



Australian Capital Territory

# Government Procurement (Principles) Guideline Amendment Act 2003

**A2003-63**

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An Act to amend the *Government Procurement (Principles) Guideline 2002 (No 2) DI2002-58*

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

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2003 137B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

## **1 Name of Act**

This Act is the *Government Procurement (Principles) Guideline Amendment Act 2003*.

## **2 Commencement**

This Act commences on the day after its notification day.

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

## **3 Instrument amended**

This Act amends the *Government Procurement (Principles) Guideline 2002 (No 2)* DI2002-58.

## **4 New clause 6A**

*insert*

### **6A Principle about procurement of computer software**

- (1) In the procurement of computer software, a Territory entity should, as far as practicable—
  - (a) consider open source software; and
  - (b) avoid the procurement of—
    - (i) software that does not comply with open standards or standards recognised by the ISO; and
    - (ii) software for which support or maintenance is provided only by an entity that has the right to exercise exclusive control over its sale or distribution.
- (2) This is in addition to the procurement principles to be applied under clause 6.

- (3) For section (1) (b) (i), software does not ***comply with open standards*** unless the specifications for data representations used by the software (including, for example, file formats for data storage, transmission and network protocols) are completely and accurately documented and available to the public for use, application or review without restriction.

*Note* An example is part of the instrument, 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).

- (4) In this section:

***ISO*** means the International Organization for Standardization.

*Note* ISO standards are available on the internet at the web site [www.standards.com.au](http://www.standards.com.au).

***open source definition*** means the document of that name published by the open source initiative, as in force from time to time.

*Note 1* The text of an applied, adopted or incorporated law or instrument, whether applied as in force from time to time or at a particular time, is taken to be a notifiable instrument if the operation of the Legislation Act 2001, s 47 (5) or (6) is not disapplied (see s 47 (7)).

*Note 2* A notifiable instrument must be notified under the Legislation Act.

***open source initiative*** means the non-profit incorporated organisation of that name dedicated to managing and promoting the open source definition for the good of the community.

***open source software*** means software that is the subject of a licence that complies with the open source definition.

- (5) This section expires 3 years after the day it commences.

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 27 August 2003.

**2 Notification**

Notified under the Legislation Act on 18 December 2003.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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I certify that the above is a true copy of the Government Procurement (Principles) Guideline Amendment Bill 2003 which was passed by the Legislative Assembly on 10 December 2003.

Clerk of the Legislative Assembly

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