

**2016**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**FREEDOM OF INFORMATION AMENDMENT REGULATION 2016 (No 1)  
SL2016-3**

**EXPLANATORY STATEMENT**

**Presented by  
Simon Corbell MLA  
Attorney-General**



# ***FREEDOM OF INFORMATION AMENDMENT REGULATION 2016 (No 1)***

## **Introduction**

This explanatory statement relates to the *Freedom of Information Amendment Regulation 2016 (No 1)* (the Amending Regulation) as presented to the Legislative Assembly. It has been prepared in order to assist the reader of the Amending Regulation and to help inform debate on it. It does not form part of the Amending Regulation and has not been endorsed by the Assembly.

The statement is to be read in conjunction with the Amending Regulation. It is not, and is not meant to be, a comprehensive description of the Amending Regulation.

## **Outline**

### **Purpose of the Regulation**

The auditor-general for the Australian Capital Territory is established by the *Auditor-General Act 1996*. Under the Auditor-General Act, the main functions of the auditor-general are:

- to audit annual financial statements of the Territory, directorates and territory authorities under the Financial Management Act;
- to audit the accounts and records in relation to any person, body or thing ascertained in accordance with the regulations;
- to conduct performance audits in relation to any person, body or thing ascertained in accordance with the regulations; and
- to carry out functions given to the auditor-general under other Territory laws.

The auditor-general is bound by the *Freedom of Information Act 1989* (FOI Act).

In accordance with section 6(4) of the FOI Act, the Amending Regulation exempts from the operation of the FOI Act documents of the auditor-general that relate to functions given to the auditor-general under the Auditor-General Act.

This exemption protects information provided by people being audited from third party access through the FOI process. It therefore promotes the efficacy of the functions of the auditor-general by encouraging full and frank disclosure by people being audited.

The public interest in access to documents is maintained because:

- the FOI applicant may seek access to the documents through the government organisation where those documents originated; and
- all audits conducted by the auditor general are summarised in reports publicly available on the ACT Audit Office website.

### **Regulatory impact statement**

A regulatory impact statement is not required for this regulation as it does not impose any appreciable costs on the community, or a part of the community.

### **Human Rights Implications**

The Amending Regulation does not engage the *Human Rights Act 2004*.

### **Detail**

**Clause 1 (Name of regulation)** names the Amending Regulation – the *Freedom of Information Amendment Regulation 2016 (No 1)*.

**Clause 2 (Commencement)** provides that the Amending Regulation commences on the day after it is notified.

**Clause 3 (Legislation amended)** provides that the Amending Regulation amends the *Freedom of Information Regulation 1991* (the Regulation).

**Clause 4 (Schedule 2, new item 7)** inserts into schedule 2 of the Regulation new item 7, which exempts from the operation of the FOI Act documents of the auditor-general that relate to functions given to the auditor-general under the Auditor-General Act.