

1995

AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

ANNUAL REPORTS (GOVERNMENT AGENCIES) BILL 1995

EXPLANATORY MEMORANDUM

Circulated by the Authority of

**Kate Carnell MLA
Chief Minister**

Annual Reports (Government Agencies) Bill 1995

Outline

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

Financial Considerations

The Bill will not require any additional expenditure.

Explanation of Clauses

Clause 1 provides for the short title.

Clause 2 provides for the commencement of the Bill.

Clause 3 has the effect of making the reporting period beginning on or after 1 July 1995 the first reporting period to which the Act applies.

Clause 4 provides for a number of definitions.

Clause 5 This clause allows the Minister responsible for administering the *Annual Reports (Government Agencies) Act 1995* to determine which administrative unit is the "appropriate administrative unit" for a particular public authority. The term "appropriate administrative unit" is used in sections 8 and 9, and refers to the administrative unit to whose annual report the report of a public authority should be attached (under 8(1)) or subsumed into (under paragraph 8(5)(b)).

Clause 6 Subsection (1) requires the Commissioner for Public Administration to produce an annual report on the management of the Government Service as a whole, within three months after the end of each financial year. Paragraph (2)(b)

also requires the report to include other information "as directed by the Chief Minister".

Clause 7 Requires Chief Executives to present to their responsible Ministers an annual report on the operation of the administrative unit within their control, within three months after the end of each reporting period of the administrative unit. Subsection (2) requires the content and form of the annual report to be in accordance with directions issued by instrument by the Minister responsible for administering the *Annual Reports (Government Agencies) Act 1995*.

Clause 8 requires public authorities to provide an annual report for attachment to the annual report of the relevant administrative unit (as determined under section 5), within the prescribed time after the end of each reporting period of the authority, and that that report will contain information as directed by the Minister. The prescribed time will be determined by instrument under section 11 by the Minister responsible for administering the *Annual Reports (Government Agencies) Act 1995*.

Subsections (4) and (5), however, allow the Minister responsible for administering the *Annual Reports (Government Agencies) Act 1995* to direct that the authority either produce an independent report (ie, a report not attached to the report of an administrative unit) or provides information to the administrative unit for inclusion into that administrative unit's annual report.

The effect of section 8 is to allow statutory authorities to report in one of three ways: by a report that is attached or annexed to the report of a Chief Executive; by an independent report; or by having its report incorporated into that of the relevant administrative unit. The means of reporting that applies to any one public authority will be determined by the Minister responsible for administering the *Annual Reports (Government Agencies) Act 1995*.

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

Clause 9 Requires that, where a public authority fails to provide the Chief Executive of the appropriate administrative unit with either an annual report or information for inclusion in that administrative unit's annual report, the Chief Executive shall include a statement in their annual report to the effect that the relevant public authority has failed to provide the relevant report or information. The statement should include the reasons for failure to provide the report or information.

Clause 10 This clause allows the Minister to alter the reporting year of a public authority to other than the financial year with such a determination being by instrument. This would be used in the event of a public authority needing to report to other than a financial year for, say, operational reasons. For example, an authority might work to a calendar year and this clause allows it to report to the same period.

Clause 11 This clause requires the Minister responsible for administering the *Annual Reports (Government Agencies) Act 1995* to determine by instrument a date by which annual reports of public authorities or specified information should be submitted to the appropriate Chief Executive or Minister as provided for under Subsection 8(1) or para 8(5) (a) or (b) as required.

Clause 12 Subsection (1) provides that the reporting period may be extended if the Minister responsible for administering the *Annual Reports (Government Agencies) Act 1995* agrees to a request from the Commissioner for Public Administration, the relevant Chief Executive or the public authority (whichever is relevant) to extend the reporting period provided for under sections 6, 7, subsection (8) (1) or para. 8 (5) (a) or (b) (whichever is relevant) A request for an extension of time is to be made not less than 21 days before the report, or provision of information was originally due. Subsection (2) requires that the relevant officer submit the report to the responsible Minister, by the extended reporting period, if the Minister has agreed to such an extension under subsection (1).

Subsection (2) requires that if a report or specified information as required under sections 6, 7, subsection (8) (1) or para. 8 (5) (a) or (b) has not been submitted to the responsible Minister by the date determined by these provisions or the date as extended by subsection (1), the relevant officer must write to the responsible Minister explaining why a report has not yet been submitted to that Minister. Such a written statement must be received not less than 14 days before the report's required submission date. Under subsection (3), the responsible Minister is then

required to table the statement in the Legislative Assembly within 6 sitting days of having received it.

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

Clause 13 This clause provides that where a relevant officer is required to prepare more than one report in different capacities under the *Annual Reports (Government Agencies) Act 1995*, a single report can be prepared at that officer's discretion, provided that all other requirements of the *Annual Reports (Government Agencies) Act 1995* and its directions are complied with. Copies of the report are required to be provided to each person to whom that officer was required to provide separate reports.

Clause 14 Subsection 14(1) requires the Chief Minister to table the annual report of the Commissioner for Public Administration within 6 sitting days of having received it. Subsection 14(2) requires a responsible Minister to table an annual report produced under either section 7 (reports of Chief Executives) or paragraph 8(5)(a) (reports of public authorities) within 6 sitting days of having received it.

Clause 15 Sub-section 1 requires the Minister responsible for the administration of the *Annual Reports (Government Agencies) Act 1995* to table any instrument made under that Act (except that made under para. 6 (2) (b)) in the Legislative Assembly within 6 sitting days of the instrument being issued. This is intended to include the Annual Reporting Directions and Guidelines, which will provide prescriptive detail on requirements for annual reports.

Sub-section 2 requires the Chief Minister to table any instrument made under para. 6 (2) (b), relating to other information to be included in Annual Reports of the Commissioner for Public Administration, of the *Annual Reports (Government Agencies) Act 1995* in the Legislative Assembly within 6 sitting days of the instrument being issued.

Clause 16 has the effect of making the requirements of the *Annual Reports (Government Agencies) Act 1995* additional to any other Act. While the *Annual Reports (Government Agencies) (Consequential Provisions) Act 1995* repeals most provisions that affect the content of annual reports, a number of provisions regarding

the content of annual reports do exist in other Acts, for example, the *Audit Act 1989* and the *Occupational Health and Safety Act 1989*.

The clause also allows that in the event that the *Annual Report (Government Agencies) Act 1995* makes a requirement in addition to any other requirement to report on the operation of an authority, the authority may prepare a single report that satisfies the requirements of both this and any other Act.