



Australian Capital Territory

# **Auditor-General Act 1996**

**A1996-23**

**Republication No 20**

**Effective: 22 November 2018**

Republication date: 22 November 2018

Last amendment made by [A2018-42](#)

## About this republication

### The republished law

This is a republication of the *Auditor-General Act 1996* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 22 November 2018. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 22 November 2018.

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 \$160 for an individual and \$810 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Auditor-General Act 1996

## Contents

---

	Page	
<b>Part 1</b>	<b>Preliminary</b>	
<b>Division 1.1</b>	<b>Preliminary</b>	
1	Name of Act	2
2	Dictionary	2
3A	Notes	2
3B	Offences against Act—application of Criminal Code etc	3
<b>Division 1.2</b>	<b>Important concepts</b>	
5	Controlling interests	3
<b>Part 2</b>	<b>The auditor-general</b>	
<b>Division 2.1</b>	<b>Establishment and independence of auditor-general</b>	
6	Auditor-general	5
6A	Officer of the Legislative Assembly	5
7	Auditor-general—independence	6

---

R20  
22/11/18

Auditor-General Act 1996  
Effective: 22/11/18

contents 1

## Contents

---

	Page
7A Reports for Annual Reports (Government Agencies) Act 2004	6
<b>Division 2.2 Appointment of auditor-general</b>	
8 Appointment	6
8AA Term of appointment	7
8A Acting auditor-general	7
<b>Division 2.3 Other provisions applying to auditor-general</b>	
8B Oath or affirmation of office	8
8C Disclosure of interests	8
8D Auditor-general must not do other work etc	8
9 Resignation	9
9A Retirement	9
9B Suspension—generally	10
9BA Suspension—public accounts committee notice and meetings	11
9BB Suspension—ending suspension	12
9BC Ending of appointment	13
9BD Leave of absence	14
<b>Division 2.4 Office of the auditor-general</b>	
9C Auditor-general’s staff	15
9D Contractors	15
9DA Staff not subject to direction from others	15
9E Other arrangements for staff and facilities	16
9F Delegation	16
<b>Part 3 Functions and powers</b>	
<b>Division 3.1 Application—pt 3</b>	
9G Application—Office of the Legislative Assembly—pt 3	17
<b>Division 3.2 Functions</b>	
10 Functions	17
10A Auditor under the Corporations Act	18
10B Auditor-general may conduct audit of multiple entities	18
10C Auditor-general may conduct joint or collaborative audit	18
<b>Division 3.3 Financial audits</b>	
11 Special financial audits	19
11A Audit fees	19

	Page
<b>Division 3.4</b>	<b>Performance audits</b>
11B	Meaning of <i>performance audit</i> 20
12	Performance audits—Territory 20
13	Annual performance audit program 21
<b>Division 3.5</b>	<b>Audit of non-public sector entities</b>
13A	Meaning of <i>public sector entity</i> 22
13B	Meaning of <i>non-public sector entity</i> 23
13C	Minister or public accounts committee may request audit of non-public sector entity 23
13D	Non-public sector entity audits—initiated by auditor-general 24
<b>Division 3.6</b>	<b>Power to obtain information</b>
14	Power to obtain information etc 24
14A	Power to administer oath or affirmation 25
14B	Failure to comply with notice under s 14 (1) 25
14C	Attendance before auditor-general—offences 26
14D	Privileges against self-incrimination and exposure to civil penalty 27
15	Access to premises and things—Territory 28
15A	Failure to comply with requirement—offence 29
<b>Division 3.7</b>	<b>Reports for Legislative Assembly</b>
17	Reports for Legislative Assembly 29
18	Comments on proposed reports 31
19	Reporting sensitive information 33
20	Reporting Executive deliberations and decisions 34
21	Ministerial response to report for Legislative Assembly 34
<b>Part 5</b>	<b>Review of auditor-general</b>
<b>Division 5.1</b>	<b>Strategic review of auditor-general</b>
23	Meaning of <i>strategic review</i> —div 5.1 36
24	Strategic review to be carried out in each Assembly term 36
25	Strategic reviewer 36
26	Strategic review to be conducted as requested 36
27	Powers and obligations of strategic reviewer 37
28	Comments on proposed strategic review report 37
29	Strategic review report 38

## Contents

---

	Page	
<b>Division 5.2</b>	<b>Independent financial audit of auditor-general</b>	
30	Meaning of <i>independent financial audit</i> —div 5.2	39
31	Independent auditor	39
32	Independent financial audits	39
33	Powers and obligations of independent auditor	40
<b>Part 5A</b>	<b>Protected information</b>	
34	Meaning of <i>protected information</i> —pt 5A	41
35	Directions about protected information	41
36	Offences—use or divulge protected information	43
36A	Minister may direct disclosure of protected information	45
<b>Part 6</b>	<b>Miscellaneous</b>	
37	Protection of auditor-general etc from liability	46
37A	Reports to be given to Speaker	46
37B	Assistance for Speaker	47
38	Regulation-making power	47
<b>Dictionary</b>		48
<b>Endnotes</b>		
1	About the endnotes	51
2	Abbreviation key	51
3	Legislation history	52
4	Amendment history	55
5	Earlier republications	66
6	Expired transitional or validating provisions	67



Australian Capital Territory

# Auditor-General Act 1996

---

An Act to provide for an auditor-general, and for related purposes

---

## Part 1 Preliminary

### Division 1.1 Preliminary

#### 1 Name of Act

This Act is the *Auditor-General Act 1996*.

#### 2 Dictionary

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

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

For example, the signpost definition ‘*subsidiary*, of a territory-owned corporation—see the *Territory-owned Corporations Act 1990*, dictionary.’ means that the term ‘subsidiary’ is defined in that dictionary and the definition applies to this Act.

*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)).

#### 3A Notes

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

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



### **3B Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

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

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg *conduct*, *intention*, *recklessness* and *strict liability*).

*Note 2 Penalty units*

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

## **Division 1.2 Important concepts**

### **5 Controlling interests**

- (1) For this Act, the Territory or a territory entity has a ***controlling interest*** in a company if its interest in the company is such that—
  - (a) it is able to—
    - (i) control the composition of the board of directors of the company; or
    - (ii) cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the company; or
    - (iii) control more than 50% of the issued share capital of the company (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
  - (b) if paragraph (a) does not apply—no other person holds a greater interest in the company.

- (2) For this Act, the Territory, or a territory entity, has a ***controlling interest*** in a joint venture if its interest in the venture is such that—
- (a) it is able to control the acts and things done in the course of the venture; or
  - (b) if paragraph (a) does not apply—no other person is able to exercise greater control over the acts and things done in the course of the venture.
- (3) For this Act, the Territory, or a territory entity, has a ***controlling interest*** in a trust if its interest in the trust is such that—
- (a) it is able to control the acts and things done in the course of carrying out the terms of the trust; or
  - (b) if paragraph (a) does not apply—no other person is able to exercise greater control over the acts and things done in the course of carrying out the terms of the trust.

## **Part 2                      The auditor-general**

### **Division 2.1              Establishment and independence of auditor-general**

#### **6                      Auditor-general**

There must be an Auditor-General for the Territory.

#### **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 any other law in force in the ACT.

*Note*      A law in force in the ACT includes a territory law and a Commonwealth law.

- (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 any other law in force in the ACT.
- (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.

**7 Auditor-general—independence**

- (1) Subject to this Act and to other Territory laws, the auditor-general has complete discretion in the exercise of the auditor-general's functions.
- (2) In particular, the auditor-general is not subject to direction from anyone in relation to—
  - (a) whether or not a particular audit is to be carried out; or
  - (b) the way in which a particular audit is to be carried out; or
  - (c) the priority to be given to any particular matter.

**7A Reports for Annual Reports (Government Agencies) Act 2004**

If the auditor-general considers that compliance with the *Annual Reports (Government Agencies) Act 2004* would prejudice the auditor-general's independence, the auditor-general is not required to comply with that Act to that extent.

**Division 2.2 Appointment of auditor-general**

**8 Appointment**

- (1) The Speaker must, on behalf of the Territory, appoint a person as auditor-general.
- (2) The appointment must be made—
  - (a) in consultation with the Chief Minister; and
  - (b) in consultation with the Leader of the Opposition; and
  - (c) 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
  - (d) in accordance with an open and accountable selection process.

- (3) The Speaker must not appoint a person as auditor-general unless—
- (a) the Speaker is satisfied that the person has extensive knowledge of, and experience in—
    - (i) governance and risk management; or
    - (ii) public administration; and
  - (b) the public accounts committee agrees to the person's appointment.
- (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.

### **8AA Term of appointment**

- (1) The auditor-general is to be appointed for 7 years.
- (2) A person who has been appointed auditor-general is not eligible for reappointment.

### **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.

## **Division 2.3 Other provisions applying to auditor-general**

### **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**

The auditor-general may resign by giving a signed notice of resignation to the Speaker.

## **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 public sector standards commissioner;
- (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* For what must be included in a statement of reasons, see the [Legislation Act](#), s 179.

- (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* For what must be included in a statement of reasons, see the [Legislation Act](#), s 179.

- (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.
- Note* For what must be included in a statement of reasons, see the [Legislation Act](#), s 179.
- (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.

## **Division 2.4 Office of the auditor-general**

### **9C Auditor-general's staff**

- (1) The auditor-general may employ staff on behalf of the Territory.
- (2) The auditor-general's staff must be employed under the *Public Sector Management Act 1994*.

*Note* The *Public Sector Management Act 1994*, div 8.2 applies to the auditor-general in relation to the employment of staff (see *Public Sector Management Act 1994*, s 152).

### **9D Contractors**

- (1) The auditor-general may, on behalf of the Territory, engage a person under a contract to assist in the exercise of any function of the auditor-general.
- (2) Subsection (1) does not apply to a person who—
  - (a) is the independent auditor; or
  - (b) has been the independent auditor within the 12 months before the engagement.

### **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.

**9E Other arrangements for staff and facilities**

The auditor-general may arrange with the head of service to use the services of a public servant or Territory facilities.

*Note* The head of service may delegate powers in relation to the management of public servants to a public servant or another person (see [Public Sector Management Act 1994](#), s 18).

**9F Delegation**

The auditor-general may delegate the auditor-general's functions under this Act to—

- (a) a member of staff mentioned in section 9C; or  
(b) a person engaged by the auditor-general under section 9D (Contractors).

*Note* For the making of delegations and the exercise of delegated functions, see the [Legislation Act](#), pt 19.4.

## **Part 3**                      **Functions and powers**

*Note*        Certain provisions of this part apply to an independent auditor, see s 32.

### **Division 3.1**                      **Application—pt 3**

#### **9G**                      **Application—Office of the Legislative Assembly—pt 3**

This part applies to the Office of the Legislative Assembly as if—

- (a) a reference in this part to a *directorate* were a reference to the office; and
- (b) a reference in this part to the *responsible director-general* were a reference to the clerk of the Legislative Assembly.

### **Division 3.2**                      **Functions**

#### **10**                      **Functions**

- (1) In addition to the functions given to the auditor-general by this Act, the auditor-general has the following functions:
  - (a) to promote public accountability in the public administration of the Territory;
  - (b) to audit annual financial statements of the Territory, directorates and territory authorities under the Financial Management Act;
  - (c) to audit the accounts and records in relation to any person, body or thing ascertained in accordance with the regulations;
  - (d) to conduct performance audits in relation to any person, body or thing ascertained in accordance with the regulations;
  - (e) any function given to the auditor-general by or under any other law of the Territory;

(f) to do anything incidental or conducive to any of the auditor-general's functions.

*Note* The auditor-general must consult with the inspector of correctional services in relation to the exercise of a function under pars (a) to (d) involving a detainee or correctional centre or service (see *Inspector of Correctional Services Act 2017*, s 33).

- (2) The auditor-general must exercise the auditor-general's functions in the way the auditor-general considers appropriate, having regard to recognised professional standards and practices.

#### **10A Auditor under the Corporations Act**

- (1) The auditor-general must accept appointment under the [Corporations Act](#) as the auditor of a public sector company.
- (2) This section does not, by implication, limit the auditor-general's power to engage a person under section 24.

#### **10B Auditor-general may conduct audit of multiple entities**

The auditor-general may conduct a single audit of 2 or more entities under this Act (a *multi-entity audit*) if satisfied that it is appropriate to do so.

#### **10C Auditor-general may conduct joint or collaborative audit**

The auditor-general may conduct an audit (a *joint audit*) under this Act jointly, or in collaboration, with the auditor-general of the Commonwealth or a State if the auditor-general reasonably believes the Commonwealth or State has an interest in the audit.

*Note* **State** includes the Northern Territory (see [Legislation Act](#), dict, pt 1).



## **Division 3.3                      Financial audits**

### **11                      Special financial audits**

- (1) The auditor-general may, in relation to each financial year—
  - (a) audit the accounts and records of a public sector company;
  - (b) audit the accounts and records in relation to a joint venture in which the Territory or a territory entity has a controlling interest;  
or
  - (c) audit the accounts and records in relation to a trust in which the Territory or a territory entity has a controlling interest.
- (2) An audit under subsection (1) of a public sector company must not be taken to be an audit under the [Corporations Act](#).

### **11A                      Audit fees**

- (1) This section applies to an entity if—
  - (a) the entity's annual financial statements are audited under the Financial Management Act; or
  - (b) the entity's accounts or records are audited under section 11 (Special financial audits); or
  - (c) the entity's accounts or records are audited under another territory law.
- (2) The entity is liable to pay to the auditor-general on behalf of the Territory fees for the audit based on a scale of fees decided by the auditor-general.
- (3) The fees are payable within 30 days after the day a claim for payment is given to the person by the auditor-general.
- (4) The auditor-general may make a claim for payment for an instalment of the fees before the audit is finished.

- (5) A report by the auditor-general under the *Annual Reports (Government Agencies) Act 2004* must include details of the basis on which fees for audits conducted during the reporting period were decided by the auditor-general.

## **Division 3.4 Performance audits**

### **11B Meaning of *performance audit***

In this Act:

*performance audit*, of a person, body or thing, means a review or examination of any aspect of the operations of the entity.

### **12 Performance audits—Territory**

- (1) The auditor-general may at any time conduct a performance audit in respect of—
- (a) a directorate; or
  - (b) a territory entity; or
  - (c) a joint venture in which the Territory or a territory entity has a controlling interest; or
  - (d) a trust in which the Territory or a territory entity has a controlling interest.
- (2) In the conduct of a performance audit, the auditor-general may, where appropriate, take into account environmental issues relative to the operations being reviewed or examined, having regard to the principles of ecologically sustainable development.

(3) In this section:

*ecologically sustainable development* means the effective integration of economic and environmental considerations in decision-making processes achievable through implementation of the following principles:

- (a) the precautionary principle;
- (b) the inter-generational equity principle;
- (c) conservation of biological diversity and ecological integrity;
- (d) improved valuation and pricing of environmental resources.

*the inter-generational equity principle* means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

*the precautionary principle* means that, if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

### **13 Annual performance audit program**

- (1) The auditor-general must, before the end of each financial year, prepare a program (an *annual performance audit program*) for performance audits that the auditor-general intends to conduct in the next financial year under—
  - (a) section 12 (Performance audits—Territory); and
  - (b) section 13C (Minister or public accounts committee may request audit of non-public sector entity); and
  - (c) section 13D (Non-public sector entity audits—initiated by auditor-general).

- (2) In preparing an annual performance audit program, the auditor-general must consult—
- (a) the public accounts committee; and
  - (b) each member of the Legislative Assembly; and
  - (c) the head of service; and
  - (d) anyone else the auditor-general considers appropriate.

*Note* The auditor-general has complete discretion in the exercise of his or her functions and is not subject to direction from anyone about whether a particular audit is to be carried out (see s 7).

- (3) The annual performance audit program must be published on the auditor-general's website.

*Note* The auditor-general's website is accessible at [www.audit.act.gov.au](http://www.audit.act.gov.au).

## **Division 3.5 Audit of non-public sector entities**

### **13A Meaning of *public sector entity***

- (1) In this Act:

*public sector entity* means—

- (a) a directorate; or
- (b) a territory authority; or
- (c) a territory-owned corporation; or
- (d) a territory controlled company, joint venture or trust.

- (2) In this section:

*territory controlled company, joint venture or trust* means a company, joint venture or trust in which the Territory or a territory entity has a controlling interest.

*Note* **Controlling interest**—see s 5.

**13B**      **Meaning of *non-public sector entity***

In this Act:

*non-public sector entity* means an entity that is not a public sector entity.

**13C**      **Minister or public accounts committee may request audit of non-public sector entity**

- (1) This section applies if a public sector entity provides property to a non-public sector entity for a purpose.
- (2) The Minister or the public accounts committee may ask the auditor-general to conduct a performance audit of the non-public sector entity in relation to the property provided by the public sector entity.
- (3) The auditor-general may conduct the requested audit if satisfied that—
  - (a) the usual acquittal procedures for the use of property provided by a public sector entity have been exhausted; and
  - (b) there are no other mechanisms reasonably available to the public sector entity to resolve the proposed subject of the audit; and
  - (c) failure to conduct the audit may result in significant risk to the Territory.
- (4) If the auditor-general conducts the requested audit, the auditor-general must record the reasons for the decision in the audit report.
- (5) In conducting the audit, the auditor-general may exercise a power under division 3.6 (Power to obtain information) only to the extent that it relates to the property provided by the public sector entity.

**13D Non-public sector entity audits—initiated by auditor-general**

- (1) This section applies if a public sector entity provides property to a non-public sector entity for a purpose.
- (2) The auditor-general may at any time, on the auditor-general's own initiative, conduct a performance audit of the non-public sector entity in relation to the property provided by the public sector entity if satisfied of the matters mentioned in section 13C (3) (a) to (c).
- (3) If the auditor-general conducts an audit under subsection (2), the auditor-general must record the reasons for the decision in the audit report.
- (4) In conducting the audit, the auditor-general may exercise a power under division 3.6 (Power to obtain information) only to the extent that it relates to the property provided by the public sector entity.

**Division 3.6 Power to obtain information**

**14 Power to obtain information etc**

- (1) For this Act, the auditor-general may, by written notice, require a person to do any 1 or more of the following:
  - (a) to give stated information to the auditor-general within a stated reasonable time;
  - (b) to produce a stated document in the possession or control of the person to the auditor-general within a stated reasonable time;
  - (c) to attend and answer questions before the auditor-general at a stated reasonable time and place.

*Note 1* For how the notice may be given, see the [Legislation Act](#), pt 19.5.

*Note 2* The notice may require a person to verify information or a document by a statutory declaration (see [Legislation Act](#), s 54 (1)).

*Note 3* **Document** includes anything from which images, sounds, messages or writings can be produced or reproduced, (see [Legislation Act](#), dict, pt 1).

- (2) The notice must—
  - (a) state that the requirement is made under this section; and
  - (b) contain a statement to the effect that failure to comply with the notice is an offence; and
  - (c) contain a statement about the effect of section 14D (Privileges against self-incrimination and exposure to civil penalty).
- (3) To remove any doubt, a reference to the giving of information to, or answering a question before, the auditor-general includes the giving of an explanation in relation to something done or not done by a person.
- (4) A regulation may prescribe fees and expenses payable to a person who is given a notice under subsection (1).

#### **14A Power to administer oath or affirmation**

- (1) For section 14 (1) (c), the auditor-general may require the person to answer questions on oath or affirmation.

*Note* For the taking of an oath or the making of an affirmation, see the [Oaths and Affirmations Act 1984](#).

- (2) For subsection (1), the auditor-general may administer an oath or affirmation to the person that the answers the person is to give will be true.

#### **14B Failure to comply with notice under s 14 (1)**

- (1) A person who is given a notice under section 14 (1) (a) or (b) (Power to obtain information etc) commits an offence if the person fails to comply with the notice.

Maximum penalty: 50 penalty units.

*Note* The [Legislation Act](#), s 171 deals with client legal privilege.

- (2) A person who is given a notice under section 14 (1) (c) commits an offence if the person fails to attend before the auditor-general in accordance with the notice.

Maximum penalty: 50 penalty units.

- (3) An offence against this section is a strict liability offence.

#### **14C Attendance before auditor-general—offences**

- (1) A person commits an offence if—

- (a) the person is required by a notice under section 14 (1) (c) (Power to obtain information etc) to attend and answer questions before the auditor-general; and
- (b) the person attends before the auditor-general; and
- (c) the auditor-general requires the person to swear an oath or make an affirmation that the answers the person is to give will be true; and
- (d) the person fails to swear the oath or make the affirmation.

Maximum penalty: 50 penalty units.

- (2) A person commits an offence if—

- (a) the person is required by a notice under section 14 (1) (c) to attend and answer questions before the auditor-general; and
- (b) the person attends before the auditor-general; and
- (c) the auditor-general requires the person to answer a question; and
- (d) the person fails to answer the question.

Maximum penalty: 50 penalty units.

- (3) A person commits an offence if—

- (a) the person is required by a notice under section 14 (1) (c) to attend and answer questions before the auditor-general; and



- (b) the person attends before the auditor-general; and
- (c) the person fails to continue to attend as required by the auditor-general until excused from further attendance.

Maximum penalty: 50 penalty units.

- (4) Subsection (3) does not apply if it was not reasonable in the circumstances for the auditor-general to continue to require the person to attend and answer questions.
- (5) An offence against this section is a strict liability offence.

**14D Privileges against self-incrimination and exposure to civil penalty**

- (1) This section applies if—
  - (a) a person is attending before the auditor-general in accordance with a requirement under section 14 (Power to obtain information etc); and
  - (b) the auditor-general requires the person to give information or answer a question.
- (2) This section also applies if a person is required by a notice under section 14 to produce a document.
- (3) The person cannot rely on the common law privileges against self-incrimination and exposure to the imposition of a civil penalty to refuse to give the information, produce the document or answer the question.

*Note* The [Legislation Act](#), s 171 deals with client legal privilege.

- (4) However, any information, document or thing obtained, directly or indirectly, because of the giving of the information, the production of the document or the answer to the question is not admissible in evidence against the person in a civil or criminal proceeding, other than a proceeding for an offence against this part or the [Criminal Code](#), part 3.4 (False or misleading statements, information and documents).

## **15 Access to premises and things—Territory**

- (1) For this Act, the auditor-general or an authorised person may, at any reasonable time, enter and remain on premises occupied by the Territory or a territory entity.
- (2) The auditor-general or an authorised person may do any 1 or more of the following in relation to the premises or anything on the premises:
- (a) examine and copy, or take extracts from, any document on the premises;
  - (b) examine anything else on the premises;
  - (c) require a person on the premises to give the auditor-general or authorised person reasonable help to exercise a function under this section.

**Example for par (a)**

copying a computer file to a data storage device

**Example for par (c)**

assisting in accessing data held in or accessible from a computer on the premises

*Note 1* **Document** includes anything from which images, sounds, messages or writings can be produced or reproduced, (see [Legislation Act](#), dict, pt 1).

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

- (3) The auditor-general is not entitled to enter or remain on the premises if the auditor-general does not produce written proof of his or her appointment when asked by a person on the premises.

(4) An authorised person is not entitled to enter or remain on the premises if the person does not produce written proof of authority when asked by a person on the premises.

(5) In this section:

*authorised person* means a person authorised in writing by the auditor-general for this section.

*premises* includes land and any place.

### **15A Failure to comply with requirement—offence**

(1) A person commits an offence if—

(a) the auditor-general or an authorised person makes a requirement of the person under section 15 (2) (c); and

(b) the person is informed by the auditor-general or authorised person to the effect that failure to comply with the requirement is an offence; and

(c) the person fails to comply with the requirement.

Maximum penalty: 50 penalty units.

*Note* The [Legislation Act](#), s 171 deals with client legal privilege.

(2) An offence against this section is a strict liability offence.

(3) In this section:

*authorised person*—see section 15 (5).

## **Division 3.7 Reports for Legislative Assembly**

### **17 Reports for Legislative Assembly**

(1) The auditor-general may at any time prepare a report for the Legislative Assembly on any matter arising in connection with the exercise of the auditor-general's functions.

- (2) The report must include the substance of any comments received by the auditor-general under section 18.
- (3) The auditor-general, in a report of a special financial audit or a performance audit—
  - (a) may include any information that he or she considers desirable in relation to the activities that are the subject of the audit; and
  - (b) is to set out the reasons for opinions expressed in the report; and
  - (c) may include any recommendations arising out of the audit that the auditor-general considers appropriate to make.
- (4) If the Legislative Assembly is sitting when the auditor-general has finished the report—
  - (a) the auditor-general must give the report to the Speaker; and
  - (b) the Speaker must present the report to the Legislative Assembly on the next sitting day.
- (5) If the Legislative Assembly is not sitting when the auditor-general has finished the report—
  - (a) the auditor-general must give the report, and a copy for each member of the Legislative Assembly, to the Speaker; and
  - (b) the report is taken for all purposes to have been presented to the Legislative Assembly on the day the auditor-general gives it to the Speaker (the *report day*); and
  - (c) publication of the report is taken to have been ordered by the Legislative Assembly on the report day; and
  - (d) the Speaker must arrange for a copy of the report to be given to each member of the Legislative Assembly on the report day; and
  - (e) the Speaker may give directions for the printing and circulation, and in relation to the publication, of the report; and

- (f) despite paragraph (b), the Speaker must present the report to the Legislative Assembly on the next sitting day.
- (6) The auditor-general may give a copy of the report to a Minister or the head of service if, in the auditor-general's opinion, the Minister or head of service has a special interest in the report.

- (7) In this section:

*Speaker*, for a report given to the Deputy Speaker or clerk under section 37A (Reports to be given to Speaker), means the Deputy Speaker or clerk.

## **18 Comments on proposed reports**

- (1) This section applies if the auditor-general is preparing a report for the Legislative Assembly under section 17.
- (2) The auditor-general must give a draft of the report (the *proposed report*), or, if the auditor-general considers that only part of the proposed report relates to a person, a part of the proposed report, to the following people:
- (a) if the proposed report is about an audit under section 12 (Performance audits—Territory)—the responsible director-general for the directorate, territory authority, public sector company, joint venture or trust;
- (b) if the proposed report is about an audit under section 13C (Minister or public accounts committee may request audit of non-public sector entity) or section 13D (Non-public sector entity audits—initiated by auditor-general)—
- (i) if the non-public sector entity is—
- (A) an individual—the individual; or
- (B) not an individual—the chief executive officer (however described) of the non-public sector entity; and

- (ii) the responsible director-general for the public sector entity that gave the property to the non-public sector entity;
    - (c) if the proposed report is about a multi-entity audit—the head of service.
  - (3) The auditor-general may also give all or part of the proposed report to anyone else the auditor-general considers has a direct interest in the proposed report.
  - (4) However, if the auditor-general must give all or part of the proposed report to a non-public sector entity under subsection (2) (b) (i), the auditor-general must not give the report, or the part of the report, to anyone else under subsection (2) or (3) until after—
    - (a) the time for comments under the non-public sector entity’s proposed report notice has ended; and
    - (b) the auditor-general has considered any comments received from the non-public sector entity.
  - (5) If the auditor-general gives a person all or part of a proposed report under subsection (2) or (3), the auditor-general must also give the person written notice (a *proposed report notice*) stating that the person may give written comments about the proposed report to the auditor-general before the end of—
    - (a) 14 days after the day the notice is given to the person; or
    - (b) a longer period stated in the notice.
- Note* Comments received under this section must be taken into consideration and included in the final report (see s (7) and s 17 (2)).
- (6) However, the auditor-general need not give a proposed report notice in relation to more than 1 proposed report, or part of a proposed report, given to a person.
  - (7) If the auditor-general receives comments under this section, the auditor-general must consider the comments in preparing the final report.

## **19 Reporting sensitive information**

- (1) The auditor-general must not include information in a report for the Legislative Assembly if the auditor-general considers that the disclosure of the information would, on balance, be contrary to the public interest.
- (2) The disclosure of information may be contrary to the public interest only if the disclosure would be reasonably likely to—
  - (a) infringe an individual's right to privacy, or any other right under the *Human Rights Act 2004*; or
  - (b) disclose a trade secret, or the business affairs or research of an entity; or
  - (c) prejudice the investigation of a contravention of a law; or
  - (d) prejudice relations between the ACT government and another government; or
  - (e) disclose information mentioned in the *Legal Aid Act 1977*, section 92 (2) (a) or contained in a document mentioned in that *Act*, section 92 (2) (b).
- (3) However, the auditor-general may include in the report information mentioned in subsection (1) if the auditor-general is satisfied that the substance of the information is public knowledge.
- (4) If, under subsection (1), the auditor-general omits information mentioned in subsection (2) (a) to (d) from a report for the Legislative Assembly, the auditor-general may prepare a special report for the public accounts committee that includes the information.
- (5) The auditor-general must give the special report to the presiding member of the committee.
- (6) The presiding member must present the special report to the committee.

- (7) A special report presented to the committee is taken for all purposes to have been referred to the committee by the Legislative Assembly for inquiry and any report that the committee considers appropriate.

## **20 Reporting Executive deliberations and decisions**

- (1) The auditor-general may include deliberative information in a report for the Legislative Assembly only if the auditor-general considers that it is in the public interest to include the information.

*Note* **Deliberative information**—see the dictionary.

- (2) The auditor-general must consult the Chief Minister in deciding whether it is in the public interest to include particular deliberative information in a report.
- (3) If the Chief Minister objects to the inclusion of particular deliberative information in a report, the auditor-general—
- (a) may include the information in the report; but
  - (b) if the information is included—must tell the Chief Minister about the inclusion at least 7 days before the report is published.

## **21 Ministerial response to report for Legislative Assembly**

- (1) Within 4 months after the day a report by the auditor-general is presented to the Legislative Assembly under section 17 (Reports for Legislative Assembly), the Minister must—
- (a) prepare a written response to the report; and
  - (b) either—
    - (i) present the response to the Legislative Assembly; or
    - (ii) give the response, and a copy for each member of the Assembly, to the Speaker.



- (2) If the Minister gives the response to the Speaker—
- (a) the Speaker must arrange for a copy of the response to be given to each member of the Legislative Assembly; and
  - (b) the Minister must present the response to the Legislative Assembly—
    - (i) on the next sitting day; 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) In this section:
- Speaker*, for a response given to the Deputy Speaker or clerk under section 37A (Reports to be given to Speaker), means the Deputy Speaker or clerk.

## **Part 5                    Review of auditor-general**

### **Division 5.1            Strategic review of auditor-general**

#### **23                    Meaning of *strategic review*—div 5.1**

In this division:

*strategic review*, of the auditor-general, means—

- (a) a review of the auditor-general's functions; and
- (b) a performance audit of the auditor-general.

#### **24                    Strategic review to be carried out in each Assembly term**

- (1) A strategic review of the auditor-general must be carried out once in each term of the Legislative Assembly.
- (2) The public accounts committee must decide when the strategic review is to be carried out.

#### **25                    Strategic reviewer**

- (1) When the public accounts committee decides that the strategic review of the auditor-general is to be carried out, the public accounts committee must ask the Speaker to, on behalf of the Territory, engage a person to conduct the strategic review.
- (2) If requested by the public accounts committee, the Speaker must, on behalf of the Territory, engage an appropriately qualified person (the *strategic reviewer*) under a contract to conduct the strategic review.

#### **26                    Strategic review to be conducted as requested**

- (1) If the Speaker engages a strategic reviewer under section 25—
  - (a) the public accounts committee must—
    - (i) decide terms of reference for the strategic review, in consultation with the Minister; and

- (ii) ask the strategic reviewer to conduct the strategic review according to the terms of reference; and
  - (b) the strategic reviewer must conduct the requested strategic review as soon as practicable after receiving the request.
- (2) The strategic reviewer may conduct a strategic review of the auditor-general only when requested under this section.

## **27 Powers and obligations of strategic reviewer**

- (1) The strategic reviewer has the same powers and obligations in relation to the strategic review as the auditor-general has under the following provisions in relation to a performance audit under section 12 (Performance audits—Territory):
- (a) division 3.6 (Power to obtain information);
  - (b) section 19 (Reporting sensitive information);
  - (c) section 35 (Directions about protected information);
  - (d) section 36 (Offences—use or divulge protected information).
- (2) The strategic reviewer may include deliberative information in a report for the Legislative Assembly only if the information has previously been published.

### **Example—information previously published**

information included in a previous report for the Legislative Assembly

*Note 1* **Deliberative information**—see the dictionary.

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

## **28 Comments on proposed strategic review report**

- (1) This section applies if the strategic reviewer is preparing a report about the strategic review for the Legislative Assembly under section 29.

- (2) The strategic reviewer must give the auditor-general—
  - (a) a copy of the proposed report; and
  - (b) a written notice (a *proposed report notice*) stating that the auditor-general may give written comments about the proposed report to the strategic reviewer before the end of—
    - (i) 14 days after the day the notice is given to the auditor-general; or
    - (ii) a longer period stated in the notice.
- (3) If the strategic reviewer receives comments under this section, the strategic reviewer must consider the comments in preparing the final report.
- (4) In this section:  
*proposed report* means a draft version of a report.

## **29 Strategic review report**

- (1) As soon as practicable after completing a strategic review, the strategic reviewer must give a report about the strategic review to the Speaker.
- (2) The report must include the substance of any comments received by the strategic reviewer under section 28 (3).
- (3) The Speaker must present a copy of the report to the Legislative Assembly.

## Division 5.2                      Independent financial audit of auditor-general

### 30                      **Meaning of *independent financial audit*—div 5.2**

In this division:

*independent financial audit*, of the auditor-general, means an audit of an annual financial statement prepared by the auditor-general under the [Financial Management Act](#), section 27 (Annual financial statements of directorates).

*Note*     The [Financial Management Act](#) (FMA), s 27 applies to the auditor-general as if a reference in that section to a directorate included a reference to the auditor-general (see [FMA](#), s 4 (1) (b) (i)).

### 31                      **Independent auditor**

The Speaker must, on behalf of the Territory, engage an appropriately qualified person (the *independent auditor*) under a contract to—

- (a) conduct independent financial audits of the auditor-general; and
- (b) exercise functions as required under the [Financial Management Act](#).

*Note*     The [FMA](#), s 4 (1A) applies that [Act](#), div 3.2 to the auditor-general as if a reference in that division to the auditor-general were a reference to the independent auditor.

The [FMA](#), s 29 requires the independent auditor to give the auditor-general audit opinions about annual financial statements.

### 32                      **Independent financial audits**

- (1) The independent auditor must conduct an independent financial audit of each annual financial statement prepared by the auditor-general under the [Financial Management Act](#), division 3.2 (Financial reports and performance statements of directorates).

- (2) As soon as practicable after completing an independent financial audit, the independent auditor must give a written report about the audit to the Speaker.
- (3) However, the independent auditor must give the auditor-general a draft version of the report before preparing the final report.

### **33 Powers and obligations of independent auditor**

- (1) The independent auditor has the same powers and obligations in relation to the conduct of an independent financial audit as the auditor-general has under the following provisions in relation to a performance audit under section 12 (Performance audits—Territory):
  - (a) division 3.6 (Power to obtain information);
  - (b) section 19 (Reporting sensitive information);
  - (c) section 35 (Directions about protected information);
  - (d) section 36 (Offences—use or divulge protected information).
- (2) The independent auditor may include deliberative information in a report for the Legislative Assembly only if the information has previously been published.

**Example—information previously published**

information included in a previous report for the Legislative Assembly

*Note 1* **Deliberative information**—see the dictionary.

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

## Part 5A Protected information

### 34 Meaning of *protected information*—pt 5A

In this part—

*protected information* means information that is disclosed to, or obtained by, a person to whom this section applies because of the exercise of a function under this Act by the person or someone else.

#### **Example—protected information**

information obtained by the auditor-general under s 14 in the course of conducting an audit

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

### 35 Directions about protected information

- (1) The auditor-general, or a person authorised by the auditor-general (an *authorised person*), may give a direction to a person prohibiting or restricting the disclosure of protected information.
- (2) In deciding whether to give a direction under subsection (1), the auditor-general or authorised person must have regard to whether the direction—
  - (a) would promote the purposes of this Act; or
  - (b) is necessary or desirable to protect the integrity of an audit or investigation (however described) by the auditor-general.
- (3) The auditor-general or authorised person may also have regard to any other relevant matter in deciding whether to give a direction under subsection (1).

- (4) A person commits an offence if—
- (a) the auditor-general or an authorised person has given to the person or someone else a direction under subsection (1) prohibiting or restricting the disclosure of protected information; and
  - (b) the person knows that the direction has been given; and
  - (c) the person discloses the information to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (5) Subsection (4) does not apply if the information is disclosed—
- (a) under this Act or another territory law; or
  - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law; or
  - (c) in a court proceeding.
- (6) Subsection (4) does not apply to the disclosure of protected information—
- (a) if the protected information is about a person—with the person's consent; or
  - (b) in accordance with a disclosure direction; or
  - (c) to an entity prescribed by regulation.

*Note* **Disclosure direction**—see s 36A.

*Note 1* The defendant has an evidential burden in relation to the matters mentioned in s (5) and s (6) (see [Criminal Code](#), s 58).

*Note 2* If the protected information disclosed under s (5) or s (6) is provided by a person under s 14, the information and any information directly or indirectly derived from it may not be admissible in evidence against the person in another criminal proceeding (see s 14D).



**36 Offences—use or divulge protected information**

- (1) A person to whom this section applies commits an offence if—
- (a) the person uses information; and
  - (b) the information is protected information; and
  - (c) the person is reckless about whether the information is protected information.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (2) A person to whom this section applies commits an offence if—
- (a) the person does something that divulges information; and
  - (b) the information is protected information; and
  - (c) the person is reckless about whether—
    - (i) the information is protected information; and
    - (ii) doing the thing would result in the information being divulged to someone else.

Maximum penalty: 50 penalty units, imprisonment for 6 months or both.

- (3) This section does not apply if the information is used or divulged—
- (a) under this Act or another territory law; or
  - (b) in relation to the exercise of a function, as a person to whom this section applies, under this Act or another territory law; or
  - (c) in a court proceeding.
- (4) This section does not apply to the using or divulging of protected information—
- (a) if the protected information is about a person—with the person's consent; or

- (b) in accordance with a disclosure direction; or

*Note* **Disclosure direction**—see s 36A.

- (c) to an entity prescribed by regulation.

*Note 1* The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see [Criminal Code](#), s 58).

*Note 2* If the protected information used or divulged under s (3) or s (4) is provided by a person under s 14, the information and any information directly or indirectly derived from it may not be admissible in evidence against the person in another criminal proceeding (see s 14D).

- (5) A person to whom this section applies need not divulge protected information to a court, or produce a document containing protected information to a court, unless it is necessary to do so for this Act or another law applying in the territory.

- (6) In this section:

**court** includes a tribunal, authority or person having power to require the production of documents or the answering of questions.

**divulge** includes—

- (a) communicate; or  
(b) publish.

**person to whom this section applies** means—

- (a) a person who is or has been—  
(i) the auditor-general; or  
(ii) anyone acting under the direction or authority of the auditor-general; or  
(b) anyone else who has exercised a function under this Act.

*produce* includes allow access to.

*use information* includes make a record of the information.

*Note* The *Crimes Act 1900*, s 153 also deals with disclosure of information by public employees or people performing services for the Territory or a territory authority. Section 36 applies to the auditor-general and anyone else who has exercised a function under the Act.

### **36A Minister may direct disclosure of protected information**

The Minister may direct a person to disclose protected information to someone else (a *disclosure direction*) if the Minister certifies that the disclosure is necessary in the public interest.

## Part 6 Miscellaneous

### 37 Protection of auditor-general etc from liability

- (1) A protected person is not personally liable for conduct done honestly and without recklessness—
  - (a) in the exercise of a function under this Act or another law; or
  - (b) in the reasonable belief that the conduct was in the exercise of a function under this Act or another law.
- (2) Any liability that would, apart from this section, attach to the protected person attaches instead to the Territory.
- (3) In this section:

*conduct* means an act or an omission to do an act.

*protected person* means a person who is or has been—

- (a) the auditor-general; or
- (b) a member of the staff of the auditor-general.

*staff* means—

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

### 37A Reports to be given to Speaker

- (1) A report or response required by this Act to be given to the Speaker must—
  - (a) if the Speaker is unavailable—be given to the Deputy Speaker; or
  - (b) if both the Speaker and Deputy Speaker are unavailable—be given to the clerk of the Legislative Assembly.

- (2) For subsection (1), 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.

### **37B Assistance for Speaker**

In exercising a function under this Act, the Speaker may seek administrative support or advice from—

- (a) the Office of the Legislative Assembly; or
- (b) another entity that is able to provide impartial administrative support or advice.

### **38 Regulation-making power**

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

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

- (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.

## Dictionary

(see s 2)

*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:

- appointment
- bankrupt or personally insolvent
- director-general (see s 163)
- entity
- Executive
- exercise
- fail
- function
- head of service
- law, of the Territory
- Office of the Legislative Assembly
- public servant
- Speaker
- territory law
- territory-owned corporation
- under.

*chief executive officer*—see the [Financial Management Act](#), dictionary.

*contract*—see the [Financial Management Act](#), dictionary.

*controlling interest*—see section 5.

*deliberative information* means information that discloses a deliberation or decision of the Executive.

*directorate*—see the [Financial Management Act](#), dictionary.

**disclosure direction**—see section 36A (Minister may direct disclosure of protected information).

**Financial Management Act** means the *Financial Management Act 1996*.

**head of service**—see the *Public Sector Management Act 1994*, dictionary.

**independent auditor**—see section 31.

**independent financial audit**, of the auditor-general, for division 5.2 (Independent financial audit of auditor-general)—see section 30.

**joint audit**—see section 10C.

**multi-entity audit**—see section 10B.

**non-public sector entity**—see section 13B.

**performance audit**, of a person, body or thing—see section 11B.

**protected information**, for part 5A (Protected information)—see section 34.

**public accounts committee** means the committee of the Legislative Assembly whose functions include the examination of financial statements for the Territory, a directorate or a territory authority.

**public sector company** means—

- (a) a subsidiary of a territory authority; or
- (b) a territory-owned corporation; or
- (c) a subsidiary of a territory-owned corporation; or
- (d) a company prescribed by regulation; or
- (e) any other company in which the Territory or another territory entity has a controlling interest.

**public sector entity**—see section 13A.

***responsible director-general*** means—

- (a) for a directorate—the responsible director-general in relation to the directorate under the Financial Management Act; and
- (b) for a territory authority—the chief executive officer of the authority under the Financial Management Act; and
- (c) for a public sector company—the person responsible for managing the affairs of the company; and
- (d) for a joint venture or trust in which the Territory or a territory entity has a controlling interest—the responsible director-general of the directorate or territory entity that is responsible for matters most closely related to that interest.

***special financial audit*** means an audit conducted under section 11.

***strategic review***, of the auditor-general, for division 5.1 (Strategic review of auditor-general)—see section 23.

***strategic reviewer***, for division 5.1 (Strategic review of auditor-general)—see section 25 (2).

***subsidiary***, of a territory-owned corporation—see the [Territory-owned Corporations Act 1990](#), dictionary.

***territory authority***—see the [Financial Management Act](#), dictionary.

***territory entity*** means—

- (a) a territory authority; or
- (b) a public sector company.



## 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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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

## Endnotes

3 Legislation history

---

### 3 Legislation history

#### **Auditor-General Act 1996 A1996-23**

notified 4 June 1996 ([Gaz 1996 No S101](#))  
commenced 1 July 1996 (s 2)

as amended by

#### **Auditor-General (Amendment) Act 1997 A1997-90**

notified 1 December 1997 ([Gaz 1997 No S380](#))  
commenced 1 December 1997 (s 2)

#### **Legislation (Consequential Amendments) Act 2001 A2001-44 pt 27**

notified 26 July 2001 ([Gaz 2001 No 30](#))  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 27 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

#### **Auditor-General Amendment Act 2001 A2001-52**

notified 12 July 2001 ([Gaz 2001 No 28](#))  
commenced 12 July 2001 (s 2)

#### **Legislation Amendment Act 2002 A2002-11 pt 2.2**

notified LR 27 May 2002  
s 1, s 2 commenced 27 May 2002 (LA s 75)  
pt 2.2 commenced 28 May 2002 (s 2 (1))

#### **Statute Law Amendment Act 2002 A2002-30 pt 3.5**

notified LR 16 September 2002  
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))  
pt 3.5 commenced 17 September 2002 (s 2 (1))

#### **Annual Reports (Government Agencies) Act 2004 A2004-8 s 27**

notified LR 19 March 2004  
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))  
s 27 commenced 13 April 2004 (s 2 and [CN2004-5](#))

#### **Annual Reports Legislation Amendment Act 2004 A2004-9 sch 1 pt 1.3**

notified LR 19 March 2004  
s 1, s 2 commenced 19 March 2004 (LA s 75 (1))  
sch 1 pt 1.3 commenced 13 April 2004 (s 2 and see [Annual Reports \(Government Agencies\) Act 2004 A2004-8, s 2 and \[CN2004-5\]\(#\)](#))

**Auditor-General Amendment Act 2004 A2004-72**

notified LR 8 September 2004  
s 1, s 2 commenced 8 September 2004 (LA s 75 (1))  
remainder commenced 9 September 2004 (s 2)

**Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.6**

notified LR 12 August 2008  
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))  
sch 3 pt 3.6 commenced 26 August 2008 (s 2)

**Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.4**

notified LR 26 November 2009  
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))  
sch 3 pt 3.4 commenced 17 December 2009 (s 2)

**Administrative (One ACT Public Service Miscellaneous Amendments) Act 2011 A2011-22 sch 1 pt 1.14**

notified LR 30 June 2011  
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))  
sch 1 pt 1.14 commenced 1 July 2011 (s 2 (1))

**Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.6**

notified LR 28 November 2011  
s 1, s 2 commenced 28 November 2011 (LA s 75 (1))  
sch 3 pt 3.6 commenced 12 December 2011 (s 2)

**Legislative Assembly (Office of the Legislative Assembly) Act 2012 A2012-26 sch 1 pt 1.2**

notified LR 24 May 2012  
s 1, s 2 commenced 24 May 2012 (LA s 75 (1))  
sch 1 pt 1.2 commenced 1 July 2012 (s 2)

**Auditor-General Amendment Act 2013 A2013-25**

notified LR 20 August 2013  
s 1, s 2 commenced 20 August 2013 (LA s 75 (1))  
remainder commenced 20 February 2014 (s 2 and LA s 79)

**Officers of the Assembly Legislation Amendment Act 2013 A2013-41 pt 2**

notified LR 7 November 2013  
s 1, s 2 commenced 7 November 2013 (LA s 75 (1))  
pt 2 commenced 1 July 2014 (s 2)

## Endnotes

3 Legislation history

---

### **Officers of the Assembly Legislation Amendment Act 2014 A2014-22 pt 2**

notified LR 26 May 2014  
s 1, s 2 commenced 26 May 2014 (LA s 75 (1))  
pt 2 commenced 1 July 2014 (s 2 and see [Officers of the Assembly Legislation Amendment Act 2013 A2013-41 s 2](#))

### **Auditor-General Amendment Act 2014 A2014-31**

notified LR 20 August 2014  
s 1, s 2 commenced 20 August 2014 (LA s 75 (1))  
remainder commenced 21 August 2014 (s 2)

### **Statute Law Amendment Act 2015 (No 2) A2015-50 sch 1 pt 1.1, sch 3 pt 3.2**

notified LR 25 November 2015  
s 1, s 2 commenced 25 November 2015 (LA s 75 (1))  
sch 1 pt 1.1, sch 3 pt 3.2 commenced 9 December 2015 (s 2)

### **Public Sector Management Amendment Act 2016 A2016-52 sch 1 pt 1.7**

notified LR 25 August 2016  
s 1, s 2 commenced 25 August 2016 (LA s 75 (1))  
sch 1 pt 1.7 commenced 1 September 2016 (s 2)

### **Legislative Assembly Legislation Amendment Act 2017 A2017-41 pt 2**

notified LR 13 November 2017  
s 1, s 2 commenced 13 November 2017 (LA s 75 (1))  
pt 2 commenced 14 November 2017 (s 2)

### **Inspector of Correctional Services Act 2017 A2017-47 sch 2 pt 2.1**

notified LR 7 December 2017  
s 1, s 2 commenced 7 December 2017 (LA s 75 (1))  
sch 2 pt 2.1 commenced 8 December 2017 (s 2 (1))

### **Statute Law Amendment Act 2018 A2018-42 sch 3 pt 3.4**

notified LR 8 November 2018  
s 1, s 2 taken to have commenced 1 July 2018 (LA s 75 (2))  
sch 3 pt 3.4 commenced 22 November 2018 (s 2 (1))

## 4 Amendment history

### Preliminary

div 1.1 hdg ins [A2013-25](#) s 4

### Name of Act

s 1 sub [A2002-30](#) amdt 3.36

### Dictionary

s 2  
**orig s 2**  
 om [A2001-44](#) amdt 1.311  
**pres s 2**  
 (prev s 3) renum and reloc as s 2 [A2002-30](#) amdt 3.39  
 am [A2018-42](#) amdt 3.20

### Application of terms used in Financial Management Act

s 3  
**orig s 3**  
 renum as s 2 [A2002-30](#) amdt 3.39  
**pres s 3**  
 ins [A2002-30](#) amdt 3.39  
 om [A2013-25](#) s 5  
 defs reloc to dict [A2002-30](#) amdt 3.38  
 def **controlling interest** reloc to dict [A2002-30](#) amdt 3.38  
 def **Financial Management Act** reloc to dict [A2002-30](#)  
 amdt 3.38  
 def **independent auditor** reloc to dict [A2002-30](#) amdt 3.38  
 def **performance audit** reloc to dict [A2002-30](#) amdt 3.38  
 def **public accounts committee** reloc to dict [A2002-30](#)  
 amdt 3.38  
 def **public sector company** reloc to dict [A2002-30](#) amdt 3.38  
 def **Public Sector Management Act** reloc to dict [A2002-30](#)  
 amdt 3.38  
 def **responsible chief executive** reloc to dict [A2002-30](#)  
 amdt 3.38  
 def **Speaker** om R2 LA  
 def **subsidiary** om [A2002-30](#) amdt 3.37  
 def **Territory entity** reloc to dict [A2002-30](#) amdt 3.38  
 def **Territory owned corporation** om [A2002-30](#) amdt 3.37

### Notes

s 3A ins [A2002-30](#) amdt 3.39

### Offences against Act—application of Criminal Code etc

s 3B ins [A2004-72](#) s 4

### Reports to be given to Speaker

s 4 renum and reloc as s 37A

### Important concepts

div 1.2 hdg ins [A2013-25](#) s 7

## Endnotes

### 4 Amendment history

---

#### **Establishment and independence of auditor-general**

div 2.1 hdg ins [A2013-25](#) s 7

#### **Auditor-general**

s 6 am [A2008-28](#) amdt 3.34

#### **Officer of the Legislative Assembly**

s 6A ins [A2013-41](#) s 4  
am [A2017-41](#) ss 4-6

#### **Auditor-general—independence**

s 7 sub [A2013-25](#) s 9

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

s 7A (prev s 9A) ins [A2004-8](#) s 27  
renum and reloc as s 7A [A2013-25](#) s 12

#### **Appointment of auditor-general**

div 2.2 hdg ins [A2013-25](#) s 9

#### **Appointment**

s 7B (prev sch 1 s 1.1) am [A2001-52](#) s 6; [A2002-30](#) amdt 3.45;  
[A2008-28](#) amdt 3.34  
renum and reloc as s 7B [A2013-25](#) s 47  
om [A2013-41](#) s 5

#### **Appointment**

s 8 am [A2008-28](#) amdt 3.34, amdt 3.35; [A2011-52](#) amdt 3.13  
sub [A2013-41](#) s 5  
am [A2016-52](#) amdt 1.30; [A2017-41](#) s 7, s 8; pars renum  
R18 LA

#### **Term of appointment**

s 8AA ins [A2017-41](#) s 9

#### **Acting auditor-general**

s 8A (prev sch 1 s 1.6) sub [A2002-30](#) amdt 3.47  
renum as sch 1 s 1.5 R7 LA  
renum and reloc as s 8A [A2013-25](#) s 48  
sub [A2013-41](#) s 6

#### **Other provisions applying to auditor-general**

div 2.3 hdg ins [A2013-25](#) s 10

#### **Application of Legislation Act, div 19.3.3**

s 8B (prev sch 1 s 1.7) ins [A2002-11](#) amdt 2.4  
renum as sch 1 s 1.6 R7 LA  
renum and reloc as s 8B [A2013-25](#) s 48  
om [A2013-41](#) s 7  
ins [A2013-41](#) s 8

**Disclosure of interests**s 8C ins [A2013-41](#) s 8**Auditor-general must not do other work etc**s 8D ins [A2013-41](#) s 8**Resignation**

s 9 **orig s 9**  
 am [A2002-30](#) amdt 3.49  
 om [A2013-25](#) s 11  
**pres s 9**  
 (prev sch 1 s 1.3) renum as sch 1 s 1.2 R7 LA  
 renum and reloc as s 9 [A2013-25](#) s 48  
 am [A2013-41](#) s 9

**Retirement**

s 9A **orig s 9A**  
 renum as s 7A  
**pres s 9A**  
 (prev sch 1 s 1.4) renum as s 1.3 R7 LA  
 renum and reloc as s 9A [A2013-25](#) s 48  
 sub [A2013-41](#) s 8

**Suspension—generally**

s 9B (prev sch 1 s 1.5) am [A2008-28](#) amdt 3.33, amdt 3.34  
 renum as sch 1 s 1.4 R7 LA  
 am [A2009-49](#) amdt 3.10  
 renum and reloc as s 9B [A2013-25](#) s 48  
 sub [A2013-41](#) s 8  
 am [A2015-50](#) amdt 3.4; [A2016-52](#) amdt 1.31

**Suspension—public accounts committee notice and meetings**s 9BA ins [A2013-41](#) s 8**Suspension—ending suspension**

s 9BB ins [A2013-41](#) s 8  
 am [A2015-50](#) amdt 3.5

**Ending of appointment**

s 9BC ins [A2013-41](#) s 8  
 am [A2015-50](#) amdt 3.6

**Leave of absence**s 9BD ins [A2013-41](#) s 8**Office of the auditor-general**div 2.4 hdg ins [A2013-25](#) s 10**Auditor-general's staff**

s 9C ins [A2013-25](#) s 10  
 am [A2013-41](#) s 11  
 sub [A2016-52](#) amdt 1.32

## Endnotes

### 4 Amendment history

---

#### **Contractors**

s 9D (prev s 24) am [A2002-30](#) amdt 3.49  
renum and reloc as s 9D [A2013-25](#) s 39

#### **Staff not subject to direction from others**

s 9DA ins [A2013-41](#) s 12

#### **Other arrangements for staff and facilities**

s 9E (prev s 25) sub [A2011-22](#) amdt 1.52  
renum and reloc as s 9E [A2013-25](#) s 39  
sub [A2016-52](#) amdt 1.33

#### **Delegation**

s 9F (prev s 26) sub [A2002-30](#) amdt 3.44  
am [A2013-25](#) s 40  
renum and reloc as s 9F [A2013-25](#) s 41  
am [A2016-52](#) amdt 1.34

#### **Functions and powers**

pt 3 hdg note ins [A2004-72](#) s 5

#### **Application—pt 3**

div 3.1 hdg ins [A2013-25](#) s 13

#### **Application—Office of the Legislative Assembly—pt 3**

s 9G hdg (prev s 20 hdg) sub [A2013-25](#) s 33  
s 9G (prev s 20) am [A2011-22](#) amdt 1.55, amdt 1.56  
sub [A2012-26](#) amdt 1.9  
renum and reloc as s 9G [A2013-25](#) s 34

#### **Functions**

div 3.2 hdg ins [A2013-25](#) s 13

#### **Functions**

s 10 am [A2002-30](#) amdt 3.40; [A2011-22](#) amdt 1.49; [A2013-25](#) s 14;  
[A2017-47](#) amdt 2.1

#### **Auditor under the Corporations Act**

s 10A (prev s 13) am [A2008-28](#) amdt 3.34  
renum and reloc as s 10A [A2013-25](#) s 19

#### **Auditor-general may conduct audit of multiple entities**

s 10B ins [A2013-25](#) s 15

#### **Auditor-general may conduct joint or collaborative audit**

s 10C ins [A2013-25](#) s 15

#### **Financial audits**

div 3.3 hdg ins [A2013-25](#) s 15

#### **Special financial audits**

s 11 am [A2008-28](#) amdt 3.34



**Audit fees**

s 11A (prev s 16) am [A2004-9](#) amdt 1.3  
sub [A2004-72](#) s 10  
renum and reloc as s 11A [A2013-25](#) s 23

**Performance audits**

div 3.4 hdg ins [A2013-25](#) s 16

**Meaning of *performance audit***

s 11B ins [A2013-25](#) s 16

**Performance audits—Territory**

s 12 hdg sub [A2013-25](#) s 17  
s 12 am [A1997-90](#) s 4; [A2002-30](#) amdt 3.41; [A2004-72](#) s 6;  
ss renum R6 LA (see [A2004-72](#) s 7); [A2008-28](#) amdt 3.35;  
[A2011-22](#) amdt 1.56; [A2013-25](#) s 18

**Annual performance audit program**

s 13 **orig s 13**  
renum and reloc as s 10A  
**pres s 13**  
ins [A2013-25](#) s 20

**Audit of non-public sector entities**

div 3.5 hdg ins [A2013-25](#) s 21

**Meaning of *public sector entity***

s 13A ins [A2013-25](#) s 21

**Meaning of *non-public sector entity***

s 13B ins [A2013-25](#) s 21

**Minister or public accounts committee may request audit of non-public sector entity**

s 13C ins [A2013-25](#) s 21

**Non-public sector entity audits—initiated by auditor-general**

s 13D ins [A2013-25](#) s 21

**Power to obtain information**

div 3.6 hdg ins [A2013-25](#) s 21

**Power to obtain information etc**

s 14 am [A2002-30](#) amdt 3.49  
sub [A2004-72](#) s 8

**Power to administer oath or affirmation**

s 14A ins [A2004-72](#) s 8

**Failure to comply with notice under s 14 (1)**

s 14B ins [A2004-72](#) s 8

## Endnotes

4 Amendment history

---

### **Attendance before auditor-general—offences**

s 14C ins [A2004-72](#) s 8

### **Privileges against self-incrimination and exposure to civil penalty**

s 14D ins [A2004-72](#) s 8

### **Access to premises and things—Territory**

s 15 hdg sub [A2013-25](#) s 22

s 15 am [A2002-30](#) amdt 3.49

sub [A2004-72](#) s 9

### **Failure to comply with requirement—offence**

s 15A ins [A2004-72](#) s 9

### **Audit fees**

s 16 renum and reloc as s 11A

### **Reports for Legislative Assembly**

div 3.7 hdg ins [A2013-25](#) s 24

### **Reports for Legislative Assembly**

s 17 sub [A2001-52](#) s 4

am [A2002-30](#) amdt 3.42, amdt 3.49; [A2011-22](#) amdt 1.55;

[A2013-25](#) ss 25-27; [A2013-41](#) s 13; ss renum R13 LA;

[A2015-50](#) amdt 1.1; ss renum R16 LA

### **Comments on proposed reports**

s 18 am [A2008-28](#) amdt 3.34; [A2011-22](#) amdt 1.55

sub [A2013-25](#) s 28; [A2014-31](#) s 4

### **Reporting sensitive information**

s 19 sub [A2004-72](#) s 11

am [A2013-25](#) s 29, s 30; ss renum R12 LA

### **Reporting Executive deliberations and decisions**

s 19A renum as s 20

### **Reporting Executive deliberations and decisions**

s 20 **orig s 20**

renum and reloc as s 9G

**pres s 20**

(prev s 19A) ins [A2004-72](#) s 11

sub [A2013-25](#) s 31

renum as s 20 [A2013-25](#) s 32

### **Ministerial response to report for Legislative Assembly**

s 21 am [A2002-30](#) amdt 3.43; [A2011-22](#) amdt 1.50, amdt 1.56;

[A2013-25](#) s 35

om [A2014-22](#) s 4

ins [A2015-50](#) amdt 1.2

**Administration**

pt 4 hdg om [A2014-22](#) s 4

**Proposed appropriations**

s 22 am [A2008-28](#) amdt 3.35; [A2011-52](#) amdt 3.14  
om [A2014-22](#) s 4

**Additional amounts for certain audits**

s 22A ins [A2001-52](#) s 5  
am [A2011-52](#) amdt 3.15; [A2013-25](#) s 36, s 37  
om [A2014-22](#) s 4

**Review of auditor-general**

pt 5 hdg ins [A2013-25](#) s 42

**Strategic review of auditor-general**

div 5.1 hdg ins [A2013-25](#) s 42

**Meaning of *strategic review*—div 5.1**

s 23 am [A2008-28](#) amdt 3.34; [A2011-22](#) amdt 1.51  
om [A2013-25](#) s 38  
ins [A2013-25](#) s 42

**Strategic review to be carried out in each Assembly term**

s 24 **orig s 24**  
renum and reloc as s 9D  
**pres s 24**  
ins [A2013-25](#) s 42

**Strategic reviewer**

s 25 **orig s 25**  
renum and reloc as s 9E  
**pres s 25**  
ins [A2013-25](#) s 42

**Strategic review to be conducted as requested**

s 26 **orig s 26**  
renum and reloc as s 9F  
**pres s 26**  
ins [A2013-25](#) s 42

**Powers and obligations of strategic reviewer**

s 27 sub [A2013-25](#) s 42

**Comments on proposed strategic review report**

s 28 sub [A2013-25](#) s 42

**Strategic review report**

s 29 am [A2008-28](#) amdt 3.34  
sub [A2013-25](#) s 42

## Endnotes

### 4 Amendment history

---

#### **Independent financial audit of auditor-general**

div 5.2 hdg ins [A2013-25](#) s 42

#### **Meaning of *independent financial audit*—div 5.2**

s 30 am [A2008-28](#) amdt 3.34  
sub [A2013-25](#) s 42; [A2014-22](#) s 5

#### **Independent auditor**

s 31 am [A2008-28](#) amdt 3.34  
sub [A2013-25](#) s 42  
am [A2014-22](#) s 6

#### **Independent financial audits**

s 32 am [A2002-30](#) amdt 3.49  
sub [A2004-72](#) s 12; [A2013-25](#) s 42  
am [A2014-22](#) s 7

#### **Meaning of *protected information* for pt 6**

s 32A renum as s 33

#### **Disclosure of protected information**

s 32B renum as s 34

#### **Directions about protected information**

s 32C renum as s 35

#### **Authorised disclosures of protected information**

s 32D renum as s 36

#### **Powers and obligations of independent auditor**

s 33 **orig s 33**  
renum as s 37  
**prev s 33**  
(prev s 32A) ins [A2004-72](#) s 13  
renum R6 LA (see [A2004-72](#) s 15)  
om [A2013-25](#) s 43  
**pres s 33**  
ins [A2013-25](#) s 42

#### **Protected information**

pt 5A hdg ins [A2013-25](#) s 42

#### **Meaning of *protected information*—pt 5A**

s 34 **orig s 34**  
am [A2002-30](#) amdt 3.49  
om [A2004-72](#) s 14  
**prev s 34**  
(prev s 32B) ins [A2004-72](#) s 13  
renum R6 LA (see [A2004-72](#) s 15)  
om [A2013-25](#) s 43  
**pres s 34**  
ins [A2013-25](#) s 42

**Directions about protected information**

s 35 **orig s 35**  
renum as s 38  
**pres s 35**  
(prev s 32C) ins [A2004-72](#) s 13  
renum R6 LA (see [A2004-72](#) s 15)  
am [A2013-25](#) s 44  
reloc to pt 5A [A2013-25](#) s 45

**Offences—use or divulge protected information**

s 36 **orig s 36**  
(prev s 32D) ins [A2004-72](#) s 13  
renum R6 LA (see [A2004-72](#) s 15)  
**prev s 36**  
om [A2013-25](#) s 46  
**pres s 36**  
ins [A2013-25](#) s 42

**Minister may direct disclosure of protected information**

s 36A ins [A2013-25](#) s 42

**Protection of auditor-general etc from liability**

s 37 (prev s 33) am [A2002-30](#) amdt 3.49  
renum R6 LA (see [A2004-72](#) s 15)  
sub [A2008-28](#) amdt 3.32  
am [A2016-52](#) amdt 1.35

**Reports to be given to Speaker**

s 37A (prev s 4) am [A2008-28](#) amdt 3.34  
renum and reloc as s 37A [A2013-25](#) s 6  
am [A2015-50](#) amdt 1.3

**Assistance for Speaker**

s 37B ins [A2017-41](#) s 10

**Regulation-making power**

s 38 (prev s 35) sub [A2001-44](#) amdt 1.312  
renum R6 LA (see [A2004-72](#) s 15)  
am [A2013-41](#) s 14

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

pt 10 hdg ins [A2013-41](#) s 15  
exp 1 July 2015 (s 51)

**Existing appointment of auditor-general**

s 50 ins [A2013-41](#) s 15  
exp 1 July 2015 (s 51)

**Expiry—pt 10**

s 51 ins [A2013-41](#) s 15  
exp 1 July 2015 (s 51)

## Endnotes

### 4 Amendment history

---

#### **Appointment and terms of office of auditor-general**

sch 1 ss renum R7 LA

#### **Appointment**

sch 1 s 1.1 renum and reloc as s 7B

#### **Resignation**

sch 1 s 1.2 **orig sch 1 s 1.2**  
om [A2002-30](#) amdt 3.46  
**prev sch 1 s 1.2**  
renum and reloc as s 9

#### **Retirement**

sch 1 s 1.3 renum and reloc as s 9A

#### **Removal from office**

sch 1 s 1.4 renum and reloc as s 9B

#### **Acting auditor-general**

sch 1 s 1.5 renum and reloc as s 8A

#### **Application of Legislation Act, div 19.3.3**

sch 1 s 1.6 renum and reloc as s 8B

#### **Application of Legislation Act, div 19.3.3**

sch 1 s 1.7 renum as sch 1 s 1.6 R7 LA

#### **Dictionary**

dict ins [A2002-30](#) amdt 3.48  
am [A2004-72](#) s 16; [A2009-49](#) amdt 3.11; [A2011-22](#) amdt 1.53;  
[A2011-52](#) amdt 3.16; [A2012-26](#) amdt 1.10; [A2013-25](#) s 50;  
[A2013-41](#) s 16; [A2015-50](#) amdt 3.7; [A2016-52](#) amdt 1.36  
def **appropriation** ins [A2013-25](#) s 51  
om [A2015-50](#) amdt 3.8  
def **chief executive officer** ins [A2013-25](#) s 51  
def **contract** ins [A2013-25](#) s 51  
def **controlling interest** reloc from s 3 [A2002-30](#) amdt 3.38  
def **deliberative information** ins [A2013-25](#) s 51  
def **director** ins [A2013-25](#) s 51  
def **disclosure direction** ins [A2013-25](#) s 51  
def **Financial Management Act** reloc from s 3 [A2002-30](#)  
amdt 3.38  
def **head of service** ins [A2013-25](#) s 51  
def **independent auditor** reloc from s 3 [A2002-30](#) amdt 3.38  
sub [A2013-25](#) s 52  
def **independent financial audit** ins [A2013-25](#) s 53  
def **joint audit** ins [A2013-25](#) s 53  
def **multi-entity audit** ins [A2013-25](#) s 53  
def **non-public sector entity** ins [A2013-25](#) s 53  
def **performance audit** reloc from s 3 [A2002-30](#) amdt 3.38  
sub [A2013-25](#) s 54

- 
- def **protected information** ins [A2004-72](#) s 17  
sub [A2013-25](#) s 55
- def **public accounts committee** reloc from s 3 [A2002-30](#)  
amdt 3.38  
am [A2011-22](#) amdt 1.56
- def **public sector company** reloc from s 3 [A2002-30](#)  
amdt 3.38
- def **public sector entity** ins [A2013-25](#) s 56
- def **Public Sector Management Act** reloc from s 3 [A2002-30](#)  
amdt 3.38  
om [A2013-25](#) s 57
- def **responsible chief executive** reloc from s 3 [A2002-30](#)  
amdt 3.38  
om [A2011-22](#) amdt 1.54
- def **responsible director-general** ins [A2011-22](#) amdt 1.54
- def **special financial audit** ins [A2013-25](#) s 58
- def **strategic review** ins [A2013-25](#) s 58
- def **strategic reviewer** ins [A2013-25](#) s 58
- def **subsidiary** ins [A2002-30](#) amdt 3.48  
am [A2018-42](#) amdt 3.21
- def **territory authority** ins [A2013-25](#) s 58
- def **Territory entity** reloc from s 3 [A2002-30](#) amdt 3.38

## Endnotes

### 5 Earlier republications

---

#### 5 Earlier republications

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

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

Republication No	Amendments to	Republication date
1	<a href="#">A1997-90</a>	1 March 1999
2	<a href="#">A2001-52</a>	12 September 2001
3	<a href="#">A2002-11</a>	30 May 2002
4	<a href="#">A2002-30</a>	17 September 2002
5	<a href="#">A2004-9</a>	13 April 2004
6	<a href="#">A2004-72</a>	9 September 2004
7	<a href="#">A2008-28</a>	26 August 2008
8	<a href="#">A2009-49</a>	17 December 2009
9	<a href="#">A2011-22</a>	1 July 2011
10	<a href="#">A2011-52</a>	12 December 2011
11	<a href="#">A2012-26</a>	1 July 2012
12 (RI) ‡	<a href="#">A2013-25</a>	15 July 2014
13 (RI) ‡	<a href="#">A2014-22</a>	15 July 2014
14	<a href="#">A2014-31</a>	21 August 2014
15	<a href="#">A2014-31</a>	2 July 2015
16	<a href="#">A2015-50</a>	9 December 2015
17	<a href="#">A2016-52</a>	1 September 2016
18	<a href="#">A2017-41</a>	14 November 2017
19	<a href="#">A2017-47</a>	8 December 2017

‡ includes textual correction in s 19 (4)



**6 Expired transitional or validating provisions**

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see [Legislation Act 2001](#), s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

© Australian Capital Territory 2018