



Australian Capital Territory

# **Annual Reports (Government Agencies) Act 2004**

**A2004-8**

**Republication No 4**

**Effective: 1 July 2011 – 30 June 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 *Annual Reports (Government Agencies) Act 2004* (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](http://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](http://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

# Annual Reports (Government Agencies) Act 2004

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Australian Capital Territory

# **Annual Reports (Government Agencies) Act 2004**

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An Act relating to annual reports for certain government agencies, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Annual Reports (Government Agencies) Act 2004*.

### 3 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 terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*director-general annual report*—see section 5.' means that the term 'director-general annual report' 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)).

### 4 Notes

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

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

## Part 2 Annual reports

### 5 Annual report of director-general

- (1) The director-general of an administrative unit must, for each financial year, prepare a report (a *director-general annual report*) about the operations of the administrative unit during the year.
- (2) The report must—
  - (a) include a statement describing the measures taken by the administrative unit during the financial year to respect, protect and promote human rights; and
  - (b) 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 9 (3) (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 9 (3) (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—
  - (a) include an account of the management of the public service as a whole during the financial year; and
  - (b) comply with any applicable annual report direction.

## **8 Consultation about annual report direction**

- (1) Before issuing an annual report direction under section 9, the Minister must consult the standing committee of the Legislative Assembly responsible for the scrutiny of public accounts.
- (2) The committee may make a recommendation to the Minister about the proposed direction.
- (3) The Minister must not issue the direction until the Minister has received a recommendation or 30 days have passed since the consultation took place, whichever happens first.



## 9 Annual report direction

- (1) The Minister must, in writing, issue a direction (an *annual report direction*) about annual reports.
- (2) In issuing an annual report direction, the Minister must have regard to any recommendation received under section 8.
- (3) An annual report direction may—
  - (a) require an annual report to be in a stated form or include stated information; or
  - (b) for a director-general 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 director-general for inclusion (as an attachment or otherwise) in a director-general annual report; or
  - (d) for a public authority annual report—require the authority to prepare the report for a stated period other than a financial year; or
  - (e) for a public authority annual report—require the report to include a statement describing the measures taken by the public authority during the financial year to respect, protect and promote human rights; or

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

- (f) require an annual report to be given by a stated person or stated public authority to the responsible Minister for the report by a stated day; or
- (g) require a director-general annual report to include stated matters if a public authority fails to comply with section 6 (Annual report of public authority) or an annual report direction.

- (4) An annual report direction is a notifiable instrument.

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

- (5) An annual report direction must be presented to the Legislative Assembly within 6 sitting days after the day it is notified under the Legislation Act.

## Part 3 Responsible Ministers

### 10 Responsible Minister for director-general annual report

The responsible Minister for a director-general annual report of the director-general 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).

### 11 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 12 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.

### 12 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

### 13 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

- (ii) if the next sitting day is the first meeting of the Legislative Assembly after a general election of members of the Assembly—on the second sitting day after the election.
- (5) This section has effect subject to section 14.
- (6) In this section:
- Speaker* includes—
- (a) if the Speaker is unavailable—the Deputy Speaker; and
  - (b) if both the Speaker and Deputy Speaker are unavailable—the clerk of the Legislative Assembly.
- unavailable*—the Speaker or Deputy Speaker is *unavailable* if—
- (a) he or she is absent from duty; or
  - (b) there is a vacancy in the office of Speaker or Deputy Speaker.

#### **14 Extension of time for presenting annual reports**

- (1) The responsible Minister for an annual report may apply to the Chief Minister for an extension of the time when the Minister must present the report to the Legislative Assembly or, if section 13 (4) applies, when the responsible Minister must give the report to the Speaker.
- (2) An application for an extension must be made before the end of the 3-month period for the report and, if the Chief Minister has declared a day under section 13 (2) for the report, before that day.
- (3) The application must be accompanied by a written statement of the reasons for the failure to meet the time.
- (4) The Chief Minister may extend the time by—
  - (a) setting a period within which the report must be presented to the Legislative Assembly; or

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

## **15 Presentation of annual report of auditor-general**

- (1) The Speaker must present an annual report of the auditor-general to the Legislative Assembly within 3 months after the end of the financial year (the *3-month period*).
- (2) However, if an annual report of the auditor-general 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 auditor-general must give a copy of the report 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 auditor-general gives it to the Speaker; and

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

## Part 5 Miscellaneous

### 16 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.

### 17 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.



**18 Relationship to other laws**

- (1) This Act is in addition to the requirements of any other Territory law.
- (2) If a public authority is required under any other law to prepare a report on the operation of the authority, the authority may prepare a report that complies with both this Act and the other law.

## 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 Minister
- clerk (of the Legislative Assembly)
- commissioner for public administration
- director-general (see s 163)
- 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 director-general annual report; or
- (b) a public authority annual report; or
- (c) a public administration annual report.

***annual report direction***—see section 9.

***director-general annual report***—see section 5.

***financial year***—

- (a) for a director-general annual report—see section 5 (3); or
- (b) for a public authority annual report—see section 6 (3).

***public administration annual report***—see section 7.

***public authority*** means—

- (a) a Territory instrumentality; or
- (b) a statutory office-holder declared under section 16 (1) to be a public authority; or
- (c) an entity declared under section 16 (2) to be a public authority; or
- (d) the auditor-general.

***public authority annual report***—see section 6.

***responsible Minister***—

- (a) for a director-general annual report—see section 10; or
- (b) for a public authority annual report—see section 11; or
- (c) for a public administration annual report—means the Chief Minister.

***Speaker***—see section 13 (6) (Responsible Minister to present annual report).

***Territory instrumentality***—

- (a) see the Legislation Act, dictionary, part 1; and
- (b) includes a Territory owned corporation.

## Endnotes

1 About the endnotes

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## 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

#### **Annual Reports (Government Agencies) Act 2004 A2004-8**

notified LR 19 March 2004  
 s 1, s 2 commenced 19 March 2004 (LA s 75 (1))  
 pt 6 commenced 1 July 2004 (s 20 and see Human Rights Act 2004  
 A2004-5 s 2)  
 remainder commenced 13 April 2004 (s 2 and CN2004-5)

as amended by

#### **Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.12**

notified LR 30 June 2011  
 s 1, s 2 commenced 30 June 2011 (LA s 75 (1))  
 sch 1 pt 1.12 commenced 1 July 2011 (s 2 (1))

### 4 Amendment history

#### **Commencement**

s 2 om LA s 89 (4)

#### **Dictionary**

s 3 am A2011-22 amdt 1.42

#### **Annual report of director-general**

s 5 hdg am A2011-22 amdt 1.46  
 s 5 am A2004-8 s 21; A2011-22 amdt 1.46

#### **Annual report direction**

s 9 am A2004-8 s 22; pars renum R2 LA (see A2004-8 s 23);  
 A2011-22 amdt 1.46

#### **Responsible Minister for director-general annual report**

s 10 hdg am A2011-22 amdt 1.46  
 s 10 am A2011-22 amdt 1.46

#### **Application of Act**

s 19 exp 1 July 2005 (s 19 (2))

#### **Amendments of section 5 and section 9—human rights**

pt 6 hdg om R2 LA

#### **Application of pt 6**

s 20 om R2 LA

#### **Act, section 5 (2)**

s 21 om LA s 89 (3)

## Endnotes

5 Earlier republications

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**Act, new section 9 (3) (da) and note**

s 22 om LA s 89 (3)

**Act, section 9 (3)**

s 23 om LA s 89 (3)

**Expiry of pt 6**

s 24 om R2 LA

**Repeals and consequential amendments**

pt 7 hdg om LA s 89 (3)

**Act repealed**

s 25 om LA s 89 (3)

**Instruments repealed**

s 26 om LA s 89 (3)

**Auditor-General Act 1996, new section 9A**

s 27 om LA s 89 (3)

**Dictionary**

dict am A2011-22 amdt 1.43, amdt 1.44  
def **annual report** am A2011-22 amdt 1.46  
def **chief executive annual report** om A2011-22 amdt 1.45  
def **director-general annual report** ins A2011-22 amdt 1.45  
def **financial year** am A2011-22 amdt 1.46  
def **responsible minister** am A2011-22 amdt 1.46

## 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. Except for the footer, electronic and printed versions of an authorised republication are identical.

<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R1 13 Apr 2004	13 Apr 2004- 30 June 2004	not amended	new Act
R2 1 July 2004	1 July 2004- 1 July 2005	not amended	amendments on commencement of A2004-5

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<b>Republication No and date</b>	<b>Effective</b>	<b>Last amendment made by</b>	<b>Republication for</b>
R3 2 July 2005	2 July 2005– 30 June 2011	not amended	commenced expiry

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