) procurement; or
 - (ii) procurement activities.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

Schedule 1 Model confidentiality clause

(see s 36)

M Confidentiality obligations of Territory

- (1) In this contract, *confidential information* means [*list of the kinds of information to be kept confidential*].
- (2) In giving effect to the principles of open and accountable government, the Territory may disclose documents and information unless it has otherwise agreed, or is otherwise required under law, to keep the information confidential.
- (3) Except as provided in this contract, the Territory must not disclose the confidential information to anyone without the prior written consent [*insert the name of the party or the party's representative*] (which consent will not be unreasonably withheld) except if the confidential information—
 - (a) is required or authorised to be disclosed under law; or
 - (b) is reasonably necessary for the enforcement of the criminal law; or
 - (c) is disclosed to the Territory's solicitors, auditors, insurers or advisers; or
 - (d) is generally available to the public; or
 - (e) is in the possession of the Territory without restriction in relation to disclosure before the date of receipt from [*insert the name of the party or the party's representative*]; or
 - (f) is disclosed by the responsible Minister in reporting to the Legislative Assembly or its committees; or
 - (g) is disclosed to the ombudsman or for a purpose in relation to the protection of the public revenue.

- (4) The *Government Procurement Act 2001*, part 3 (Notifiable contracts) applies to this contract.
- (5) The following grounds mentioned in that Act, section 35 (1) apply to this clause: [*list relevant grounds*].

Dictionary

(see s 2)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 In particular, the Legislation Act, dict, pt 1, defines the following terms:

- administrative unit
- auditor-general
- bankrupt or personally insolvent
- body
- Corporations Act
- director-general (see s 163)
- Territory owned corporation
- the Territory.

board means the Australian Capital Territory Government Procurement Board established under section 5.

chairperson means the chairperson of the board.

commercial account, for part 4 (Interest on commercial accounts)—see section 44.

confidential text, of a notifiable contract, for part 3 (Notifiable contracts)—see section 24.

contract, for part 3 (Notifiable contracts)—see section 24.

deputy chairperson means the deputy chairperson of the board.

directorate—see the *Financial Management Act 1996*, dictionary.

member means—

- (a) the chairperson; or
- (b) the deputy chairperson; or
- (c) a public employee member; or
- (d) a non-public employee member.

notifiable amendment, of a notifiable contract, for part 3 (Notifiable contracts)—see section 26.

notifiable contract, for part 3 (Notifiable contracts)—see section 25.

notifiable contracts register, for part 3 (Notifiable contracts)—see section 27 (1).

payment date, for a commercial account, for part 4 (Interest on commercial accounts)—see section 44.

procurement—see section 2A.

public text, of a notifiable contract, for part 3 (Notifiable contracts)—see section 24.

relevant date, for the payment of a commercial account, for part 4 (Interest on commercial accounts)—see section 44.

responsible chief executive officer means—

- (a) for a directorate—the responsible director-general of the directorate under the *Financial Management Act 1996*; or
- (b) for a territory authority—the chief executive officer of the authority under the *Financial Management Act 1996*; or
- (c) for a joint venture or trust in which the Territory or a territory entity has a controlling interest—the responsible director-general of the directorate or territory entity that is responsible for matters most closely related to that interest.

responsible Territory entity, for a contract or proposed contract, for part 3 (Notifiable contracts)—see section 24.

Territory entity—see section 3.

Endnotes

1 About the endnotes

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

3 Legislation history

Government Procurement Act 2001 No 28

notified 24 May 2001 (Gaz 2001 No 21)
commenced 24 May 2001 (s 2)

as amended by

Statute Law Amendment Act 2002 No 30 pt 3.33

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
pt 3.33 commenced 17 September 2002

Government Procurement Amendment Act 2003 A2003-22

notified LR 19 May 2003
s 1, s 2 commenced 19 May 2003 (LA s 75 (1))
remainder commenced 1 July 2003 (s 2 and CN2003-4)

Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.17

notified LR 19 March 2004
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))
sch 1 pt 1.17 commenced 13 April 2004 (s 2 and see Annual Reports (Government Agencies) Act 2004 A2004-8, s 2 and CN2004-5)

Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.27

notified LR 2 September 2004
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))
sch 1 pt 1.27 commenced 10 January 2005 (s 2 and see Court Procedures Act 2004 A2004-59, s 2 and CN2004-29)

Government Procurement Amendment Act 2005 A2005-1

notified LR 22 February 2005
s 1, s 2 commenced 22 February 2005 (LA s 75 (1))
remainder commenced 23 February 2005 (s 2)

Government Procurement Amendment Act 2007 A2007-11

notified LR 13 June 2007
s 1, s 2 commenced 13 June 2007 (LA s 75 (1))
remainder commenced 1 October 2007 (s 2 and CN2007-14)

Endnotes

4 Amendment history

Statute Law Amendment Act 2008 A2008-28 sch 1 pt 1.3

notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 1 pt 1.3 commenced 26 August 2008 (s 2)

Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.34

notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.34 commenced 17 December 2009 (s 2)

Fair Trading (Australian Consumer Law) Amendment Act 2010 A2010-54 sch 3 pt 3.10

notified LR 16 December 2010
s 1, s 2 commenced 16 December 2010 (LA s 75 (1))
sch 3 pt 3.10 commenced 1 January 2011 (s 2 (1))

Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.73

notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
sch 1 pt 1.73 commenced 1 July 2011 (s 2 (1))

4 Amendment history

Long title

long title sub A2003-22 amdt 1.1; A2007-11 s 4

Dictionary

s 2 om R1 (LA s 89 (4))
ins A2003-22 s 4

Meaning of *procurement*

s 2A ins A2007-11 s 5

Meaning of *Territory entity*

s 3 am 2002 No 30 amdt 3.387
sub A2003-22 s 4
am A2007-11 s 6

Application of Act to land sales etc

s 3A ins A2007-11 s 7
sub A2009-49 amdt 3.76

Responsible chief executive officer to ensure Act complied with

s 3B ins A2007-11 s 8

Offences against Act—application of Criminal Code etc

s 4A ins A2003-22 amdt 1.2

Functions of boards 6 am 2002 No 30 amdt 3.388
sub A2003-22 amdt 1.3; A2007-11 s 9**Procurement guidelines**s 7 am 2002 No 30 amdts 3.389-3.391; A2003-22 amdt 1.4,
amdt 1.5
om A2007-11 s 10**Ministerial directions to board**

s 8 am A2010-54 amdt 3.31

Constitution of boards 11 sub A2007-11 s 11
am A2008-28 amdt 1.4, amdt 1.5**Appointment of members**s 12 am 2002 No 30 amdt 3.392; A2003-22 amdt 1.6; A2007-11
s 12, s 13**Term of appointment of members**

s 13 sub 2002 No 30 amdt 3.393

Abuse of position

s 15 sub A2003-22 amdt 1.7

Ending of appointment of members

s 16 am A2007-11 s 14; A2009-49 amdt 3.77

Time and place of meetings

s 18 am A2007-11 s 15; ss renum R9 LA

Procedure governing proceedings of board

s 19 am A2003-22 s 5; A2007-11 s 16; ss renum R9 LA

Board quorums 19A hdg sub A2007-11 s 17
s 19A ins A2003-22 s 6
am A2007-11 s 18**Arrangements for staff**

s 21 am A2011-22 amdt 1.223, amdt 1.230

Other matters

div 2.5 hdg ins A2003-22 amdt 1.8

Power to obtain information and documents

s 22 sub A2003-22 amdt 1.8

Procurement activities

pt 2A hdg ins A2007-11 s 19

Endnotes

4 Amendment history

Procurement principle—value for money

s 22A ins A2007-11 s 19

Minister may declare procurement matters to be reviewed

s 22B ins A2007-11 s 19

Procurement proposal or activity may be referred to board

s 22C ins A2007-11 s 19

Notifiable contracts

pt 3 hdg sub A2003-22 s 7

Preliminary

div 3.1 hdg ins A2003-22 s 7

Application—pt 3

s 23 sub A2003-22 s 7; A2007-11 s 20
am A2011-22 amdt 1.224

Definitions for pt 3

s 24 sub A2003-22 s 7
def **confidential text** ins A2003-22 s 7
def **contract** ins A2003-22 s 7
def **notifiable amendment** ins A2003-22 s 7
def **notifiable contract** ins A2003-22 s 7
def **notifiable contracts register** ins A2003-22 s 7
def **public text** ins A2003-22 s 7
def **responsible Territory entity** ins A2003-22 s 7

What is a notifiable contract

s 25 sub 2002 No 30 amdt 3.394; A2003-22 s 7
am A2007-11 ss 21-23

Meaning of notifiable amendment

s 26 ins A2003-22 s 7
sub A2007-11 s 24

Notifiable contracts register

div 3.2 hdg ins A2003-22 s 7

Keeping of register

s 27 ins A2003-22 s 7
am A2011-22 amdt 1.230

Contents of register

s 28 ins A2003-22 s 7
am A2007-11 s 25; A2011-22 amdt 1.230

Public access to material on register

s 29 ins A2003-22 s 7
am A2007-11 s 26; A2011-22 amdt 1.230

Territory entities to provide material for register

s 30 ins A2003-22 s 7
am A2011-22 amdt 1.230

Availability of notifiable contracts

div 3.3 hdg ins A2003-22 s 7

Public text of contracts to be made available

s 31 ins A2003-22 s 7

Making information and contracts available apart from pt 3

s 32 ins A2003-22 s 7

Entities not required to create electronic copies

s 33 ins A2003-22 s 7

Confidential text

div 3.4 hdg ins A2003-22 s 7

Notice of effect of div 3.4 to contracting parties

s 34 ins A2003-22 s 7

Grounds for confidentiality of information

s 35 ins A2003-22 s 7
am A2005-1 s 4, s 5; A2007-11 s 27

Model confidentiality clause required for confidential text

s 36 ins A2003-22 s 7

Invalidity of non-complying confidentiality clauses

s 37 ins A2003-22 s 7

Contracts and information to be given to auditor-general

s 38 ins A2003-22 s 7
sub A2007-11 s 28

Responsible territory entity's reporting obligations for contracts etc

s 39 sub A2007-11 s 29

Auditor-general's reporting obligations for contracts etc

s 39A ins A2003-22 s 7
sub A2007-11 s 29

Other matters

div 3.5 hdg ins A2003-22 s 7

Effect of disclosure of confidential information

s 40 ins A2003-22 s 7

Effect of other disclosure laws

s 41 ins A2003-22 s 7

Endnotes

4 Amendment history

No liability for complying with pt 3

s 42 ins A2003-22 s 7
am A2007-11 s 30

Interest on commercial accounts

pt 4 hdg ins A2003-22 s 7

Application—pt 4

s 43 ins A2003-22 s 7
sub A2007-11 s 31

Definitions for pt 4

s 44 ins A2003-22 s 7
def **commercial account** ins A2003-22 s 7
def **payment date** ins A2003-22 s 7
def **relevant date** ins A2003-22 s 7

Interest on unpaid accounts

s 45 ins A2003-22 s 7
am A2004-60 amdt 1.152; A2007-11 s 32

Exclusion of inconsistent contractual terms

s 46 ins A2003-22 s 7

Availability of funds to pay interest

s 47 ins A2003-22 s 7
am A2011-22 amdt 1.225

Reporting of excluded contracts

s 48 ins A2003-22 s 7
am A2004-9 amdt 1.25; A2007-11 s 33

Miscellaneous

pt 5 hdg ins A2003-22 s 7

Discounts for prompt payments

s 49 ins A2003-22 s 7
om A2007-11 s 34

Responsible chief executive to ensure Act complied with

s 50 ins A2003-22 s 7
om A2007-11 s 35

Approved forms

s 51 ins A2003-22 s 7

Regulation-making power

s 52 ins A2003-22 s 7
am A2007-11 s 36

Review of Act

s 53 ins A2003-22 s 7
exp 31 December 2006 (s 53 (3))

Transitional provisions

pt 6 hdg ins A2003-22 s 7
exp 1 July 2004 (s 59)

Government Contractual Debts (Interest) Act

s 54 ins A2003-22 s 7
exp 1 July 2004 (s 59)

Public Access to Government Contracts Act—general

s 55 ins A2003-22 s 7
exp 1 July 2004 (s 59)

Public Access to Government Contracts Act—reportable contracts

s 56 ins A2003-22 s 7
exp 1 July 2004 (s 59)

First report by auditor-general under this Act

s 57 ins A2003-22 s 7
exp 1 July 2004 (s 59)

Transitional regulations

s 58 ins A2003-22 s 7
exp 1 July 2004 (s 59)

Expiry of pt 6

s 59 ins A2003-22 s 7
exp 1 July 2004 (s 59)

Transitional provisions

pt 10 hdg ins A2007-11 s 37
om R12 LA

Procurement guideline

s 100 ins A2007-11 s 37
exp 1 October 2007 (s 100 (5) (LA s 88 declaration applies))

Notifiable contracts

s 101 ins A2007-11 s 37
exp 1 October 2008 (s 101 (4) (LA s 88 declaration applies))

Model confidentiality clause

sch 1 ins A2003-22 s 8

Endnotes

4 Amendment history

Dictionary

dict

am 2002 No 30 amdt 3.395
sub A2003-22 s 9
am A2009-49 amdt 3.78; A2011-22 amdt 1.226
def **board** sub A2003-22 s 9; A2007-11 s 38
def **chairperson** sub A2003-22 s 9; A2007-11 s 38
def **commercial account** ins A2003-22 s 9
def **confidential text** ins A2003-22 s 9
def **contract** ins A2003-22 s 9
def **department** ins A2007-11 s 39
om A2011-22 amdt 1.227
def **deputy chairperson** ins A2007-11 s 39
def **directorate** ins A2011-22 amdt 1.228
def **member** sub A2003-22 s 9; A2007-11 s 40
def **notifiable amendment** ins A2003-22 s 9
def **notifiable contract** ins A2003-22 s 9
def **notifiable contracts register** ins A2003-22 s 9
def **payment date** ins A2003-22 s 9
def **procurement** ins A2007-11 s 41
def **procurement guidelines** sub A2003-22 s 9
om A2007-11 s 42
def **public text** ins A2003-22 s 9
def **relevant date** ins A2003-22 s 9
def **responsible chief executive** sub 2002 No 30 amdt 3.396
om A2003-22 s 9
def **responsible chief executive officer** ins A2007-11 s 43
sub A2011-22 amdt 1.229
def **responsible Territory entity** ins A2003-22 s 9
def **Territory entity** sub A2003-22 s 9

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No and date	Effective	Last amendment made by	Republication for
R1 12 Sept 2001	24 May 2001– 16 Sept 2002	not amended	new Act
R2 10 Oct 2002	17 Sept 2002– 30 June 2003	A2002-30	amendments by A2002-30
R3* 1 July 2003	1 July 2003– 12 Apr 2004	A2003-22	amendments by A2003-22
R4 13 Apr 2004	13 Apr 2004– 1 July 2004	A2004-9	amendments by A2004-9
R5 2 July 2004	2 July 2004– 9 Jan 2005	A2004-9	commenced expiry
R6 10 Jan 2005	10 Jan 2005– 22 Feb 2005	A2004-60	amendments by A2004-60
R7 23 Feb 2005	23 Feb 2005– 31 Dec 2006	A2005-1	amendments by A2005-1
R8 1 Jan 2007	1 Jan 2007– 30 Sept 2007	A2005-1	commenced expiry
R9 1 Oct 2007	1 Oct 2007– 1 Oct 2007	A2007-11	amendments by A2007-11
R10 2 Oct 2007	2 Oct 2007– 25 Aug 2008	A2007-11	commenced expiry
R11 26 Aug 2008	26 Aug 2008– 1 Oct 2008	A2008-28	amendments by A2008-28
R12 2 Oct 2008	2 Oct 2008– 16 Dec 2009	A2008-28	commenced expiry

Endnotes

5 Earlier republications

Republication No and date	Effective	Last amendment made by	Republication for
R13 17 Dec 2009	17 Dec 2009– 31 Dec 2010	A2009-49	amendments by A2009-49
R14 1 Jan 2011	1 Jan 2011– 30 June 2011	A2010-54	amendments by A2010-54

© Australian Capital Territory 2011