

NORTHERN TERRITORY OF AUSTRALIA

AUDIT AMENDMENT ACT 2011

Act No. 15 of 2011

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 15 of 2011

An Act to amend the *Audit Act*

[Assented to 20 May 2011]
[Second reading 31 March 2011]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Audit Amendment Act 2011*.

2 Act amended

This Act amends the *Audit Act*.

3 Long title amended

Long title

omit

and agencies

insert

, Agencies and Territory controlled entities

4 Section 3 amended

(1) Section 3(1)

omit

, unless the contrary intention appears

(2) Section 3(1)

insert (in alphabetical order)

by notice means by written notice.

company means a company within the meaning of the Corporations Act 2001.

executive officer, in relation to a Territory controlled entity that is a company, means a director or other person who is concerned with, or takes part in, the management of the company.

organisation includes a body but does not include a Territory controlled entity.

prescribed officer.

- (a) of an Agency – means the Accountable Officer of the Agency; or
- (b) of a Territory controlled entity that is a company – means an executive officer of the company; or
- (c) of a Territory controlled entity other than a company – means a person who is concerned with, or takes part, in the management of the entity.

prescribed requirements means requirements prescribed by or under this Act or the *Financial Management Act*.

Territory controlled entity means either of the following entities if the entity's receipts and expenditures are not kept as part of the Public Account:

- (a) a company that is an entity controlled, within the meaning of the Corporations Act 2001, by an Agency or otherwise by the Territory;
- (b) an entity (other than a company or an entity established under an Act) controlled, within the meaning of the Australian Accounting Standards, by an Agency or otherwise by the Territory.

(3) Section 3(2), at the end

insert

Note for subsection (2)

Words and expressions used in this Act and defined in the Financial Management Act include "Accountable Officer", "accounts" and "Public Account".

To understand this Act, the Financial Management Act needs to be considered. For example, "Agency" and "Government Business Division" are defined in the Financial Management Act. Even though this Act does not use the expression Government Business Division, a reference in this Act to an Agency may include part of an Agency including a Government Business Division. Such a context might be under section 13(3)(a).

5 Section 4 amended

(1) Section 4(1)

omit

shall

insert

is to

(2) Section 4(2) and (3)

omit, insert

(2) The Administrator may, by notice, appoint a person to be the Auditor-General for a period (not exceeding 5 years) specified in the notice.

(3) Before the end of an appointment under subsection (2), the Administrator may, by notice, reappoint the Auditor-General to be the Auditor-General for a further period (not exceeding 5 years) specified in the notice.

(3) Section 4(5)

omit, insert

(5) The Auditor-General may resign the office:

(a) if appointed under section 4(2), (3) or (6) by the Administrator – by notice given to the Administrator; or

(b) if appointed under subsection (6) by the Minister – by notice given to the Minister.

(4) Section 4(6)

omit

instrument in writing

insert

notice

- (5) Section 4(7) and (9)

omit

shall

insert

must

- (6) Section 4(8)

omit, insert

- (8) For the period for which a person is appointed under subsection (6), the person may perform all the functions and may exercise all the powers of the Auditor-General.

6 Section 9 replaced

Section 9

repeal, insert

9 Auditor-General not to be member of certain bodies etc.

- (1) A person must not be appointed to be the Auditor-General if the person is:
- (a) a member of the Legislative Assembly, the Parliament or the Executive Council of the Commonwealth, or the Parliament of a State or another Territory; or
 - (b) a prescribed officer of a Territory controlled entity.
- (2) The appointment of the Auditor-General ceases if he or she becomes a person mentioned in subsection (1)(a) or (b).

7 Section 12A inserted

After section 12, in Part 2

insert

12A Independence

- (1) In performing or exercising the Auditor-General's functions or powers, the Auditor-General:
 - (a) is not subject to the direction of any person; and
 - (b) must act independently, impartially and in the public interest.
- (2) Without limiting subsection (1), the Auditor-General is not subject to direction in relation to any of the following:
 - (a) the type of audit to be performed;
 - (b) how an audit is to be performed;
 - (c) whether a report on an audit is to be made;
 - (d) what is to be included, or not included, in a report;
 - (e) the priority of matters to be considered.
- (3) This section is subject to:
 - (a) a direction to carry out an audit under section 14 or 15(1A); or
 - (b) a request to carry out an audit, or an arrangement for carrying out an audit, under section 28.

8 Section 13 amended

- (1) Section 13(1)

omit

shall audit the Public Account and other accounts

insert

must audit the Public Account and other accounts (including the accounts of a Territory controlled entity)

-
- (2) Section 13(2), (3) and (4)

omit, insert

- (2) An audit under subsection (1) must be at times the Auditor-General thinks fit, but not less than once in each year unless the Auditor-General dispenses with an audit under subsection (3).
- (3) The Auditor-General:
- (a) may dispense with the audit of the accounts of an Agency or Territory controlled entity for a particular year; and
 - (b) if there is a dispensation – must report that fact, and give a statement of the reason for the dispensation, in a report under section 24.

9 Section 15 amended

- (1) After section 15(1)

insert

- (1A) Despite subsection (1), the Auditor-General must conduct an audit of the performance management systems of an organisation to the extent necessary to investigate the use of public moneys paid by an Agency to the organisation if the Minister:
- (a) believes the payment is made for delivering projects, or undertaking significant service provision activities, that could be delivered or undertaken by the Agency; and
 - (b) directs the Auditor-General to audit the performance management systems of the organisation to investigate the use of the public moneys.

- (2) Section 15(4)

omit

shall

insert

must

- (3) Section 15(5)(a), at the end

insert

and

10 Section 16 amended

Section 16(2) and (3)

omit, insert

- (2) If the audit is an audit of an Agency, the Auditor-General:
- (a) must give the report to the Accountable Officer; and
 - (b) may give a copy of the report to the appropriate Minister, the Treasurer or both of them.
- (3) If the audit is an audit of a Territory controlled entity, the Auditor-General:
- (a) must give the report to the Accountable Officer of the Agency that, under the Administrative Arrangement Order, is allotted the general and financial responsibility for the principal area of government relevant to the Territory controlled entity; and
 - (b) must give a copy of the report to a prescribed officer of the Territory controlled entity; and
 - (c) may give a copy of the report to either or both of the following:
 - (i) the Minister who, under the Administrative Arrangement Order, is responsible for the Agency mentioned in paragraph (a);
 - (ii) the Treasurer.
- (4) If the audit is an audit of an organisation, the Auditor-General:
- (a) must give the report to the Accountable Officer of the Agency that, under the Administrative Arrangement Order, is allotted the general and financial responsibility for the principal area of government relevant to the organisation (if any); and
 - (b) must give a copy of the report to a person whom the Auditor-General considers is concerned with, or takes part in, the management of the organisation; and
 - (c) may give a copy of the report to either or both of the following:
 - (i) the Minister who, under the Administrative Arrangement Order, is responsible for the Agency mentioned in paragraph (a);
 - (ii) the Treasurer.

-
- (5) An Accountable Officer given a report or copy of a report under this section must pay due attention to comments made by the Auditor-General in the report.

11 Section 21 amended

- (1) Section 21(1)

omit

an Accountable Officer or other employee employed in an Agency

insert

the prescribed officer of, or a person employed in, an Agency or Territory controlled entity

- (2) Section 21(1)

omit

shall

insert

must

- (3) Section 21(2), after "Agency"

insert

or Territory controlled entity

12 Section 24 amended

- (1) Section 24(1) and (4)

omit

shall

insert

must

- (2) Section 24(4)(a)(i)

omit

to the Agency to which the report relates; and

insert

to:

- (A) if the report relates to an Agency or Territory controlled entity – the prescribed officer of the Agency or Territory controlled entity; or
- (B) if the report relates to an organisation – a person (the *manager*) whom the Auditor-General considers is concerned with, or takes part in, the management of the organisation; and

- (3) Section 24(4)(a)(ii) and (b)

omit (all references)

Agency

insert

prescribed officer or the manager

13 Section 27 amended

- (1) Section 27, heading

omit

&c.

insert

other Agency, Territory controlled entity or other organisation

- (2) Section 27(1)(b), after "Agency"

insert

, Territory controlled entity or other organisation

- (3) Section 27(2), (4) and (6)

omit

shall

insert

must

14 Section 28 amended

(1) Section 28, heading

omit, insert

28 Extension of function to audit accounts of organisation

(2) Section 28(1)

omit

a body, not being an Agency, in which the Territory or an Agency

insert

an organisation in which the Territory, an Agency or a Territory controlled entity

(3) Section 28(1)(a), (2) and (3)

omit

the body

insert

the organisation

(4) Section 28(2)

omit

a body

insert

an organisation

15 Section 29A inserted

After section 29, in Part 6

insert

29A Regulations

The Administrator may make regulations under this Act.

16 Part 7 replaced

Part 7

repeal, insert

Part 7 Transitional matters for Audit Amendment Act 2011

30 Auditor-General may be reappointed for further period

- (1) This section applies to the person who, immediately before the commencement of this section, held office as the Auditor-General.
- (2) Subject to subsection (3), the person's appointment as Auditor-General is not affected by the amendment of section 4 by the *Audit Amendment Act 2011*.
- (3) If the person held office as the Auditor-General because of an appointment under section 4(2) as in force immediately before commencement, the person is eligible for a single reappointment as the Auditor-General under section 4(3) for a further period not exceeding 3 years.

17 Act further amended

The Schedule has effect.

Schedule Act further amended

section 17

Provision	Amendment	
	<i>omit</i>	<i>insert</i>
Part 1, heading, at the end		matters
sections 5 and 7(3), (4) and (5)	shall	must
section 7(6)	shall	may
section 8	shall, while holding that office, retain shall continue	, while holding that office, retains continue
section 10(a)(ii), at the end		or
section 11	shall	must
section 12	shall lie	lies
section 14(1)	by instrument in writing the instrument <i>(all references)</i> shall	by notice the notice must
sections 14(2) and (3), 18 and 19(1)	shall	must
section 19(2)	his or her shall	the person's must
section 20, heading	,&c.	etc.
section 20	notice in writing	notice
section 23(1) and (2)	shall not be	is not
section 23(2)	nor shall	nor does

sections 23(3), 25 and
26(1) to (6), (8) and
(10)

shall
(all references)

must

Part 6, heading, at the
end

matters

section 29

or fails to comply with
him or her

the person
