



Australian Capital Territory

Officers of the Assembly Legislation Amendment Act 2013

A2013-41

Contents

		Page
Part 1	Preliminary	
1	Name of Act	2
2	Commencement	2
3	Legislation amended	2
Part 2	Auditor-General Act 1996	
4	New section 6A	3
5	Sections 7B and 8	4

J2013-167

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

Contents

	Page	
6	Acting auditor-general Section 8A	5
7	Application of Legislation Act, div 19.3.3 Section 8B	5
8	New sections 8B, 8C and 8D	5
9	Resignation Section 9	6
10	Sections 9A and 9B	7
11	Staff Section 9C (3)	13
12	New section 9DA	13
13	Reports for Legislative Assembly New section 17 (5A)	13
14	Regulation-making power New section 38 (2) and (3)	14
15	New part 10	14
16	Dictionary, note 2	15
Part 3	Electoral Act 1992	
17	Division 2.1 heading	16
18	New sections 6A and 6B	16
19	Functions of electoral commission Section 7 (1) (a) and (b)	17
20	Determination of fees Section 8	17
21	Special reports by electoral commission Section 10A	17
22	Section 10A (2)	18
23	New section 10A (3)	18
24	Division 2.2 heading and sections 11 and 12	18
25	Section 12A	20
26	Eligibility for appointment as chairperson Section 12B	20
27	Sections 12AA, 12A and 12B (as amended)	20
28	Sections 13 to 17 and division 2.3 heading	21

Contents

	Page	
29	Delegation by electoral commission Section 20	29
30	Section 21 heading	29
31	Part 3 heading, division 3.1 heading and section 22	29
32	Functions of commissioner etc Section 23	29
33	Delegation by commissioner Section 24	29
34	Sections 25 to 29	29
35	Division 3.2 heading and section 31	29
36	Temporary staff and consultants Section 32 (2)	30
37	New section 33A	30
38	Redistribution committees Section 39 (4)	30
39	Sections 53 (1) (a) and 54	31
40	Regulation-making power New section 341 (3) and (4)	31
41	New part 32	32
42	Dictionary, definition of <i>commissioner</i>	33
43	Dictionary, definition of <i>member</i>	33
44	Dictionary, new definition of <i>relevant Assembly committee</i>	33
45	Further amendments, mentions of s 8	34
Part 4	Ombudsman Act 1989	
46	Functions—generally Section 4A	35
47	New sections 4A and 4B	35
48	Power to obtain information and documents Section 11 (5) and (6)	36
49	Power to enter premises Section 17 (2)	36
50	Sections 19 and 20	36
51	Reports to the Legislative Assembly Section 21	37

Contents

		Page
52	Section 21	37
53	Section 21 (2)	38
54	New section 21 (3)	38
55	Section 22	38
56	Section 24 (1) and heading	40
57	New sections 24A to 24C	40
58	Leave of absence Section 25 (1)	41
59	Sections 27 and 28	41
60	Acting appointment New section 29 (2) and (3)	47
61	Section 30	47
62	Section 32	48
63	Section 33 (5)	48
64	Disclosure of information by ombudsman Section 34 (4)	48
65	Determination of fees and witness expenses etc Section 37	48
66	Regulation-making power New section 38 (2) and (3)	49
67	New part 10	49
68	Dictionary, note 2	50
69	Dictionary, new definition of <i>relevant Assembly committee</i>	51
Schedule 1	Other amendments	52
Part 1.1	Annual Reports (Government Agencies) Act 2004	52
Part 1.2	Financial Management Act 1996	56
Part 1.3	Government Procurement Act 2001	59
Part 1.4	Government Procurement Regulation 2007	61
Part 1.5	Legislation Act 2001	62
Part 1.6	Public Interest Disclosure Act 2012	62
Part 1.7	Public Sector Management Act 1994	63

Contents

		Page
Part 1.8	Referendum (Machinery Provisions) Act 1994	64
Part 1.9	Territory Records Act 2002	65



Australian Capital Territory

Officers of the Assembly Legislation Amendment Act 2013

A2013-41

An Act to amend the *Auditor-General Act 1996*, the *Electoral Act 1992* and the *Ombudsman Act 1989*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Officers of the Assembly Legislation Amendment Act 2013*.

2 Commencement

This Act commences on 1 July 2014.

Note The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).

3 Legislation amended

This Act amends the *Auditor-General Act 1996*, the *Electoral Act 1992* and the *Ombudsman Act 1989*.

Note This Act also amends other legislation (see sch 1).

Part 2 Auditor-General Act 1996

4 New section 6A

insert

6A Officer of the Legislative Assembly

- (1) The auditor-general is an independent officer of the Legislative Assembly.
- (2) The functions, powers, rights, immunities and obligations of the auditor-general are as stated in this Act and other territory laws.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the auditor-general being an independent officer of the Legislative Assembly.
- (4) The powers of the Legislative Assembly to act in relation to the auditor-general are as stated in this Act and other territory laws.
- (5) In subsection (4):
Legislative Assembly includes—
 - (a) the members of the Legislative Assembly; and
 - (b) the committees of the Legislative Assembly.
- (6) There are no implied powers of the Legislative Assembly arising from the auditor-general being an independent officer of the Legislative Assembly.

5 Sections 7B and 8

substitute

8 Appointment

- (1) The Speaker must, on behalf of the Territory, appoint a person as auditor-general.
- (2) The appointment must be made—
 - (a) on the advice of the public accounts committee; and
 - (b) in consultation with the Chief Minister; and
 - (c) in consultation with the Leader of the Opposition; and
 - (d) in consultation with the leader (however described) of a registered party (other than the party to which the Chief Minister or Leader of the Opposition belongs) if at least 2 members of the Legislative Assembly are members of the party; and
 - (e) in accordance with the merit principles set out in the *Public Sector Management Act 1994*, section 65 (Application of merit principle).
- (3) The Speaker must not appoint a person as auditor-general unless satisfied that the person has extensive knowledge of, and experience in—
 - (a) governance and risk management; or
 - (b) public administration.
- (4) The auditor-general is appointed on the terms (if any) in relation to matters not provided for by this part or a determination under the *Remuneration Tribunal Act 1995* that are prescribed by the management standards under the *Public Sector Management Act 1994*.

- (5) The appointment is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (6) In this section:

registered party—see the [Electoral Act 1992](#), dictionary.

6 Acting auditor-general Section 8A

substitute

8A Acting auditor-general

- (1) Before the Speaker appoints a person to act as auditor-general, the Speaker must consult with the presiding member of the public accounts committee about the proposed appointment.
- (2) However, for a period of leave of absence approved by the Speaker under section 9BD, the auditor-general may appoint a person to act as auditor-general after consulting with the Speaker.

7 Application of Legislation Act, div 19.3.3 Section 8B

omit

8 New sections 8B, 8C and 8D

in division 2.3, insert

8B Oath or affirmation of office

Before a person is appointed as auditor-general, the person must take an oath of office, or make an affirmation of office, before the Speaker.

Note For the form of the oath and affirmation of office, see the [Oaths and Affirmations Act 1984](#), s 6 and sch 1.

8C Disclosure of interests

The auditor-general must give a written statement of the auditor-general's personal and financial interests to the Speaker within 7 days after—

- (a) the day the auditor-general is appointed; and
- (b) the first day of each financial year; and
- (c) the day there is a change in the interest.

Note The Speaker may only disclose the information in the statement in certain circumstances (see s 36).

8D Auditor-general must not do other work etc

The auditor-general must not—

- (a) have paid employment other than exercising the auditor-general's functions; or
- (b) engage in any unpaid activity that is inconsistent with the auditor-general's functions.

**9 Resignation
Section 9**

omit

Chief Minister

substitute

Speaker

10 Sections 9A and 9B

substitute

9A Retirement

- (1) The Speaker may retire the auditor-general on the ground of physical or mental incapacity if—
 - (a) the incapacity substantially affects the exercise of the auditor-general's functions; and
 - (b) the auditor-general consents to the retirement.
- (2) However, the auditor-general must not be retired on the ground of invalidity unless—
 - (a) if the auditor-general is an eligible employee for the *Superannuation Act 1976* (Cwlth)—
 - (i) the auditor-general is under the auditor-general's maximum retiring age within the meaning of that [Act](#); and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 2 under that [Act](#), section 54C for the auditor-general; or
 - (b) if the auditor-general is a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—
 - (i) the auditor-general is under 60 years old; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that [Act](#), section 13 for the auditor-general; or

(c) if the auditor-general is an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—

- (i) the auditor-general is under 60 years old; and
- (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that Act, section 43 for the auditor-general.

(3) In this section:

invalidity means—

- (a) for an eligible employee for the *Superannuation Act 1976* (Cwlth)—invalidity under that Act; or
- (b) for a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—invalidity under that Act; or
- (c) for an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—invalidity under that Act.

physical or mental incapacity includes invalidity.

9B Suspension—generally

- (1) The Speaker may suspend the auditor-general on the ground of—
- (a) misbehaviour; or
 - (b) physical or mental incapacity, if the incapacity substantially affects the exercise of the auditor-general's functions.

Note Power given by a law to make a decision includes power to reverse or change the decision. The power to reverse or change the decision is exercisable in the same way, and subject to the same conditions, as the power to make the decision (see *Legislation Act*, s 180).

- (2) If the Speaker is considering suspending the auditor-general, the Speaker may ask 1 or more of the following for advice about the proposed suspension:
 - (a) the commissioner for public administration;
 - (b) anyone else the Speaker considers appropriate.
- (3) If the Speaker suspends the auditor-general, the Speaker must give the auditor-general written notice of the suspension and a copy of a statement of the reasons for the suspension.

Note The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.

- (4) The suspension takes effect when the notice and statement are given to the auditor-general under subsection (3).
- (5) The auditor-general may be suspended only under this section.
- (6) The auditor-general is entitled to be paid salary and allowances while suspended.

9BA Suspension—public accounts committee notice and meetings

- (1) If the Speaker suspends the auditor-general, the Speaker must give written notice of the suspension and a copy of the statement of the reasons for the suspension to each member of the public accounts committee not later than the next business day, or if the committee has not been established, the next business day after the day the committee is established.
- (2) The public accounts committee must meet in relation to the auditor-general's suspension—
 - (a) not later than 3 business days after the day the committee is given written notice of the suspension (the *notice day*); and
 - (b) at subsequent intervals of not longer than 30 days while the auditor-general is suspended (a *regular meeting*).

- (3) The public accounts committee must give the auditor-general written notice that a regular meeting will be held at least 3 business days before the day the meeting is to be held.
- (4) The auditor-general may make an oral or written submission (or both) to the committee about the auditor-general's suspension.
- (5) At each regular meeting, the public accounts committee must review the auditor-general's suspension and may at any time pass a resolution about the suspension, including a resolution—
 - (a) recommending to the Speaker that the Speaker end the suspension; or
 - (b) to make a statement to the Legislative Assembly recommending that the Speaker end the auditor-general's appointment.

9BB Suspension—ending suspension

- (1) If the Speaker does not comply with section 9BA (1), the suspension ends at the end of the notice day.
- (2) If the public accounts committee fails to hold a meeting as required under section 9BA (2), the suspension ends on the day after the last day when the meeting could have been held.
- (3) If the public accounts committee makes a recommendation mentioned in section 9BA (5) (a) and the Speaker does not end the suspension within 1 business day after the day the recommendation is made—
 - (a) the committee may at any time resolve to make a statement to the Legislative Assembly recommending that the suspension be ended; and

- (b) if the committee makes a statement mentioned in paragraph (a) and—
 - (i) the Legislative Assembly resolves to end the suspension—the suspension ends on the passing of the resolution; or
 - (ii) the Legislative Assembly does not deal with the statement within 3 sitting days—the suspension ends at the end of the 3rd sitting day.
- (4) If the public accounts committee makes a statement mentioned in section 9BA (5) (b)—
 - (a) the Legislative Assembly may resolve to require the Speaker to end the auditor-general's appointment; but
 - (b) if the Legislative Assembly does not, within 3 sitting days, pass a resolution mentioned in paragraph (a)—the suspension ends at the end of the 3rd sitting day.
- (5) If the Speaker ends the auditor-general's suspension, the Speaker must give written notice of the ending of the suspension and a copy of a statement of the reasons for ending the suspension to the auditor-general and the public accounts committee.

Note The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.

- (6) In this section:
notice day—see section 9BA (2) (a).

9BC Ending of appointment

- (1) The Speaker must end the auditor-general's appointment if—
 - (a) the Legislative Assembly—
 - (i) passes a resolution under section 9BB (4) (a); or

- (ii) otherwise resolves to require the Speaker to end the auditor-general's appointment—
 - (A) for misbehaviour; or
 - (B) for physical or mental incapacity, if the incapacity substantially affects the exercise of the auditor-general's functions; or
 - (b) the auditor-general becomes bankrupt or personally insolvent.
- (2) For a resolution mentioned in subsection (1) (a) (ii)—
 - (a) at least 7 days before the day the motion to which the resolution relates is first debated in the Legislative Assembly—
 - (i) the Assembly must be given the notice of the motion and a statement of reasons for the motion; and
 - (ii) the Speaker must—
 - (A) give the auditor-general a copy of the notice and the statement of reasons; and
 - (B) tell the auditor-general that a written submission about the motion may be made to the Speaker not later than 3 days after the day the auditor-general is given the notice; and
 - (b) the Speaker must give any written submission to the Legislative Assembly before the day the motion is first debated in the Legislative Assembly.
- (3) The Speaker may end the auditor-general's appointment if the auditor-general is absent from duty, except on leave granted by the Speaker, for 14 consecutive days or for 28 days in any 12 months.
- (4) The auditor-general's appointment may be ended by the Speaker only under this section or section 9A (Retirement).

9BD Leave of absence

The Speaker may approve leave of absence for the auditor-general on the terms the Speaker decides.

**11 Staff
Section 9C (3)**

omit

12 New section 9DA

insert

9DA Staff not subject to direction from others

- (1) The auditor-general's staff are not subject to direction from anyone other than the following people in relation to the exercise of the auditor-general's functions:
 - (a) the auditor-general;
 - (b) another member of the auditor-general's staff authorised by the auditor-general to give directions.
- (2) In this section:

staff means—

 - (a) staff mentioned in section 9C; and
 - (b) a contractor mentioned in section 9D.

**13 Reports for Legislative Assembly
New section 17 (5A)**

insert

- (5A) The Minister must present a written response to the report to the Legislative Assembly within 3 months after the day the report was presented to the Legislative Assembly.

**14 Regulation-making power
New section 38 (2) and (3)**

insert

- (2) The Executive must consult with the auditor-general and the public accounts committee before making a regulation under this Act.
- (3) Subject to any disallowance or amendment under the [Legislation Act](#), chapter 7, a regulation under this Act commences—
 - (a) if there is a motion to disallow the regulation and the motion is negated by the Legislative Assembly—on the day after the day the motion is negated; or
 - (b) on the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
 - (c) if the regulation provides for a later date or time of commencement—on that date or at that time.

15 New part 10

insert

**Part 10 Transitional—Officers of the
Assembly Legislation
Amendment Act 2013****50 Existing appointment of auditor-general**

- (1) This section applies to a person who, immediately before the commencement day, is the auditor-general appointed under the pre-amendment Act.
- (2) The person is taken to be appointed as the auditor-general under the post-amendment Act, section 8.

- (3) The auditor-general must, within 1 month after the commencement day—
- (a) take an oath of office, or make an affirmation of office, before the Speaker; and

Note For the form of the oath and affirmation of office, see the [Oaths and Affirmations Act 1984](#), s 6 and sch 1.

- (b) give a written statement of the auditor-general's personal and financial interests to the Speaker.
- (4) In this section:

commencement day means the day the *Officers of the Assembly Legislation Amendment Act 2013*, section 3 commences.

post-amendment Act means the Act as in force on the commencement day.

pre-amendment Act means the Act as in force immediately before the commencement day.

51 Expiry—pt 10

This part expires 1 year after the day it commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

16 Dictionary, note 2

insert

- officer of the Assembly
- territory law

Part 3 Electoral Act 1992

17 Division 2.1 heading

substitute

Division 2.1 Establishment and independence of electoral commission

18 New sections 6A and 6B

insert

6A Officer of the Legislative Assembly

- (1) A member of the electoral commission is an independent officer of the Legislative Assembly.
- (2) The functions, powers, rights, immunities and obligations of the member of the electoral commission are as stated in this Act and other territory laws.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the member of the electoral commission being an independent officer of the Legislative Assembly.
- (4) The powers of the Legislative Assembly to act in relation to the member of the electoral commission are as stated in this Act and other territory laws.
- (5) In subsection (4):
Legislative Assembly includes—
 - (a) the members of the Legislative Assembly; and
 - (b) the committees of the Legislative Assembly.

- (6) There are no implied powers of the Legislative Assembly arising from the member of the electoral commission being an independent officer of the Legislative Assembly.

6B Independence of member of the electoral commission

Subject to this Act and to other territory laws, a member of the electoral commission has complete discretion in the exercise of the member's functions.

Division 2.2 Functions of electoral commission

**19 Functions of electoral commission
Section 7 (1) (a) and (b)**

omit

Minister

substitute

Assembly

**20 Determination of fees
Section 8**

relocate as section 340B

**21 Special reports by electoral commission
Section 10A**

omit

Minister

substitute

Speaker

22 Section 10A (2)

omit

within 6 sitting days

substitute

on the next sitting day

23 New section 10A (3)

insert

- (3) The Minister must present a written response to the report to the Legislative Assembly within 3 months after the day the report was presented to the Legislative Assembly.

24 Division 2.2 heading and sections 11 and 12

substitute

Division 2.3 Functions of electoral commissioner

Division 2.4 Appointment of members of electoral commission

12 Appointment

- (1) The Speaker must, on behalf of the Territory, appoint the members of the electoral commission.
- (2) The appointment must be made—
- (a) on the advice of the relevant Assembly committee; and
 - (b) in consultation with the Chief Minister; and
 - (c) in consultation with the Leader of the Opposition; and

- (d) in consultation with the leader (however described) of a registered party (other than the party to which the Chief Minister or Leader of the Opposition belongs) if at least 2 members of the Legislative Assembly are members of the party; and
 - (e) in accordance with the merit principles set out in the *Public Sector Management Act 1994*, section 65 (Application of merit principle).
- (3) The Speaker must not appoint a person as a member of the electoral commission unless satisfied that the person has extensive knowledge of, and experience in—
- (a) for the commissioner—
 - (i) electoral systems or management; or
 - (ii) public administration; or
 - (b) for a member of the electoral commission other than the commissioner—
 - (i) an area mentioned in paragraph (a); or
 - (ii) another area that is relevant to and consistent with the functions of a member of the electoral commission.
- (4) A member of the electoral commission is appointed on the terms (if any) in relation to matters not provided for by this part or a determination under the *Remuneration Tribunal Act 1995* that are prescribed by the management standards under the *Public Sector Management Act 1994*.
- (5) The appointment is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

12AA Acting appointment—commissioner

- (1) Before the Speaker appoints a person to act as the commissioner, the Speaker must consult with the chair of the relevant Assembly committee about the proposed appointment.
- (2) However, for a period of leave of absence approved by the Speaker under section 18E, the commissioner may appoint a person to act as commissioner after consulting with the Speaker.

25 Section 12A

omit everything before paragraph (a), substitute

12A Eligibility for appointment as electoral commission member

The Speaker must not appoint a person as a member of the electoral commission if the person—

**26 Eligibility for appointment as chairperson
Section 12B**

omit

Executive

substitute

Speaker

27 Sections 12AA, 12A and 12B (as amended)

renumber as sections 12A, 12B and 12C

28 Sections 13 to 17 and division 2.3 heading

substitute

13 Term of appointment

A member of the electoral commission must be appointed for 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](#), s 208 and dict, pt 1, def *appoint*).

Division 2.5 Other provisions applying to electoral commission members**14 Oath or affirmation of office**

Before a person is appointed as a member of the electoral commission, the person must take an oath of office, or make an affirmation of office, before the Speaker.

Note For the form of the oath and affirmation of office, see the [Oaths and Affirmations Act 1984](#), s 6 and sch 1.

15 Disclosure of interests—generally

A member of the electoral commission must give a written statement of the member's personal and financial interests to the Speaker within 7 days after—

- (a) the day the member is appointed; and
- (b) the first day of each financial year; and
- (c) the day there is a change in the interest.

16 Electoral commission member must not do inconsistent work etc

A member of the electoral commission must not—

- (a) have paid employment that is inconsistent with the member's functions; or
- (b) engage in any unpaid activity that is inconsistent with the member's functions.

17 Resignation

A member of the electoral commission may resign by giving a signed notice of resignation to the Speaker.

18 Retirement

- (1) The Speaker may retire a member of the electoral commission on the ground of physical or mental incapacity if—
 - (a) the incapacity substantially affects the exercise of the member's functions; and
 - (b) the member consents to the retirement.
- (2) However, a member of the electoral commission must not be retired on the ground of invalidity unless—
 - (a) if the member of the electoral commission is an eligible employee for the *Superannuation Act 1976* (Cwlth)—
 - (i) the member is under the member's maximum retiring age within the meaning of that *Act*; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 2 under that *Act*, section 54C for the member; or

- (b) if the member of the electoral commission is a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—
 - (i) the member is under 60 years old; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that Act, section 13 for the member; or
- (c) if the member of the electoral commission is an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—
 - (i) the member is under 60 years old; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that Act, section 43 for the member.

(3) In this section:

invalidity means—

- (a) for an eligible employee for the *Superannuation Act 1976* (Cwlth)—invalidity under that Act; or
- (b) for a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—invalidity under that Act; or
- (c) for an ordinary employer-sponsored member of PSSAP within the meaning of the *Superannuation Act 2005* (Cwlth)—invalidity under that Act.

physical or mental incapacity includes invalidity.

18A Suspension—generally

- (1) The Speaker may suspend a member of the electoral commission on the ground of—
 - (a) misbehaviour; or
 - (b) physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

Note Power given by a law to make a decision includes power to reverse or change the decision. The power to reverse or change the decision is exercisable in the same way, and subject to the same conditions, as the power to make the decision (see [Legislation Act](#), s 180).

- (2) If the Speaker is considering suspending the member, the Speaker may ask 1 or more of the following for advice about the proposed suspension:
 - (a) the commissioner for public administration;
 - (b) anyone else the Speaker considers appropriate.
- (3) If the Speaker suspends the member, the Speaker must give the member written notice of the suspension and a copy of a statement of the reasons for the suspension.

Note The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.

- (4) The suspension takes effect when the notice and statement are given to the member under subsection (3).
- (5) The member may be suspended only under this section.
- (6) The member is entitled to be paid salary and allowances while suspended.

18B Suspension—relevant Assembly committee notice and meetings

- (1) If the Speaker suspends a member of the electoral commission, the Speaker must give written notice of the suspension and a copy of the statement of the reasons for the suspension to each member of the relevant Assembly committee not later than the next business day, or if the committee has not been established, the next business day after the day the committee is established.
- (2) The relevant Assembly committee must meet in relation to the member's suspension—
 - (a) not later than 3 business days after the day the committee is given written notice of the suspension (the *notice day*); and
 - (b) at subsequent intervals of not longer than 30 days while the member is suspended (a *regular meeting*).
- (3) The relevant Assembly committee must give the member of the electoral commission written notice that a regular meeting will be held at least 3 business days before the day the meeting is to be held.
- (4) The member of the electoral commission may make an oral or written submission (or both) to the committee about the member's suspension.
- (5) At each regular meeting, the relevant Assembly committee must review the member's suspension and may at any time pass a resolution about the suspension, including a resolution—
 - (a) recommending to the Speaker that the Speaker end the suspension; or
 - (b) to make a statement to the Legislative Assembly recommending that the Speaker end the member's appointment.

18C Suspension—ending suspension

- (1) If the Speaker does not comply with section 18B (1), the suspension ends at the end of the notice day.
- (2) If the relevant Assembly committee fails to hold a meeting as required under section 18B (2), the suspension ends on the day after the last day when the meeting could have been held.
- (3) If the relevant Assembly committee makes a recommendation mentioned in section 18B (5) (a) and the Speaker does not end the suspension within 1 business day after the day the recommendation is made—
 - (a) the committee may at any time resolve to make a statement to the Legislative Assembly recommending that the suspension be ended; and
 - (b) if the committee makes a statement mentioned in paragraph (a) and—
 - (i) the Legislative Assembly resolves to end the suspension—the suspension ends on the passing of the resolution; or
 - (ii) the Legislative Assembly does not deal with the statement within 3 sitting days—the suspension ends at the end of the 3rd sitting day.
- (4) If the relevant Assembly committee makes a statement mentioned in section 18B (5) (b)—
 - (a) the Legislative Assembly may resolve to require the Speaker to end the member's appointment; but
 - (b) if the Legislative Assembly does not, within 3 sitting days, pass a resolution mentioned in paragraph (a)—the suspension ends at the end of the 3rd sitting day.

- (5) If the Speaker ends the member's suspension, the Speaker must give written notice of the ending of the suspension and a copy of a statement of the reasons for ending the suspension to the member and the relevant Assembly committee.

Note The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.

- (6) In this section:
notice day—see section 18B (2) (a).

18D Ending of appointment

- (1) The Speaker must end the appointment of a member of the electoral commission if—
- (a) the Legislative Assembly—
 - (i) passes a resolution under section 18C (4) (a); or
 - (ii) otherwise resolves to require the Speaker to end the member's appointment—
 - (A) for misbehaviour; or
 - (B) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions; or
 - (b) the member becomes bankrupt or personally insolvent.
- (2) For a resolution mentioned in subsection (1) (a) (ii)—
- (a) at least 7 days before the day the motion to which the resolution relates is first debated in the Legislative Assembly—
 - (i) the Assembly must be given the notice of the motion and a statement of reasons for the motion; and

- (ii) the Speaker must—
 - (A) give the member a copy of the notice and the statement of reasons; and
 - (B) tell the member that a written submission about the motion may be made to the Speaker not later than 3 days after the day the member is given the notice; and
- (b) the Speaker must give any written submission to the Legislative Assembly before the day the motion is first debated in the Legislative Assembly.
- (3) The Speaker may end a member's appointment if—
 - (a) the member contravenes section 21 (Disclosure of interests—meetings) without reasonable excuse; or
 - (b) for the commissioner—the commissioner is absent from duty, except on leave granted by the Speaker, for 14 consecutive days or for 28 days in any 12 months; or
 - (c) for a member other than the commissioner—the member is absent, except on leave granted by the Speaker, from 3 consecutive meetings of the electoral commission.
- (4) The member's appointment may be ended by the Speaker only under this section or section 18 (Retirement).

18E Leave of absence

The Speaker may approve leave of absence for a member of the electoral commission on the terms the Speaker decides.

Division 2.6 Electoral commission meetings

**29 Delegation by electoral commission
Section 20**

relocate to division 2.7 as section 33B

30 Section 21 heading

substitute

21 Disclosure of interests—meetings

31 Part 3 heading, division 3.1 heading and section 22

omit

**32 Functions of commissioner etc
Section 23**

relocate to division 2.3 as section 11

**33 Delegation by commissioner
Section 24**

relocate to division 2.7 as section 33C

34 Sections 25 to 29

omit

35 Division 3.2 heading and section 31

substitute

Division 2.7 Staff of electoral commissioner etc

31 Staff

- (1) The commissioner's staff (other than staff mentioned in section 32 (1) (a)) must be employed under the [Public Sector Management Act 1994](#).

- (2) The commissioner has the powers mentioned in the *Public Sector Management Act 1994*, section 25 (3) (Powers of certain statutory office-holders) in relation to the commissioner's staff.

**36 Temporary staff and consultants
Section 32 (2)**

omit

after consultation with the Executive

37 New section 33A

insert

33A Staff not subject to direction from others

- (1) The commissioner's staff are not subject to direction from anyone other than the following people in relation to the exercise of the commissioner's functions:
- (a) the commissioner;
 - (b) another member of the commissioner's staff authorised by the commissioner to give directions.

- (2) In this section:

staff means—

- (a) staff mentioned in section 31 (1) and section 32 (1) (a); and
- (b) a consultant mentioned in section 32 (1) (b); and
- (c) an officer mentioned in section 33.

**38 Redistribution committees
Section 39 (4)**

omit

in consultation with the Minister

39 Sections 53 (1) (a) and 54

omit

Minister

substitute

Speaker

**40 Regulation-making power
New section 341 (3) and (4)**

insert

- (3) The Executive must consult with the electoral commission and the relevant Assembly committee before making a regulation under this Act.
- (4) Subject to any disallowance or amendment under the [Legislation Act](#), chapter 7, a regulation under this Act commences—
 - (a) if there is a motion to disallow the regulation and the motion is negated by the Legislative Assembly—on the day after the day the motion is negated; or
 - (b) on the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
 - (c) if the regulation provides for a later date or time of commencement—on that date or at that time.

41 New part 32

insert

**Part 32 Transitional—Officers of the
Assembly Legislation
Amendment Act 2013**

515 Existing appointment of electoral commission members

- (1) This section applies to a person who, immediately before the commencement day, is a member of the electoral commission appointed under the pre-amendment Act.
- (2) The person is taken to be appointed as a member of the electoral commission under the post-amendment Act, section 12.
- (3) The member must, within 1 month after the commencement day—
 - (a) take an oath of office, or make an affirmation of office, before the Speaker; and

Note For the form of the oath and affirmation of office, see the [Oaths and Affirmations Act 1984](#), s 6 and sch 1.

- (b) give a written statement of the member's personal and financial interests to the Speaker.
- (4) In this section:

commencement day means the day the *Officers of the Assembly Legislation Amendment Act 2013*, section 3 commences.

post-amendment Act means the Act as in force on the commencement day.

pre-amendment Act means the Act as in force immediately before the commencement day.

516 Expiry—pt 32

This part expires 1 year after the day it commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

42 Dictionary, definition of *commissioner*

omit

section 22

substitute

section 12

43 Dictionary, definition of *member*

omit

44 Dictionary, new definition of *relevant Assembly committee*

insert

relevant Assembly committee means the committee of the Legislative Assembly whose functions include the examination of electoral matters.

45 Further amendments, mentions of s 8

omit

s 8

substitute

s 340B

in

- section 61 (2), note
- section 62 (2), note
- section 243 (4), note
- section 333 (2), note

Part 4 Ombudsman Act 1989

46 Functions—generally Section 4A

renumber as section 4C

47 New sections 4A and 4B

insert

4A Officer of the Legislative Assembly

- (1) The ombudsman is an independent officer of the Legislative Assembly.
- (2) The functions, powers, rights, immunities and obligations of the ombudsman are as stated in this Act and other territory laws.
- (3) There are no implied functions, powers, rights, immunities or obligations arising from the ombudsman being an independent officer of the Legislative Assembly.
- (4) The powers of the Legislative Assembly to act in relation to the ombudsman are as stated in this Act and other territory laws.
- (5) In subsection (4):
Legislative Assembly includes—
 - (a) the members of the Legislative Assembly; and
 - (b) the committees of the Legislative Assembly.
- (6) There are no implied powers of the Legislative Assembly arising from the ombudsman being an independent officer of the Legislative Assembly.

4B Independence of ombudsman

Subject to this Act and to other territory laws, the ombudsman has complete discretion in the exercise of the ombudsman's functions.

**48 Power to obtain information and documents
Section 11 (5) and (6)**

omit

**49 Power to enter premises
Section 17 (2)**

omit

, other than documents to which a certificate under section 11 (5) or (6) applies,

50 Sections 19 and 20

substitute

19 Reports to Speaker

- (1) This section applies if the ombudsman—
 - (a) gives an agency a report under section 18; and
 - (b) considers that action that is adequate and appropriate in the circumstances is not taken within a reasonable time in relation to a matter or recommendation stated in the report.
- (2) After having regard to any comments given to the ombudsman by the agency in relation to the report, the ombudsman may give the report and any comments from the agency about the report (the *final report*)—
 - (a) to the Chief Minister for a written response; or

- (b) if the ombudsman considers that in the circumstances it is appropriate for the final report to be given directly to the Speaker—to the Speaker.
- (3) If the ombudsman gives the Chief Minister the final report under subsection (2) (a), the ombudsman may give the Speaker the final report if—
 - (a) the ombudsman considers that the Chief Minister’s written response is not adequate or appropriate; or
 - (b) the Chief Minister has not given the ombudsman a written response within a reasonable time.
- (4) The Speaker must present the final report to the Legislative Assembly on the first sitting day after receiving the report.
- (5) The Minister must present a written response to the final report to the Legislative Assembly within 3 months after the day the report was presented to the Legislative Assembly.

**51 Reports to the Legislative Assembly
Section 21**

omit

Minister

substitute

Speaker

52 Section 21

omit

18, 19 and 20

substitute

18 and 19

53 Section 21 (2)

omit

within 15 sitting days

substitute

on the next sitting day

54 New section 21 (3)

insert

- (3) The Minister must present a written response to the report to the Legislative Assembly within 3 months after the day the report was presented to the Legislative Assembly.

55 Section 22

substitute

22 Appointment

- (1) The Speaker may, on behalf of the Territory, appoint a person who is not the Commonwealth ombudsman as the ombudsman.

Note The person holding office as the Commonwealth ombudsman is taken to be the ACT ombudsman until an appointment is made under this Act (see *A.C.T. Self-Government (Consequential Provisions) Act 1988* (Cwlth), s 28).

- (2) The Speaker must not make an appointment under this section for the first time unless the Chief Minister has consented, in writing, to an appointment being made.
- (3) The appointment must not be made before—
- (a) the time stated by the Chief Minister in the consent; or
 - (b) if there is no time stated in the consent—6 months after the Chief Minister's consent.

- (4) The appointment must be made—
- (a) on the advice of the relevant Assembly committee; and
 - (b) in consultation with the Chief Minister; and
 - (c) in consultation with the Leader of the Opposition; and
 - (d) in consultation with the leader (however described) of a registered party (other than the party to which the Chief Minister or Leader of the Opposition belongs) if at least 2 members of the Legislative Assembly are members of the party; and
 - (e) in accordance with the merit principles set out in the *Public Sector Management Act 1994*, section 65 (Application of merit principle).
- (5) The Speaker must not appoint a person as the ombudsman unless satisfied that the person has extensive knowledge of, and experience in—
- (a) public administration; or
 - (b) dispute resolution; or
 - (c) complaint handling.
- (6) The appointment is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

56 Section 24 (1) and heading

substitute

24 Terms of appointment

- (1) The ombudsman is appointed on the terms (if any) in relation to matters not provided for by this part or a determination under the [Remuneration Tribunal Act 1995](#) that are prescribed by the management standards under the [Public Sector Management Act 1994](#).

57 New sections 24A to 24C

insert

24A Oath or affirmation of office

Before a person is appointed as ombudsman, the person must take an oath of office, or make an affirmation of office, before the Speaker.

Note For the form of the oath and affirmation of office, see the [Oaths and Affirmations Act 1984](#), s 6 and sch 1.

24B Disclosure of interests

The ombudsman must give a written statement of the ombudsman's personal and financial interests to the Speaker within 7 days after—

- (a) the day the ombudsman is appointed; and
- (b) the first day of each financial year; and
- (c) the day there is a change in the interest.

24C Ombudsman must not do inconsistent work etc

The ombudsman must not—

- (a) have paid employment that is inconsistent with the ombudsman's functions; or

- (b) engage in any unpaid activity that is inconsistent with the ombudsman's functions.

**58 Leave of absence
Section 25 (1)**

substitute

- (1) The Speaker may approve leave of absence for the ombudsman on the terms the Speaker decides.

59 Sections 27 and 28

substitute

27 Retirement

- (1) The Speaker may retire the ombudsman on the ground of physical or mental incapacity if—
 - (a) the incapacity substantially affects the exercise of the ombudsman's functions; and
 - (b) the ombudsman consents to the retirement.
- (2) However, the ombudsman must not be retired on the ground of invalidity unless—
 - (a) if the ombudsman is an eligible employee for the *Superannuation Act 1976* (Cwlth)—
 - (i) the ombudsman is under the ombudsman's maximum retiring age within the meaning of that [Act](#); and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 2 under that [Act](#), section 54C for the ombudsman; or
 - (b) if the ombudsman is a member of the superannuation scheme established under the *Superannuation Act 1990* (Cwlth)—
 - (i) the ombudsman is under 60 years old; and

- (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that [Act](#), section 13 for the ombudsman; or
 - (c) if the ombudsman is an ordinary employer-sponsored member of PSSAP within the meaning of the [Superannuation Act 2005](#) (Cwlth)—
 - (i) the ombudsman is under 60 years old; and
 - (ii) a certificate has been given by the Commonwealth Superannuation Board of Trustees No 1 under that [Act](#), section 43 for the ombudsman.
- (3) In this section:
- invalidity* means—
- (a) for an eligible employee for the [Superannuation Act 1976](#) (Cwlth)—invalidity under that Act; or
 - (b) for a member of the superannuation scheme established under the [Superannuation Act 1990](#) (Cwlth)—invalidity under that Act; or
 - (c) for an ordinary employer-sponsored member of PSSAP within the meaning of the [Superannuation Act 2005](#) (Cwlth)—invalidity under that Act.

physical or mental incapacity includes invalidity.

28 Resignation

The ombudsman may resign by giving a signed notice of resignation to the Speaker.

28A Suspension—generally

- (1) The Speaker may suspend the ombudsman on the ground of—
 - (a) misbehaviour; or

- (b) physical or mental incapacity, if the incapacity substantially affects the exercise of the ombudsman's functions.

Note Power given by a law to make a decision includes power to reverse or change the decision. The power to reverse or change the decision is exercisable in the same way, and subject to the same conditions, as the power to make the decision (see [Legislation Act](#), s 180).

- (2) If the Speaker is considering suspending the ombudsman, the Speaker may ask 1 or more of the following for advice about the proposed suspension:
- (a) the commissioner for public administration;
 - (b) anyone else the Speaker considers appropriate.
- (3) If the Speaker suspends the ombudsman, the Speaker must give the ombudsman written notice of the suspension and a copy of a statement of the reasons for the suspension.

Note The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.

- (4) The suspension takes effect when the notice and statement are given to the ombudsman under subsection (3).
- (5) The ombudsman may be suspended only under this section.
- (6) The ombudsman is entitled to be paid salary and allowances while suspended.

28B Suspension—relevant Assembly committee notice and meetings

- (1) If the Speaker suspends the ombudsman, the Speaker must give written notice of the suspension and a copy of the statement of the reasons for the suspension to each member of the relevant Assembly committee not later than the next business day, or if the committee has not been established, the next business day after the day the committee is established.

- (2) The relevant Assembly committee must meet in relation to the ombudsman's suspension—
 - (a) not later than 3 business days after the day the committee is given written notice of the suspension (the *notice day*); and
 - (b) at subsequent intervals of not longer than 30 days while the ombudsman is suspended (a *regular meeting*).
- (3) The relevant Assembly committee must give the ombudsman written notice that a regular meeting will be held at least 3 business days before the day the meeting is to be held.
- (4) The ombudsman may make an oral or written submission (or both) to the committee about the ombudsman's suspension.
- (5) At each regular meeting, the relevant Assembly committee must review the ombudsman's suspension and may at any time pass a resolution about the suspension, including a resolution—
 - (a) recommending to the Speaker that the Speaker end the suspension; or
 - (b) to make a statement to the Legislative Assembly recommending that the Speaker end the ombudsman's appointment.

28C Suspension—ending suspension

- (1) If the Speaker does not comply with section 28B (1), the suspension ends at the end of the notice day.
- (2) If the relevant Assembly committee fails to hold a meeting as required under section 28B (2), the suspension ends on the day after the last day when the meeting could have been held.

- (3) If the relevant Assembly committee makes a recommendation mentioned in section 28B (5) (a) and the Speaker does not end the suspension within 1 business day after the day the recommendation is made—
- (a) the committee may at any time resolve to make a statement to the Legislative Assembly recommending that the suspension be ended; and
 - (b) if the committee makes a statement mentioned in paragraph (a) and—
 - (i) the Legislative Assembly resolves to end the suspension—the suspension ends on the passing of the resolution; or
 - (ii) the Legislative Assembly does not deal with the statement within 3 sitting days—the suspension ends at the end of the 3rd sitting day.
- (4) If the relevant Assembly committee makes a statement mentioned in section 28B (5) (b)—
- (a) the Legislative Assembly may resolve to require the Speaker to end the ombudsman’s appointment; but
 - (b) if the Legislative Assembly does not, within 3 sitting days, pass a resolution mentioned in paragraph (a)—the suspension ends at the end of the 3rd sitting day.
- (5) If the Speaker ends the ombudsman’s suspension, the Speaker must give written notice of the ending of the suspension and a copy of a statement of the reasons for ending the suspension to the ombudsman and the relevant Assembly committee.
- Note* The [Legislation Act](#), s 179 deals with the information that must be included in a statement of reasons.
- (6) In this section:
notice day—see section 28B (2) (a).

28D Ending of appointment

- (1) The Speaker must end the ombudsman's appointment if—
 - (a) the Legislative Assembly—
 - (i) passes a resolution under section 28C (4) (a); or
 - (ii) otherwise resolves to require the Speaker to end the ombudsman's appointment—
 - (A) for misbehaviour; or
 - (B) for physical or mental incapacity, if the incapacity substantially affects the exercise of the ombudsman's functions; or
 - (b) the ombudsman becomes bankrupt or personally insolvent.
- (2) For a resolution mentioned in subsection (1) (a) (ii)—
 - (a) at least 7 days before the day the motion to which the resolution relates is first debated in the Legislative Assembly—
 - (i) the Assembly must be given the notice of the motion and a statement of reasons for the motion; and
 - (ii) the Speaker must—
 - (A) give the ombudsman a copy of the notice and the statement of reasons; and
 - (B) tell the ombudsman that a written submission about the motion may be made to the Speaker not later than 3 days after the day the ombudsman is given the notice; and
 - (b) the Speaker must give any written submission to the Legislative Assembly before the day the motion is first debated in the Legislative Assembly.

- (3) The Speaker may end the ombudsman's appointment if the ombudsman is absent from duty, except on leave granted by the Speaker, for 14 consecutive days or for 28 days in any 12 months.
- (4) The ombudsman's appointment may be ended by the Speaker only under this section or section 27 (Retirement).

60 **Acting appointment**
New section 29 (2) and (3)

insert

- (2) If the Commonwealth ombudsman does not hold the office of ombudsman, before the Speaker appoints a person to act as the ombudsman, the Speaker must consult with the chair of the relevant Assembly committee about the proposed appointment.
- (3) However, for a period of leave of absence approved by the Speaker under section 25 (1) or mentioned in section 25 (2), the ombudsman may appoint a person to act as ombudsman after consulting with the Speaker.

61 **Section 30**

substitute

30 **Staff**

- (1) The ombudsman's staff must—
 - (a) be employed under the *Public Sector Management Act 1994*; and
 - (b) if the Commonwealth ombudsman holds the office of ombudsman—be a person mentioned in paragraph (a) or a person appointed or employed under the *Public Service Act 1999* (Cwlth).

- (2) The ombudsman's staff are not subject to direction from anyone other than the following people in relation to the exercise of the ombudsman's functions:
- (a) the ombudsman;
 - (b) another member of the ombudsman's staff authorised by the ombudsman to give directions.

62 Section 32

substitute

32 Delegation

The ombudsman may delegate the ombudsman's functions under this Act to a member of the staff assisting the ombudsman.

63 Section 33 (5)

omit

**64 Disclosure of information by ombudsman
Section 34 (4)**

omit

(other than section 33 (5))

**65 Determination of fees and witness expenses etc
Section 37**

omit

The Minister may

substitute

The Speaker may, after consulting with the ombudsman,

**66 Regulation-making power
New section 38 (2) and (3)**

after the note, insert

- (2) The Executive must consult with the ombudsman and the relevant Assembly committee before making a regulation under this Act.
- (3) Subject to any disallowance or amendment under the [Legislation Act](#), chapter 7, a regulation under this Act commences—
 - (a) if there is a motion to disallow the regulation and the motion is negated by the Legislative Assembly—on the day after the day the motion is negated; or
 - (b) on the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
 - (c) if the regulation provides for a later date or time of commencement—on that date or at that time.

67 New part 10

insert

**Part 10 Transitional—Officers of the
Assembly Legislation
Amendment Act 2013****50 Existing appointment of ombudsman**

- (1) This section applies to a person who, immediately before the commencement day, is the ombudsman appointed under the pre-amendment Act.
- (2) The person is taken to be appointed as the ombudsman under the post-amendment Act, section 22.

- (3) The ombudsman must, within 1 month after the commencement day—
- (a) take an oath of office, or make an affirmation of office, before the Speaker; and

Note For the form of the oath and affirmation of office, see the [Oaths and Affirmations Act 1984](#), s 6 and sch 1.

- (b) give a written statement of the ombudsman's personal and financial interests to the Speaker.
- (4) In this section:

commencement day means the day the *Officers of the Assembly Legislation Amendment Act 2013*, section 3 commences.

post-amendment Act means the Act as in force on the commencement day.

pre-amendment Act means the Act as in force immediately before the commencement day.

51 Expiry—pt 10

This part expires 1 year after the day it commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see [Legislation Act](#), s 88).

68 Dictionary, note 2

insert

- Legislative Assembly
- officer of the Assembly
- Speaker

69 Dictionary, new definition of *relevant Assembly committee*

insert

relevant Assembly committee means the committee of the Legislative Assembly whose functions include the examination of matters related to the integrity and accountability of public administration.

Schedule 1 Other amendments

(see s 3)

Part 1.1 Annual Reports (Government Agencies) Act 2004

[1.1] Section 6 (2), note

substitute

Note An annual report direction does not apply to an annual report of the Office of the Legislative Assembly or an officer of the Assembly (see s 9 (2)).

[1.2] Section 6 (3)

substitute

- (3) The report of the following entities must include an account of the management of the entity's office during the financial year:
- (a) the Office of the Legislative Assembly;
 - (b) an officer of the Assembly.

[1.3] Section 9 (2)

substitute

- (2) However, an annual report direction does not apply to an annual report of—
- (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.4] Section 11 (2)

substitute

- (2) This section does not apply to an annual report of—
- (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.5] Section 12 (1)

substitute

- (1) The Chief Minister may declare that a Minister is the responsible Minister for a public authority other than—
- (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.6] Section 15

substitute

15 Presentation of annual reports of Office of the Legislative Assembly and officers of the Assembly

- (1) This section applies to an annual report of the following entities:
- (a) the Office of the Legislative Assembly;
 - (b) an officer of the Assembly.
- (2) The Speaker must present the report to the Legislative Assembly within 3 months after the end of the financial year (the ***3-month period***).

- (3) However, if the 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 clerk of the Legislative Assembly or the officer of the Assembly 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 clerk or officer 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.
- (4) At the request of the clerk or officer, the Speaker may present the report to the Legislative Assembly after the time required under subsection (2) or (3).
- (5) If subsection (4) applies, the Speaker must present the report to the Legislative Assembly as soon as practicable.

[1.7] New section 19

insert

19 References to *officer of the Assembly*

For this Act, a reference to an *officer of the Assembly*, in relation to the electoral commissioner, includes the other members of the electoral commission.

Note The electoral commissioner is an *officer of the Assembly* (see [Legislation Act](#), dict, pt 1). All members of the electoral commission are independent officers of the Legislative Assembly (see the [Electoral Act 1992](#), s 6A).

[1.8] Dictionary, note 2

insert

- electoral commission
- electoral commissioner
- officer of the Assembly

[1.9] Dictionary, definition of *public authority*, paragraph (d) and (e)

substitute

- (d) the Office of the Legislative Assembly; or
- (e) an officer of the Assembly.

Part 1.2 Financial Management Act 1996

[1.10] Section 4

substitute

4 Application of pts 2 to 5—Office of the Legislative Assembly and officers of the Assembly

- (1) Unless the contrary intention appears, the provisions of parts 2 to 5 apply to—
 - (a) the Office of the Legislative Assembly as if—
 - (i) a reference in those provisions to a directorate included a reference to the office; and
 - (ii) a reference in those provisions to the responsible Minister of a directorate were a reference to the Speaker; and
 - (iii) a reference in those provisions to the responsible director-general of a directorate included a reference to the clerk of the Legislative Assembly; and
 - (b) an officer of the Assembly as if—
 - (i) a reference in those provisions to a directorate included a reference to the officer; and
 - (ii) a reference in those provisions to the responsible Minister of a directorate were a reference to the Speaker; and
 - (iii) a reference in those provisions to the responsible director-general of a directorate included a reference to the officer.

- (2) For section 20AB and section 20AC, a reference to an *officer of the Assembly*, in relation to the electoral commissioner, includes the other members of the electoral commission.

Note The electoral commissioner is an *officer of the Assembly* (see [Legislation Act](#), dict, pt 1). All members of the electoral commission are independent officers of the Legislative Assembly (see [Electoral Act 1992](#), s 6A).

[1.11] New section 8 (4)

insert

- (4) Any appropriation for an officer of the Assembly must be contained in an Appropriation Act for an appropriation for the Office of the Legislative Assembly.

[1.12] Section 12 (2)

substitute

- (2) Subsection (1) (b) does not apply to—
- (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.13] New sections 20AB and 20AC

in division 2.1, insert

20AB Recommended appropriation for officers of the Assembly

Before the beginning of a financial year, the Speaker must for an officer of the Assembly—

- (a) after consultation with the officer and the appropriate committee of the Legislative Assembly, advise the Treasurer of the appropriation that the Speaker considers should be made for the officer for the financial year (the *recommended appropriation*); and

- (b) present the recommended appropriation to the Assembly; and
- (c) give the Treasurer a draft budget for the officer for the financial year that contains the information mentioned in section 12 that applies to the officer.

20AC Appropriation for officers of the Assembly

- (1) This section applies if—
 - (a) the Treasurer presents a bill for an Appropriation Act for the appropriation for an officer of the Assembly relating to a financial year in the Legislative Assembly; and
 - (b) the appropriation is less than the recommended appropriation for the office for the financial year.
- (2) Immediately after presenting the bill, the Treasurer must present to the Legislative Assembly a statement of reasons for departing from the recommended appropriation.
- (3) In this section:
recommended appropriation—see section 20AB.

[1.14] Section 30A (3)

substitute

- (3) This section does not apply to—
 - (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.15] Section 30E (5)

substitute

- (5) This section does not apply to—
 - (a) the Office of the Legislative Assembly; or

(b) an officer of the Assembly.

[1.16] Dictionary, note 2

insert

- electoral commission
- electoral commissioner
- officer of the Assembly

Part 1.3 Government Procurement Act 2001

[1.17] Section 3 (1), definition of *Territory entity*, paragraph (a)

substitute

- (a) means—
- (i) an administrative unit; or
 - (ii) a Territory entity under the *Auditor-General Act 1996*; or
 - (iii) the Office of the Legislative Assembly; or
 - (iv) an officer of the Assembly; and

[1.18] Section 8 (2)

substitute

- (2) However, the Minister must not give written directions to the board about the exercise of its functions in relation to—
- (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.19] Section 9 (1) (b)

substitute

- (b) the Speaker the reports the Speaker requires in relation to—
- (i) the Office of the Legislative Assembly; and
 - (ii) an officer of the Assembly.

[1.20] Section 9 (2)

substitute

- (2) However, the Minister may not ask the board for a report in relation to—
- (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.21] Section 10 (2)

substitute

- (2) However, the Minister may not ask the board for information about its operations in relation to—
- (a) the Office of the Legislative Assembly; or
 - (b) an officer of the Assembly.

[1.22] Section 22B (3), definition of *procurement proposal*

substitute

procurement proposal does not include a procurement proposal by—

- (a) the Office of the Legislative Assembly; and
- (b) an officer of the Assembly.

[1.23] Section 22C (2)

substitute

- (2) However, a procurement proposal or activity may only be referred to the board for review and advice—
- (a) for the Office of the Legislative Assembly—by the Speaker; and
 - (a) for an officer of the Assembly—the officer.

[1.24] Dictionary, note 2

insert

- officer of the Assembly

[1.25] Dictionary, definition of *responsible chief executive officer*, new paragraph (e)

insert

- (e) for an officer of the Assembly—the officer.

Part 1.4 Government Procurement Regulation 2007

[1.26] Section 13 (3), definition of *territory entities*

substitute

territory entities does not include—

- (a) the Office of the Legislative Assembly; and
- (b) an officer of the Assembly.

Part 1.5 Legislation Act 2001

[1.27] Dictionary, part 1, new definition of *officer of the Assembly*

insert

officer of the Assembly means—

- (a) the auditor-general; or
- (b) the electoral commissioner; or
- (c) the ombudsman.

Part 1.6 Public Interest Disclosure Act 2012

[1.28] Section 13 (b)

substitute

- (b) for a Legislative Assembly entity other than an officer of the Assembly—the clerk of the Legislative Assembly;
- (ba) for an officer of the Assembly—the officer;

[1.29] Dictionary, note 2

insert

- officer of the Assembly

[1.30] Dictionary, definition of *Legislative Assembly entity*, new paragraph (d)

insert

- (d) an officer of the Assembly.

Part 1.7 **Public Sector Management Act 1994**

[1.31] Section 22AA heading

substitute

22AA Investigative powers of commissioner and Legislative Assembly entities

[1.32] Section 22AA (1)

omit

the Office of the Legislative Assembly

substitute

a Legislative Assembly entity

[1.33] Section 22AA (4), new definition of *Legislative Assembly entity*

insert

Legislative Assembly entity means—

- (a) the Office of the Legislative Assembly; or
- (b) an officer of the Assembly.

[1.34] Section 43 (2), definition of *autonomous instrumentality*

substitute

autonomous instrumentality does not include—

- (a) the Office of the Legislative Assembly; or
- (b) an officer of the Assembly.

[1.35] Dictionary, note 2

insert

- officer of the Assembly

[1.36] Dictionary, definition of *autonomous instrumentality*, paragraph (a)

omit

[1.37] Dictionary, definition of *autonomous instrumentality*, new paragraph (d)

insert

- (d) an officer of the Assembly.

[1.38] Dictionary, definition of *chief executive officer*, paragraph (b) (i)

omit

[1.39] Dictionary, definition of *chief executive officer*, new paragraph (b) (iv)

insert

- (iv) for an officer of the Assembly—the officer.

Part 1.8 Referendum (Machinery Provisions) Act 1994

[1.40] New section 21 (4), (5) and (6)

insert

- (4) The Executive must consult with the electoral commission and the relevant Assembly committee before making a regulation under this Act.

- (5) Subject to any disallowance or amendment under the [Legislation Act](#), chapter 7, a regulation under this Act commences—
- (a) if there is a motion to disallow the regulation and the motion is negated by the Legislative Assembly—on the day after the day the motion is negated; or
 - (b) on the day after the 6th sitting day after the day it is presented to the Legislative Assembly under that chapter; or
 - (c) if the regulation provides for a later date or time of commencement—on that date or at that time.
- (6) In this section:
- relevant Assembly committee*—has the same meaning as in the [Electoral Act](#), dictionary.

Part 1.9 **Territory Records Act 2002**

[1.41] New section 7 (ea)

insert

- (ea) an officer of the Assembly; or

[1.42] New section 8 (ea)

insert

- (ea) for the office of an officer of the Assembly—the officer; or

[1.43] Dictionary, note 2

insert

- officer of the Assembly

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 15 August 2013.

2 Notification

Notified under the [Legislation Act](#) on 7 November 2013.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Officers of the Assembly Legislation Amendment Bill 2013, which was passed by the Legislative Assembly on 24 October 2013.

Clerk of the Legislative Assembly

© Australian Capital Territory 2013