

NORTHERN TERRITORY OF AUSTRALIA

PUBLIC INFORMATION ACT 2010

Act No. 11 of 2010

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 11 of 2010

An Act to provide for the review of public information

[Assented to 20 May 2010]
[Second reading 16 February 2010]

The Legislative Assembly of the Northern Territory enacts as follows:

Part 1 Preliminary matters

1 Short title

This Act may be cited as the *Public Information Act 2010*.

2 Commencement

This Act commences on the date fixed by the Administrator by *Gazette* notice.

3 Definitions

In this Act:

Assembly member means a member of the Legislative Assembly.

public authority, see section 5.

public information, see section 4.

public information guidelines, see section 9.

working day means a day other than a Saturday, Sunday or public holiday under the *Public Holidays Act*.

4 Public information

- (1) **Public information** is information given by a public authority to the public by using money or other property of the Territory, other than:
- (a) information given to members of the electorate of an Assembly member if the preparation and giving of the information is funded by an allowance payable to the member for the electorate under a law of the Territory; and
 - (b) a media release of an Assembly member (whether or not in his or her capacity as an Assembly member); and
 - (c) information prescribed by regulation.
- (2) For subsection (1), a public authority gives information to the public when it makes the information available to the public generally (rather than any particular members of the public) through any medium.

Examples for subsection (2)

- 1 Advertisements in newspapers, on the radio or billboards or in cinemas.
- 2 Group emails, recorded telephone messages and text messages.

5 Public authority

- (1) An Assembly member in his or her capacity as any of the following is a **public authority**:
- (a) an Assembly member;
 - (b) the holder or occupier of any of the following offices:
 - (i) a Minister;
 - (ii) the Speaker;
 - (iii) the Leader of the Opposition;
 - (iv) any other office of the Legislative Assembly.
- (2) In addition, each of the following is a **public authority**:
- (a) the holder or occupier of an office established by or under a law of the Territory;
 - (b) a person appointed or engaged to perform work for a public authority;
 - (c) an Agency;

- (d) a body (whether incorporated or not) established by or under a law of the Territory;
 - (e) a body corporate to which one or both of the following apply:
 - (i) the capital of the body corporate is owned by one or more public authorities;
 - (ii) one or more public authorities have a total of more than one-half of the voting power in the management of the body corporate;
 - (f) a body corporate that is a subsidiary of a public authority (whether or not through any interposed entity).
- (3) However, each of the following is not a public authority:
- (a) the holder or occupier of:
 - (i) a judicial office; or
 - (ii) an office as a member of a tribunal under a law of the Territory; or
 - (iii) the office of Auditor-General;
 - (b) a council constituted for a local government area under the *Local Government Act*;
 - (c) the Territory Insurance Office;
 - (d) the Power and Water Corporation;
 - (e) a person or body prescribed by regulation.

- (4) In this section:

judicial office means:

- (a) the office of Judge or magistrate; or
- (b) another office or position under a law of the Territory that carries with it the power to act judicially.

*Example for definition **judicial office**, paragraph (b)*

Office of coroner under the Coroners Act.

Part 2 Auditor-General's functions

6 Review of public information

- (1) The Auditor-General:
 - (a) must, on the written request of an Assembly member, conduct a review of particular public information to determine whether this Act is contravened in relation to the information; and
 - (b) may, on the initiative of the Auditor-General, conduct such a review.
- (2) The Auditor-General may determine this Act is contravened in relation to particular public information if the Auditor-General is satisfied the content of the information:
 - (a) promotes particular party political interests; or
 - (b) includes statements that are misleading or factually inaccurate; or
 - (c) does not clearly distinguish a statement of facts from a statement of comments.
- (3) The Auditor-General:
 - (a) may conduct the review in any way the Auditor-General considers appropriate; but
 - (b) must have regard to the public information guidelines in making a determination mentioned in subsection (2).
- (4) Without limiting subsection (2)(a), the content of the public information promotes particular party political interests if the information includes an image or message that may reasonably be regarded as promoting (whether expressly or implicitly) a particular political party or any of its members.

Example for subsection (4)

The information includes the logo or slogans of a particular political party.

7 Report of review

- (1) Subject to section 8(2) and (3), the Auditor-General must prepare a report about a review of particular public information as soon as practicable after completing the review.

- (2) The report:
 - (a) must specify:
 - (i) whether the Auditor-General determines this Act is contravened in relation to the public information; and
 - (ii) if the Auditor-General makes the determination – the Auditor-General's reasons for the determination; and
 - (b) may specify any recommendations as the Auditor-General considers appropriate.
- (3) The Auditor-General must:
 - (a) give the report to the Speaker; or
 - (b) include the report in a report prepared under section 24(1) of the *Audit Act* for the year in which the review is conducted.
- (4) If the review was conducted on the request of an Assembly member, the Auditor-General must notify the Assembly member of the action taken under subsection (3).
- (5) The Speaker must table a copy of the report mentioned in subsection (3)(a) in the Legislative Assembly within 6 sitting days after receiving it.

8 Auditor-General's preliminary decision

- (1) This section applies if, in conducting a review of particular public information, the Auditor-General believes this Act is contravened in relation to the information.
- (2) The Auditor-General must, before finalising the report about the review, give written notice to the public authority that gave the public information to the public:
 - (a) specifying the Auditor-General's reasons for the belief; and
 - (b) specifying the public authority may give comments to the Auditor-General in relation to those reasons within 10 working days after receiving the notice.
- (3) The Auditor-General may, in the notice, recommend the public authority to do any of the following before the review is completed:
 - (a) to withdraw the public information;
 - (b) to make specified changes to the content of the public information.

- (4) The public authority:
 - (a) must consider the recommendation; and
 - (b) may implement the recommendation if the public authority considers it appropriate to do so.
- (5) The Auditor-General must consider any comments given to the Auditor-General under subsection (2)(b) when preparing the report about the review.

Part 3 Other matters

9 Public information guidelines

- (1) The Minister may make guidelines (the ***public information guidelines***) for this Act.
- (2) The public information guidelines may provide for the matters to be taken into account by the Auditor-General in making a determination mentioned in section 6(2).
- (3) The Minister must:
 - (a) by *Gazette* notice, give notice of the making of the public information guidelines as soon as practicable after making them; and
 - (b) table a copy of the public information guidelines in the Legislative Assembly within 6 sitting days after making them.

10 Regulations

The Administrator may make regulations under this Act.

Part 4 Transitional matters for Public Information Act 2010

11 Application

This Act applies to public information given to the public on or after the commencement of the *Public Information Act 2010*.

Part 5 Consequential amendments

12 Act amended

This Part amends the *Audit Act*.

13 Amendment of section 13 (Duties of Auditor-General)

After section 13(4)

insert

- (5) This Act does not prevent the conferral of other functions and powers on the Auditor-General by another Act.

14 Expiry of Part

This Part expires on the day after this Act commences.