

2013

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Chief Minister)

## Auditor-General Amendment Bill 2013

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2013

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Chief Minister)

## Auditor-General Amendment Bill 2013

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### A Bill for

An Act to amend the *Auditor-General Act 1996*, and for other purposes

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

|    |                     |  |
|----|---------------------|--|
| 1  | <b>1</b>            | <b>Name of Act</b>   |
| 2  |                     | This Act is the <i>Auditor-General Amendment Act 2013</i> .                          |
| 3  | <b>2</b>            | <b>Commencement</b>  |
| 4  |                     | This Act commences on a day fixed by the Minister by written                         |
| 5  |                     | notice.  |
| 6  | <i>Note 1</i>       | The naming and commencement provisions automatically commence on                     |
| 7  |                     | the notification day (see <a href="#">Legislation Act</a> , s 75 (1)).               |
| 8  | <i>Note 2</i>       | A single day or time may be fixed, or different days or times may be                 |
| 9  |                     | fixed, for the commencement of different provisions (see <a href="#">Legislation</a> |
| 10 |                     | <a href="#">Act</a> , s 77 (1)).   |
| 11 | <i>Note 3</i>       | If a provision has not commenced within 6 months beginning on the                    |
| 12 |                     | notification day, it automatically commences on the first day after that             |
| 13 |                     | period (see <a href="#">Legislation Act</a> , s 79).                                 |
| 14 | <b>3</b>            | <b>Legislation amended</b>   |
| 15 |                     | This Act amends the <i>Auditor-General Act 1996</i> .                                |
| 16 | <i>Note</i>         | This Act also amends the following legislation (see sch 1):                          |
| 17 |                     | • <i>Annual Reports (Government Agencies) Act 2004</i>                               |
| 18 |                     | • <i>Public Sector Management Act 1994</i> .   |
| 19 | <b>4</b>            | <b>New division 1.1 heading</b>  |
| 20 |                     | <i>before section 1, insert</i>  |
| 21 | <b>Division 1.1</b> | <b>Preliminary</b>   |
| 22 | <b>5</b>            | <b>Application of terms used in Financial Management Act</b>                         |
| 23 |                     | <b>Section 3</b>   |
| 24 |                     | <i>omit</i>  |

1 **6 Reports to be given to Speaker**  
2 **Section 4**

3 *relocate to part 6 as section 37A*

4 **7 New division 1.2 heading**

5 *before section 5, insert*

6 **Division 1.2 Important concepts**

7 **8 New division 2.1 heading**

8 *before section 6, insert*

9 **Division 2.1 Establishment and independence of**  
10 **auditor-general**

11 **9 Section 7**

12 *substitute*

13 **7 Auditor-general—independence**

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

22 **Division 2.2 Appointment of auditor-general**

1 **10 New division 2.3 heading and division 2.4**

2 *after section 8, insert*

3 **Division 2.3 Other provisions applying to**  
4 **auditor-general**

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

6 **9C Staff**

7 (1) The auditor-general's staff must be employed under the *Public*  
8 *Sector Management Act 1994*.

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

12 (3) The auditor-general's staff are not subject to direction from anyone  
13 other than the following people in relation to the exercise of the  
14 auditor-general's functions:

15 (a) the auditor-general;

16 (b) another member of the auditor-general's staff authorised by the  
17 auditor-general to give directions.

18 **11 Independence**  
19 **Section 9**

20 *omit*

21 **12 Reports for Annual Reports (Government Agencies)**  
22 **Act 2004**  
23 **Section 9A**

24 *relocate to division 2.1 as section 7A*

1 **13 New division 3.1 and 3.2 headings**

2 *before section 10, insert*

3 **Division 3.1 Application—pt 3**

4 **Division 3.2 Functions**

5 **14 Functions**  
6 **New section 10 (2)**

7 *insert*

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

11 **15 New sections 10B, 10C and division 3.3 heading**

12 *insert*

13 **10B Auditor-general may conduct audit of multiple entities**

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

17 **10C Auditor-general may conduct joint or collaborative audit**

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

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

23 **Division 3.3 Financial audits**

- 1 **16** **New division 3.4**
- 2 *before section 12, insert*
- 3 **Division 3.4** **Performance audits**
- 4 **11B** **Meaning of *performance audit***
- 5 In this Act:
- 6 *performance audit*, of a person, body or thing, means a review or
- 7 examination of any aspect of the operations of the entity.
- 8 **17** **Section 12 heading**
- 9 *substitute*
- 10 **12** **Performance audits—Territory**
- 11 **18** **Section 12 (2)**
- 12 *omit*
- 13 **19** **Auditor under the Corporations Act**
- 14 **Section 13**
- 15 *relocate to division 3.2 as section 10A*
- 16 **20** **New section 13**
- 17 *insert*
- 18 **13** **Annual performance audit program**
- 19 (1) The auditor-general must, before the end of each financial year,
- 20 prepare a program (an *annual performance audit program*) for
- 21 performance audits that the auditor-general intends to conduct in the
- 22 next financial year under—
- 23 (a) section 12 (Performance audits—Territory); and

- 1 (b) section 13C (Minister or public accounts committee may  
2 request audit of non-public sector entity); and
- 3 (c) section 13D (Non-public sector entity audits—initiated by  
4 auditor-general).
- 5 (2) In preparing an annual performance audit program, the  
6 auditor-general must consult—
- 7 (a) the public accounts committee; and
- 8 (b) each member of the Legislative Assembly; and
- 9 (c) the head of service; and
- 10 (d) anyone else the auditor-general considers appropriate.
- 11 *Note* The auditor-general has complete discretion in the exercise of his or  
12 her functions and is not subject to direction from anyone about  
13 whether a particular audit is to be carried out (see s 7).
- 14 (3) The annual performance audit program must be published on the  
15 auditor-general’s website.
- 16 *Note* The auditor-general’s website is accessible at [www.audit.act.gov.au](http://www.audit.act.gov.au).

## 21 **New division 3.5 and division 3.6 heading**

18 *before section 14, insert*

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

#### 20 **13A Meaning of *public sector entity***

- 21 (1) In this Act:
- 22 *public sector entity* means—
- 23 (a) a directorate; or
- 24 (b) a territory authority; or
- 25 (c) a territory-owned corporation; or

1 (d) a territory controlled company, joint venture or trust.

2 (2) In this section:

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

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

7 **13B Meaning of non-public sector entity**

8 In this Act:

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

11 **13C Minister or public accounts committee may request audit**  
12 **of non-public sector entity**

13 (1) This section applies if a public sector entity provides property to a  
14 non-public sector entity for a purpose.

15 (2) The Minister or the public accounts committee may ask the  
16 auditor-general to conduct a performance audit of the non-public  
17 sector entity in relation to the property provided by the public sector  
18 entity.

19 (3) The auditor-general may conduct the requested audit if satisfied  
20 that—

21 (a) the usual acquittal procedures for the use of property provided  
22 by a public sector entity have been exhausted; and

23 (b) there are no other mechanisms reasonably available to the  
24 public sector entity to resolve the proposed subject of the audit;  
25 and

26 (c) failure to conduct the audit may result in significant risk to the  
27 Territory.

1 (4) If the auditor-general conducts the requested audit, the  
 2 auditor-general must record the reasons for the decision in the audit  
 3 report.

4 (5) In conducting the audit, the auditor-general may exercise a power  
 5 under division 3.6 (Power to obtain information) only to the extent  
 6 that it relates to the property provided by the public sector entity.

7 **13D Non-public sector entity audits—initiated by**  
 8 **auditor-general**

9 (1) This section applies if a public sector entity provides property to a  
 10 non-public sector entity for a purpose.

11 (2) The auditor-general may at any time, on the auditor-general's own  
 12 initiative, conduct a performance audit of the non-public sector  
 13 entity in relation to the property provided by the public sector entity  
 14 if satisfied of the matters mentioned in section 13C (3) (a) to (c).

15 (3) If the auditor-general conducts an audit under subsection (2), the  
 16 auditor-general must record the reasons for the decision in the audit  
 17 report.

18 (4) In conducting the audit, the auditor-general may exercise a power  
 19 under division 3.6 (Power to obtain information) only to the extent  
 20 that it relates to the property provided by the public sector entity.

21 **Division 3.6 Power to obtain information**

22 **22 Section 15 heading**

23 *substitute*

24 **15 Access to premises and things—Territory**

25 **23 Audit fees**  
 26 **Section 16**

27 *relocate to division 3.3 as section 11A*

1 **24 New division 3.7 heading**

2 *before section 17, insert*

3 **Division 3.7 Reports for Legislative Assembly**

4 **25 Reports for Legislative Assembly**  
5 **Section 17 (2)**

6 *substitute*

7 (2) The report must include the substance of any comments received by  
8 the auditor-general under section 18.

9 **26 Section 17 (6)**

10 *substitute*

11 (6) The auditor-general may give a copy of the report to a Minister or  
12 the head of service if, in the auditor-general's opinion, the Minister  
13 or head of service has a special interest in the report.

14 **27 Section 17 (7)**

15 *omit*

16 section 4

17 *substitute*

18 section 37A

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**28 Section 18**

*substitute*

**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 copy 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 a copy of all or part of the proposed report to anyone else the auditor-general considers has a direct interest in the proposed report.

- 1 (4) However, if the auditor-general must give a copy of the proposed  
2 report to a non-public sector entity under subsection (2) (b) (i), the  
3 auditor-general must not give the report to anyone else under  
4 subsection (2) or (3) until after—
- 5 (a) the time for comments under the non-public sector entity's  
6 proposed report notice has ended; and
- 7 (b) the auditor-general has considered any comments received  
8 from the non-public sector entity.
- 9 (5) If the auditor-general gives a person a copy of all or part of a  
10 proposed report, the auditor-general must also give the person a  
11 written notice (a *proposed report notice*) stating that the person may  
12 give written comments about the proposed report to the  
13 auditor-general before the end of—
- 14 (a) 14 days after the day the notice is given to the person; or  
15 (b) a longer period stated in the notice.
- 16 *Note* Comments received under this section must be taken into consideration  
17 and included in the final report (see s (6) and s 17 (2)).
- 18 (6) If the auditor-general receives comments under this section, the  
19 auditor-general must consider the comments in preparing the final  
20 report.
- 21 (7) In this section:
- 22 *proposed report* means a draft version of a report.

23 **29 Reporting sensitive information**  
24 **New section 19 (1) (h)**

25 *insert*

- 26 (h) disclose information mentioned in the *Legal Aid Act 1977*,  
27 section 92 (2) (a) or contained in a document mentioned in that  
28 *Act*, section 92 (2) (b).

**30 Section 19 (3)**

2 *omit*

3 subsection (1)

4 *substitute*

5 subsection (1) (a) to (g)

**31 Section 19A**

7 *substitute*

**8 19A Reporting Executive deliberations and decisions**

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

12 *Note Deliberative information*—see the dictionary.

13 (2) The auditor-general must consult the Chief Minister in deciding  
14 whether it is in the public interest to include particular deliberative  
15 information in a report.

16 (3) If the Chief Minister objects to the inclusion of particular  
17 deliberative information in a report, the auditor-general—

18 (a) may include the information in the report; but

19 (b) if the information is included—must tell the Chief Minister  
20 about the inclusion at least 7 days before the report is  
21 published.

**22 32 Section 19A (as amended)**

23 *renumber as section 20*

- 1 **33 Section 20 heading**
- 2 *substitute*
- 3 **20 Application—Office of the Legislative Assembly—pt 3**
- 4 **34 Section 20 (as amended)**
- 5 *relocate to division 3.1 as section 9G*
- 6 **35 Application of Financial Management Act**
- 7 **Section 21**
- 8 *omit*
- 9 part 2, part 3 and part 5
- 10 *substitute*
- 11 part 2 (Budget management), part 3 (Financial reports) and part 5
- 12 (Banking and investment)
- 13 **36 Additional amounts for certain audits**
- 14 **Section 22A (1)**
- 15 *omit*
- 16 section 11 and section 12
- 17 *substitute*
- 18 section 11 (Special financial audits), section 12 (Performance
- 19 audits—Territory), section 13C (Minister or public accounts
- 20 committee may request audit of non-public sector entity) and
- 21 section 13D (Non-public sector entity audits—initiated by
- 22 auditor-general)

- 1 **37 Section 22A (2)**
- 2 *omit*
- 3 section 11 and section 12
- 4 *substitute*
- 5 section 11, section 12, section 13C and section 13D
- 6 **38 Staff**
- 7 **Section 23**
- 8 *omit*
- 9 **39 Sections 24 and 25**
- 10 *relocate to division 2.4 as sections 9D and 9E*
- 11 **40 Delegation**
- 12 **Section 26 (b)**
- 13 *omit*
- 14 section 24
- 15 *substitute*
- 16 section 9D
- 17 **41 Section 26 (as amended)**
- 18 *relocate to division 2.4 as section 9F*

1 **42 Part 5**

2 *substitute*

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

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

5 **23 Meaning of *strategic review*—div 5.1**

6 In this division:

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

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

10 **24 Strategic review to be carried out in each Assembly term**

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

15 **25 Strategic reviewer**

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

- 1    **26**           **Strategic review to be conducted as requested**
- 2           (1) If the Speaker engages a strategic reviewer under section 25—
- 3               (a) the public accounts committee must—
- 4                     (i) decide terms of reference for the strategic review, in
- 5                     consultation with the Minister; and
- 6                     (ii) ask the strategic reviewer to conduct the strategic review
- 7                     according to the terms of reference; and
- 8               (b) the strategic reviewer must conduct the requested strategic
- 9               review as soon as practicable after receiving the request.
- 10          (2) The strategic reviewer may conduct a strategic review of the
- 11          auditor-general only when requested under this section.

- 12    **27**           **Powers and obligations of strategic reviewer**
- 13          (1) The strategic reviewer has the same powers and obligations in
- 14          relation to the strategic review as the auditor-general has under the
- 15          following provisions in relation to a performance audit under
- 16          section 12 (Performance audits—Territory):
- 17               (a) division 3.6 (Power to obtain information);
- 18               (b) section 19 (Reporting sensitive information);
- 19               (c) section 35 (Directions about protected information);
- 20               (d) section 36 (Offences—use or divulge protected information).

- 1 (2) The strategic reviewer may include deliberative information in a  
2 report for the Legislative Assembly only if the information has  
3 previously been published.

4 **Example—information previously published**

5 information included in a previous report for the Legislative Assembly

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

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

10 **28 Comments on proposed strategic review report**

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

- 14 (2) The strategic reviewer must give the auditor-general—

15 (a) a copy of the proposed report; and

16 (b) a written notice (a *proposed report notice*) stating that the  
17 auditor-general may give written comments about the proposed  
18 report to the strategic reviewer before the end of—

19 (i) 14 days after the day the notice is given to the  
20 auditor-general; or

21 (ii) a longer period stated in the notice.

- 22 (3) If the strategic reviewer receives comments under this section, the  
23 strategic reviewer must consider the comments in preparing the final  
24 report.

- 25 (4) In this section:

26 *proposed report* means a draft version of a report.



1 (b) exercise functions as required under the Financial Management  
2 Act.

3 *Note* Section 21 applies the [Financial Management Act](#) (FMA), pt 2, pt 3 and  
4 pt 5 to the auditor-general.

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

7 The [FMA](#), s 30C, requires the independent auditor to give the  
8 auditor-general reports about statements of performance.

### 9 **32 Independent financial audits**

10 (1) The independent auditor must conduct an independent financial  
11 audit of each annual financial statement prepared by the  
12 auditor-general under section 21 (Application of Financial  
13 Management Act).

14 (2) As soon as practicable after completing an independent financial  
15 audit, the independent auditor must give a written report about the  
16 audit to the Speaker.

17 (3) However, the independent auditor must give the auditor-general a  
18 draft version of the report before preparing the final report.

### 19 **33 Powers and obligations of independent auditor**

20 (1) The independent auditor has the same powers and obligations in  
21 relation to the conduct of an independent financial audit as the  
22 auditor-general has under the following provisions in relation to a  
23 performance audit under section 12 (Performance audits—  
24 Territory):

25 (a) division 3.6 (Power to obtain information);

26 (b) section 19 (Reporting sensitive information);

27 (c) section 35 (Directions about protected information);

28 (d) section 36 (Offences—use or divulge protected information).

- 1 (2) The independent auditor may include deliberative information in a  
2 report for the Legislative Assembly only if the information has  
3 previously been published.

4 **Example—information previously published**

5 information included in a previous report for the Legislative Assembly

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

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

10 **Part 5A Protected information**

11 **34 Meaning of *protected information*—pt 5A**

12 In this part—

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

16 **Example—protected information**

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

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

22 **36 Offences—use or divulge protected information**

- 23 (1) A person to whom this section applies commits an offence if—  
24 (a) the person uses information; and  
25 (b) the information is protected information; and

- 1 (c) the person is reckless about whether the information is  
2 protected information.
- 3 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
4 both.
- 5 (2) A person to whom this section applies commits an offence if—
- 6 (a) the person does something that divulges information; and  
7 (b) the information is protected information; and  
8 (c) the person is reckless about whether—
- 9 (i) the information is protected information; and  
10 (ii) doing the thing would result in the information being  
11 divulged to someone else.
- 12 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
13 both.
- 14 (3) This section does not apply if the information is used or divulged—
- 15 (a) under this Act or another territory law; or  
16 (b) in relation to the exercise of a function, as a person to whom  
17 this section applies, under this Act or another territory law; or  
18 (c) in a court proceeding.
- 19 (4) This section does not apply to the using or divulging of protected  
20 information—
- 21 (a) if the protected information is about a person—with the  
22 person's consent; or  
23 (b) in accordance with a disclosure direction; or  
24 *Note Disclosure direction—see s 36A.*

- 1 (c) to an entity prescribed by regulation.
- 2 *Note 1* The defendant has an evidential burden in relation to the matters  
3 mentioned in s (3) and s (4) (see [Criminal Code](#), s 58).
- 4 *Note 2* If the protected information used or divulged under s (3) or s (4) is  
5 provided by a person under s 14, the information and any information  
6 directly or indirectly derived from it may not be admissible in evidence  
7 against the person in another criminal proceeding (see s 14D).
- 8 (5) A person to whom this section applies need not divulge protected  
9 information to a court, or produce a document containing protected  
10 information to a court, unless it is necessary to do so for this Act or  
11 another law applying in the territory.
- 12 (6) In this section:
- 13 *court* includes a tribunal, authority or person having power to  
14 require the production of documents or the answering of questions.
- 15 *divulge* includes—
- 16 (a) communicate; or
- 17 (b) publish.
- 18 *person to whom this section applies* means—
- 19 (a) a person who is or has been—
- 20 (i) the auditor-general; or
- 21 (ii) anyone acting under the direction or authority of the  
22 auditor-general; or
- 23 (b) anyone else who has exercised a function under this Act.
- 24 *produce* includes allow access to.
- 25 *use information* includes make a record of the information.
- 26 *Note* The [Crimes Act 1900](#), s 153 also deals with disclosure of information by  
27 public employees or people performing services for the Territory or a  
28 territory authority. Section 36 applies to the auditor-general and anyone  
29 else who has exercised a function under the Act.

1    **36A       Minister may direct disclosure of protected information**

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

5    **43       Sections 33 and 34**

6           *omit*

7    **44       Directions about protected information**  
8    **New section 35 (5) and (6)**

9           *insert*

- 10          (5) Subsection (4) does not apply if the information is disclosed—
- 11               (a) under this Act or another territory law; or
- 12               (b) in relation to the exercise of a function, as a person to whom  
13               this section applies, under this Act or another territory law; or
- 14               (c) in a court proceeding.
- 15          (6) Subsection (4) does not apply to the disclosure of protected  
16          information—
- 17               (a) if the protected information is about a person—with the  
18               person’s consent; or
- 19               (b) in accordance with a disclosure direction; or

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

- 21               (c) to an entity prescribed by regulation.

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

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

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| 1  | <b>45</b> | <b>Section 35 (as amended)</b>   |
| 2  |           | <i>relocate to part 5A</i>   |
| 3  | <b>46</b> | <b>Authorised disclosures of protected information</b>   |
| 4  |           | <b>Section 36</b>  |
| 5  |           | <i>omit</i>  |
| 6  | <b>47</b> | <b>Appointment</b>   |
| 7  |           | <b>Schedule 1, section 1.1</b>   |
| 8  |           | <i>relocate to division 2.2 as section 7B</i>  |
| 9  | <b>48</b> | <b>Schedule 1, sections 1.2, 1.3 and 1.4</b>   |
| 10 |           | <i>relocate to division 2.3 as sections 9, 9A and 9B</i>   |
| 11 | <b>49</b> | <b>Schedule 1, sections 1.5 and 1.6</b>  |
| 12 |           | <i>relocate to division 2.2 as sections 8A and 8B</i>  |
| 13 | <b>50</b> | <b>Dictionary, note 2</b>  |
| 14 |           | <i>omit</i>  |
| 15 |           | <ul style="list-style-type: none"> <li>• territory authority</li> </ul>                                  |
| 16 | <b>51</b> | <b>Dictionary, new definitions</b>   |
| 17 |           | <i>insert</i>  |
| 18 |           | <b><i>appropriation</i></b> —see the <a href="#">Financial Management Act</a> , dictionary.              |
| 19 |           | <b><i>chief executive officer</i></b> —see the <a href="#">Financial Management Act</a> ,                |
| 20 |           | dictionary.  |
| 21 |           | <b><i>contract</i></b> —see the <a href="#">Financial Management Act</a> , dictionary.                   |
| 22 |           | <b><i>deliberative information</i></b> means information that discloses a                                |
| 23 |           | deliberation or decision of the Executive.   |
| 24 |           | <b><i>director</i></b> <b><i>ate</i></b> —see the <a href="#">Financial Management Act</a> , dictionary. |

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

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

5    **52    Dictionary, definition of *independent auditor***

6            *substitute*

7            *independent auditor*—see section 31.

8    **53    Dictionary, new definitions**

9            *insert*

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

12           *joint audit*—see section 10C.

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

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

15    **54    Dictionary, definition of *performance audit***

16           *substitute*

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

18    **55    Dictionary, definition of *protected information***

19           *substitute*

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

22    **56    Dictionary, new definition of *public sector entity***

23           *insert*

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

1 **57 Dictionary, definition of *Public Sector Management Act***

2 *omit*

3 **58 Dictionary, new definitions**

4 *insert*

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

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

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

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

1 **Schedule 1 Consequential amendments**  
2 (see s 3)

3 **Part 1.1 Annual Reports (Government**  
4 **Agencies) Act 2004**

5 **[1.1] Section 6, note 2**

6 *omit*

7 s 9A

8 *substitute*

9 s 7A

10 **Part 1.2 Public Sector Management Act**  
11 **1994**

12 **[1.2] Section 25 (2) (b), example 2**

13 *omit*

14 section 23

15 *substitute*

16 s 9C

17 **[1.3] Dictionary, definition of *auditor-general's office***

18 *omit*

19 section 23

20 *substitute*

21 section 9C

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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 9 May 2013.

**2 Notification**

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

**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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