



Queensland

Auditor-General Act 2009

Act No. 8 of 2009



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Auditor-General Act 2009

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Queensland

Auditor-General Act 2009

Act No. 8 of 2009

An Act to provide for the Queensland Auditor-General and the Queensland Audit Office and the audit of the State's public finances and all public sector entities

[Assented to 28 May 2009]

The Parliament of Queensland enacts—

Part 1 Preliminary

1 Short title

This Act may be cited as the *Auditor-General Act 2009*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Main objects of Act

The main objects of this Act are as follows—

- (a) to establish the position of the Queensland Auditor-General and the Queensland Audit Office;
- (b) to confer on the Queensland Auditor-General and the Queensland Audit Office the functions and powers necessary to carry out independent audits of the Queensland public sector and related entities;
- (c) to provide for the strategic review of the Queensland Audit Office;
- (d) to provide for the independent audit of the Queensland Audit Office.

4 Dictionary

The dictionary in the schedule defines particular words used in this Act.

5 What is a *controlled entity*

- (1) An entity is a *controlled entity* if it is subject to the control of 1 or more of the following (the *controlling entity*)—
 - (a) a department;
 - (b) a local government;
 - (c) a statutory body;
 - (d) a GOC;
 - (e) another entity subject to the control of 1 or more of the entities mentioned in paragraphs (a) to (d).

- (2) In this section—

control means the capacity of an entity to dominate decision-making, directly or indirectly, in relation to the financial and operating policies of another entity so as to enable the other entity to operate with it in pursuing the objectives of the controlling entity.

Part 2 Queensland Auditor-General and Queensland Audit Office

Division 1 General

6 Auditor-general and audit office

- (1) There is to be a Queensland Auditor-General.
- (2) Also, there is to be a Queensland Deputy Auditor-General.
- (3) An office called the Queensland Audit Office is established.
- (4) The office consists of the auditor-general, the deputy auditor-general and the staff of the audit office.

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7 Control of audit office

The auditor-general is to control the audit office.

8 Auditor-general not subject to direction

- (1) The auditor-general is not subject to direction by any person about—
 - (a) the way in which the auditor-general's powers in relation to audit are to be exercised; or
 - (b) the priority to be given to audit matters.
- (2) Subsection (1) applies despite the *Public Service Act 2008*.

Division 2 Provisions relating to auditor-general

9 Appointment of auditor-general

- (1) The auditor-general is to be appointed by the Governor in Council.
- (2) A person may be appointed as the auditor-general only if—
 - (a) press advertisements have been placed nationally calling for applications from suitably qualified persons to be considered for appointment; and
 - (b) the Minister has consulted with the parliamentary committee about—
 - (i) the process of selection for appointment; and
 - (ii) the appointment of the person as the auditor-general.
- (3) Subsections (2)(a) and (2)(b)(i) do not apply to the reappointment of a person as the auditor-general.

10 Duration of appointment

- (1) The appointment of the auditor-general is for the term, not longer than 7 years, stated in the auditor-general's instrument of appointment.
- (2) If a person is reappointed as the auditor-general for a further consecutive term, the total of the terms must not be more than 7 years.

11 Terms of appointment

- (1) The auditor-general holds office on a full-time basis.
- (2) The auditor-general is to be paid a salary at a rate decided by the Governor in Council.
- (3) The auditor-general is entitled to the allowances and holds office, to the extent the terms are not provided for by this Act, on the terms decided by the Governor in Council.
- (4) Advice to the Governor in Council regarding the salary, allowances and other terms is only to be given after consultation with the parliamentary committee.
- (5) The salary and allowances of the auditor-general are payable out of the consolidated fund, which is appropriated accordingly.
- (6) The rate of remuneration of the auditor-general must not be reduced during the term of office without the auditor-general's written consent.

12 Declaration of interests

- (1) Within 1 month after appointment, the auditor-general must give to the Speaker a statement setting out the information mentioned in subsection (2) in relation to the financial and other interests of the auditor-general and other persons related to, or connected with, the auditor-general.
- (2) The information to be set out in the statement is the information that would be required to be entered on a register or otherwise disclosed by any law or resolution of the

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Legislative Assembly if the auditor-general were a member of the Legislative Assembly.

- (3) If a change happens in the financial or other interests that would be required to be disclosed if the auditor-general were a member of the Legislative Assembly, the auditor-general must give to the Speaker a revised statement taking account of the change.
- (4) The Speaker must, if asked, give a copy of the latest statement to—
 - (a) the Premier; or
 - (b) the leader of a political party represented in the Legislative Assembly; or
 - (c) the Crime and Misconduct Commission; or
 - (d) a member of the parliamentary committee.
- (5) The Speaker must, if asked, give a copy of the part of the latest statement that relates only to the auditor-general to another member of the Legislative Assembly.
- (6) A member of the Legislative Assembly may, by writing given to the Speaker, allege that the auditor-general has not complied with the requirements of this section.

13 Restriction on outside employment

- (1) The auditor-general must not—
 - (a) hold any office of profit other than that of auditor-general; or
 - (b) engage in any remunerative employment or undertaking outside the functions of the office.
- (2) Contravention of subsection (1) is misconduct under section 17.

14 Preservation of rights

- (1) This section applies if a person who is an officer of the public service is appointed as the auditor-general.
- (2) The person is entitled to, and retains, all existing and accruing rights as if service as auditor-general were a continuation of service as an officer of the public service.
- (3) If the person stops being auditor-general and again becomes an officer of the public service, the person's service as auditor-general is to be regarded as service of a similar kind in the public service for the purpose of working out the person's rights as an officer of the public service.

15 Leave of absence

The Minister may grant leave of absence to the auditor-general in accordance with the terms on which the auditor-general holds office.

16 Resignation

The auditor-general may resign by signed notice given to the Governor and the Speaker or, if there is no Speaker or the Speaker is unavailable, the clerk of the Parliament.

17 Grounds for removal or suspension from office

The following are grounds for removal or suspension of the auditor-general from office—

- (a) proved incapacity, incompetence or misconduct;
- (b) conviction of an indictable offence;
- (c) being an insolvent under administration as defined in the Corporations Act, section 9.

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18 Removal or suspension of auditor-general on address

- (1) The Governor may, on an address of the Legislative Assembly, remove or suspend the auditor-general from office on any of the grounds listed in section 17.
- (2) The motion for the address may only be moved by the Premier.
- (3) The Premier may move the motion only if—
 - (a) the Premier has given the auditor-general a statement setting out the reasons for the motion; and
 - (b) the statement and any written response by the auditor-general have been laid before the Legislative Assembly; and
 - (c) the Premier has consulted with the parliamentary committee about the motion; and
 - (d) agreement to the motion has been obtained from—
 - (i) all members of the parliamentary committee; or
 - (ii) a majority of members of the parliamentary committee, other than a majority consisting only of the members of the political party or parties in government in the Legislative Assembly.
- (4) The auditor-general is entitled to be paid remuneration and allowances for the period of a suspension only if—
 - (a) the Legislative Assembly resolves that remuneration and allowances be paid for the period; or
 - (b) the Governor in Council approves the payment of remuneration and allowances for the period.

19 Suspension of auditor-general when Legislative Assembly not sitting

- (1) When the Legislative Assembly is not in session, the Governor in Council may suspend the auditor-general on any of the grounds listed in section 17.

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- (2) However the auditor-general may be suspended under subsection (1) only if—
 - (a) the Premier has given the auditor-general a statement setting out the reasons for the suspension; and
 - (b) the Premier has considered any response by the auditor-general to the statement.
 - (3) The Premier must table the statement and any written response by the auditor-general in the Legislative Assembly within 3 sitting days after the day on which the suspension begins.
 - (4) A suspension made when the Legislative Assembly is not in session stops having effect—
 - (a) subject to paragraph (b)—at the end of 7 sitting days after the day on which the suspension begins; or
 - (b) if the auditor-general is earlier suspended or removed from office on an address of the Legislative Assembly—at the earlier time.
 - (5) If the suspension stops having effect under subsection (3)(a), the auditor-general is entitled to be paid remuneration and allowances for the period of the suspension.
 - (6) Other than as provided in subsection (4), the auditor-general is entitled to be paid remuneration and allowances for the period of a suspension only if—
 - (a) the Legislative Assembly resolves that remuneration and allowances be paid for the period; or
 - (b) the Governor in Council approves the payment of remuneration and allowances for the period.

20 Delegation of powers

- (1) The auditor-general may delegate powers under any Act to an authorised auditor.
- (2) However, the auditor-general must not delegate a power to report to the Legislative Assembly.

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21 Estimates

- (1) The auditor-general must prepare, for each financial year, estimates of proposed receipts and expenditure relating to the audit office.
- (2) The auditor-general must give the estimates to the Treasurer.
- (3) The Treasurer must consult with the parliamentary committee in developing the proposed budget of the audit office for each financial year.

Division 3 Provisions relating to deputy auditor-general

22 Deputy auditor-general employed under Public Service Act

The deputy auditor-general is to be employed under the *Public Service Act 2008*.

23 Duties of deputy auditor-general

- (1) The deputy auditor-general is to perform the duties directed by the auditor-general.
- (2) The deputy auditor-general is to act as auditor-general—
 - (a) during vacancies in the office of auditor-general; and
 - (b) during periods when the auditor-general is absent from duty or Australia or is, for another reason, unable to perform the functions of the office.
- (3) While the deputy auditor-general is acting as auditor-general—
 - (a) the deputy auditor-general has all the powers and functions of the auditor-general; and
 - (b) this Act and other Acts apply to the deputy auditor-general as if the deputy auditor-general were the auditor-general.

- (4) Anything done by or in relation to the deputy auditor-general while the deputy auditor-general is purporting to act as auditor-general is not invalid merely because the occasion for the deputy auditor-general to act had not arisen or had ceased.

24 Deputy auditor-general subject only to direction of auditor-general

- (1) The deputy auditor-general is not subject to direction by any person, other than the auditor-general, about—
- (a) the way in which the auditor-general's powers in relation to audit are to be exercised; or
 - (b) the priority to be given to audit matters.
- (2) Subsection (1) applies despite the *Public Service Act 2008*.

25 Pecuniary interests declaration

Section 12 applies to the deputy auditor-general in the same way as it applies to the auditor-general.

Division 4 Staff of audit office

26 Staff employed under Public Service Act

The staff of the audit office are to be employed under the *Public Service Act 2008*.

27 Staff subject only to direction of auditor-general

- (1) The staff of the audit office are not subject to direction by any person, other than the auditor-general, the deputy auditor-general or a person authorised by the auditor-general, about—
- (a) the way in which the auditor-general's powers in relation to audit are to be exercised; or

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- (b) the priority to be given to audit matters.
- (2) Subsection (1) applies despite the *Public Service Act 2008*.

Division 5 Other matters

28 Rulings under Public Service Act

- (1) The industrial relations Minister or the chief executive of the Public Service Commission may make a ruling under the *Public Service Act 2008* that applies specifically to the audit office, whether or not it also applies to other public sector units, only with the auditor-general's approval.
- (2) Subsection (1) does not apply to a directive or guideline that applies generally to all public sector units.

29 Reviews under Public Service Act

- (1) A management review may be conducted under the *Public Service Act 2008* in relation to the audit office only at the auditor-general's request.
- (2) Subsection (1) applies despite the *Public Service Act 2008*.

Part 3 Audit of consolidated fund and public sector entities

Division 1 Scope of auditor-general's mandate

30 Auditor-general to audit consolidated fund and public sector entities unless exempted

- (1) The auditor-general must, for each financial year, audit—
 - (a) the consolidated fund; and

-
- (b) all public sector entities.
 - (2) However, the auditor-general must not audit the audit office.
 - (3) Subsection (1) does not apply to—
 - (a) a public sector entity exempt from audit by the auditor-general under a regulation made under section 31; or
 - (b) a controlled entity that is audited by an auditor approved by the auditor-general under section 32.

31 Exemption of certain public sector entities from audit by auditor-general

- (1) A regulation may—
 - (a) exempt a public sector entity from audit by the auditor-general; and
 - (b) provide that a person appointed under, or in a way stated in, the regulation must audit the public sector entity.
- (2) Before a regulation is made under subsection (1), the Minister must consult with the auditor-general about the proposed regulation.
- (3) For the purpose of conducting an audit under a regulation made under subsection (1)(b)—
 - (a) the person appointed under the regulation has all the powers of an authorised auditor; and
 - (b) this Act and other Acts apply to the person as if the person were an authorised auditor.

32 Exemption of foreign-based controlled entities and other controlled entities from audit by auditor-general

- (1) A controlled entity may be audited by an auditor approved by the auditor-general if 1 or more of the following apply—
 - (a) the controlled entity is based in or has significant operations in a country other than Australia;

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- (b) the controlled entity is legally obliged to be audited under a law of a country other than Australia;
 - (c) the controlled entity operates in cooperation with, or in a corporate group with, other public sector entities that have been exempted from being audited by the auditor-general under a regulation made under section 31 or other controlled entities that have been exempted from being audited by the auditor-general under paragraph (a), (b) or (d);
 - (d) preparation of the audit for the controlled entity would require specialist skills.
- (2) The controlled entity exempted under subsection (1) must give any audit report in relation to the controlled entity to the auditor-general as soon as reasonably practicable after the audit report has been received by the controlled entity.

33 Appropriate Minister or authority to give Treasurer and auditor-general information about public sector entities

- (1) This section applies if—
- (a) a public sector entity is established or abolished (a *notifiable event*); or
 - (b) an entity becomes a public sector entity or stops being a public sector entity (also a *notifiable event*).
- (2) If the public sector entity is a GOC or a prescribed subsidiary of a GOC, the board of the GOC or the subsidiary must give the auditor-general a written notice about the notifiable event.
- (3) For other public sector entities, the appropriate Minister for the public sector entity must give the Treasurer and the auditor-general a written notice about the notifiable event.
- (4) For all public sector entities if the auditor-general asks the Minister, or for a GOC, the shareholding Ministers of the corporation, for information about the public sector entity, the Minister or shareholding Ministers must give the auditor-general the information.

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- (5) This section does not apply to a public sector entity that is, or is a part of, a department.
 - (6) In this section—
prescribed subsidiary means a subsidiary prescribed under a regulation.

34 Auditor-general to be appointed auditor of every company public sector entity

- (1) The shareholders of a company that is a public sector entity must—
 - (a) appoint the auditor-general to be the auditor of the company; and
 - (b) ensure that the auditor-general remains, at all times, the auditor of the company while the company remains a public sector entity.
- (2) Subsection (1) does not apply to—
 - (a) a company exempt from audit by the auditor-general under a regulation made under section 31; or
 - (b) a controlled entity that may be audited by an auditor approved by the auditor-general under section 32.

35 Audits at request of Legislative Assembly

- (1) If the Legislative Assembly, by resolution, requests the auditor-general to conduct an audit of a matter relating to the financial administration of a public sector entity, the auditor-general must conduct the audit.
- (2) This section does not apply to the financial administration of the audit office.

36 By-arrangement audits

- (1) The auditor-general may audit an entity that is not a public sector entity if asked by the Minister or a public sector entity.

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- (2) The auditor-general may audit the entity only if the entity agrees to the audit.

Division 2 Conduct of audits

37 Way in which audit is to be conducted

- (1) The auditor-general may conduct an audit in the way the auditor-general considers appropriate.
- (2) In deciding the appropriate way to conduct an audit, the auditor-general may have regard to—
 - (a) the character of the internal control system of the entity to be audited, including internal audit; and
 - (b) recognised standards and practices.
- (3) Subsection (2) does not limit the matters to which the auditor-general may have regard.
- (4) For the audit of a company, the auditor-general is not limited to conducting the audit under the Corporations Act, and may do anything else the auditor-general considers appropriate.

38 Audit of performance management systems

- (1) The auditor-general may conduct an audit of performance management systems of a public sector entity.
- (2) The audit may be conducted as a separate audit or as part of another audit, including an audit of another public sector entity under this section.
- (3) The object of the audit includes deciding whether the performance management systems enable the public sector entity to assess whether its objectives are being achieved economically, efficiently and effectively.
- (4) In conducting the audit, the auditor-general must have regard to any prescribed requirements relating to the establishment and maintenance of performance management systems that apply to the public sector entity.

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- (5) Subsection (4) does not apply to a GOC or a controlled entity of the GOC.
 - (6) The audit may include a review of the public sector entity's performance measures.
 - (7) In a report prepared for the audit, the auditor-general may state whether, in the auditor-general's opinion, the performance measures—
 - (a) are relevant and otherwise appropriate, having regard to their purpose; and
 - (b) fairly represent the public sector entity's performance.

39 Audit of consolidated fund accounts

In auditing the consolidated fund accounts, the auditor-general must decide whether or not, in the auditor-general's opinion—

- (a) proper accounts were properly kept as required by law; and
- (b) procedures applied were in accordance with the prescribed requirements and were adequate to ensure—
 - (i) proper control and safeguards were exercised over the collection, custody, banking, withdrawal, payment of, and accounting for, public moneys; and
 - (ii) public moneys were appropriately entered in the consolidated fund accounts as received in, or paid out of, the Treasurer's consolidated fund bank account; and
 - (iii) withdrawals from the Treasurer's consolidated fund bank account were made for lawful and appropriate purposes; and
 - (iv) proper safeguards were followed to prevent fraud and mistake; and

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- (v) the requirements of the law relating to public moneys were complied with in all material respects; and
- (c) the consolidated fund financial report for a financial year under the *Financial Accountability Act 2009*, section 23—
 - (i) is in agreement with the consolidated fund accounts for the financial year; and
 - (ii) has been properly drawn up to give a true and fair view of the transactions in relation to the consolidated fund accounts for the financial year and the position of the consolidated fund at the end of the financial year.

40 Audit of public sector entities

- (1) The auditor-general must—
 - (a) audit the annual financial statements of a public sector entity; and
 - (b) prepare an auditor's report about the financial statements.
- (2) For subsection (1), the auditor-general must apply the general standards set out in the auditor-general's report mentioned in section 58.
- (3) Also, the auditor's report about the financial statements of a public sector entity that is a department, statutory body or local government must state whether—
 - (a) the auditor-general has received all the information and explanations required by the auditor-general; and
 - (b) the auditor-general considers the prescribed requirements in relation to the establishment and keeping of accounts have been complied with in all material respects.

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- (4) As soon as practicable after the officers have certified the statements and the auditor-general has prepared the auditor's report about the statements, the auditor-general must give—
- (a) if the public sector entity is a department—
 - (i) the certified statements and the auditor-general's report to the accountable officer of the department; and
 - (ii) a copy of the certified statements and the report to the appropriate Minister and the Treasurer; and
 - (b) if the public sector entity is a GOC—
 - (i) the certified statements and the auditor-general's report to the chief executive officer of the GOC; and
 - (ii) a copy of the certified statements and the report to the appropriate Minister and the Treasurer; and
 - (c) if the public sector entity is a local government—
 - (i) the certified statements and the auditor-general's report to the chief executive officer of the local government; and
 - (ii) a copy of the certified statements and the report to the mayor of the local government and the appropriate Minister; and
 - (d) if the public sector entity is a statutory body—
 - (i) the certified statements and the auditor-general's report to the chief executive officer of the statutory body; and
 - (ii) a copy of the certified statements and the report to the appropriate Minister; and
 - (e) if the public sector entity is a controlled entity—
 - (i) the certified statements and the auditor-general's report to the chief executive officer of the controlled entity; and

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- (ii) a copy of the certified statements and the report to the public sector entity that exercises control over the controlled entity and the appropriate Minister.
- (5) If the public sector entity is a GOC, or a controlled entity of a GOC, it is enough for subsection (1) if the auditor-general audits the financial statements of the GOC that the GOC is required to provide under the Corporations Act.
- (6) In this section—
annual financial statements includes final financial statements for abolished public sector entities.

41 Audit of expenditure for ministerial offices

- (1) The auditor-general must audit the full year report of expenditure of ministerial offices and prepare a report about it.
- (2) The auditor-general's report must state whether—
 - (a) the auditor-general has received all the information and explanations required by the auditor-general; and
 - (b) the auditor-general considers the full year report is an accurate report, in the required form, of expenditure for ministerial offices for the year concerned.
- (3) As soon as reasonably practicable after the auditor-general prepares the report, the auditor-general must give the auditor-general's report and the full year report to the appropriate Minister.

42 Audit of consolidated whole-of-government financial statements

- (1) The auditor-general must audit the consolidated whole-of-government financial statements and prepare a report about them.
- (2) The report must state the following—

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- (a) whether the auditor-general has received all the information and explanations required by the auditor-general;
 - (b) whether the auditor-general considers the statements have been properly drawn up, under prescribed requirements, to give a true and fair view of—
 - (i) the financial operations and cash flows of the State for the financial year; and
 - (ii) the financial position at the end of that financial year.
 - (3) As soon as reasonably practicable after the auditor-general prepares the report, the auditor-general must give the statements and report to the Treasurer.

43 Appointment of contract auditors

- (1) The auditor-general may appoint an appropriately qualified individual who is not a member of the staff of the audit office to be a contract auditor.
- (2) The appointment of a person to be a contract auditor may be general or limited to a particular audit.
- (3) The contract auditor—
 - (a) is appointed on the terms stated in the instrument of appointment; and
 - (b) may resign the appointment by signed notice given to the auditor-general.

44 Identity cards for authorised auditors

- (1) The auditor-general may issue an identity card to an authorised auditor.
- (2) The identity card must—
 - (a) contain a recent photograph of the authorised auditor; and

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(b) be signed by the authorised auditor and the auditor-general.

- (3) A person who stops being an authorised auditor must return the person's identity card to the auditor-general as soon as practicable after the person stops being an authorised auditor, unless the person has a reasonable excuse.

Maximum penalty for subsection (3)—10 penalty units.

45 Proof of authority as authorised auditor

An authorised auditor may exercise a power in relation to a person only if the authorised auditor produces his or her identity card for inspection by the person.

46 Access to documents and property

- (1) For the purpose of conducting an audit of the consolidated fund accounts, an authorised auditor must be given, at all reasonable times, full and free access to all documents and property relevant to the audit.
- (2) For the purpose of conducting an audit of an entity under this Act, an authorised auditor must be given, at all reasonable times, full and free access to all documents and property belonging to, in the custody of, or under the control of, the entity.
- (3) For the purpose of conducting an audit under this Act, an authorised auditor may—
- (a) enter, at any reasonable time—
 - (i) a place occupied by a public sector entity or another entity subject to audit; or
 - (ii) a place occupied by a financial institution with which a public sector entity, or another entity subject to audit, maintains an account; or
 - (iii) another place if the occupier of the place consents to the entry; and

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- (b) inspect, examine, photograph or film anything in the place; and
 - (c) take extracts from, and make copies of, any documents in the place; and
 - (d) take into the place persons, equipment and materials that the authorised auditor reasonably requires; and
 - (e) require any person in the place to give to the authorised auditor reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (d).

- (4) A person must comply with a requirement made under subsection (3)(e), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

- (5) It is not a reasonable excuse for a person who is an individual to fail to comply with a requirement made under subsection (3)(e) that complying with the requirement might tend to incriminate the person.

Note—

In this and similar provisions the reference to a person who is an individual is made because an individual may claim the privilege against self-incrimination.

- (6) An answer by a person who is an individual under a requirement made under subsection (3)(e), or any information, document or other thing obtained as a direct or indirect consequence of the person giving the answer, is not admissible against the person in a criminal proceeding, other than a proceeding relating to the falsity of the answer, if the answer might in fact tend to incriminate the person.
- (7) The fact that a document was produced by a person who is an individual under a requirement made under subsection (3)(e) is not admissible in evidence against the person in a criminal proceeding, other than a proceeding relating to the falsity of the document, if producing the document might in fact tend to incriminate the person.

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47 Obtaining information

- (1) If it is reasonably necessary for the purposes of an audit under this Act, an authorised auditor may, by written notice given to a person, require the person to give to the authorised auditor stated information, within a reasonable period and in a reasonable way stated in the notice.
- (2) A person must comply with a requirement made under subsection (1), unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (3) It is not a reasonable excuse for a person who is an individual to fail to comply with a requirement under subsection (1) that complying with the requirement might tend to incriminate the person.
- (4) Information given by a person who is an individual under a requirement under subsection (1), or any other information or a document or other thing obtained as a direct or indirect consequence of the person giving the information, is not admissible against the person in a criminal proceeding, other than a proceeding relating to the falsity of the information, if giving the information might in fact tend to incriminate the person.

48 Obtaining evidence

- (1) If it is reasonably necessary for the purposes of an audit under this Act, an authorised auditor may, by written notice given to a person, require the person—
 - (a) to attend before an authorised auditor, at a reasonable time and place stated in the notice, to answer questions; and
 - (b) to produce to an authorised auditor, at a reasonable time and place stated in the notice, documents belonging to, in the custody of, or under the control of, the person.
- (2) The authorised auditor before whom the person attends may require answers to be verified or given on oath, either orally

or in writing, and for that purpose the authorised auditor may administer an oath.

- (3) The oath to be taken by a person for this section is an oath that the answers the person will give will be true.
- (4) An authorised auditor to whom a document is produced under a notice under subsection (1)—
 - (a) may keep the document for a reasonable period for the purposes of conducting the relevant audit; and
 - (b) may take extracts from and make copies of the document.
- (5) While the authorised auditor has possession of the document, the authorised auditor must allow the document to be inspected at any reasonable time by a person who would be entitled to inspect it if it were not in the authorised auditor's possession.
- (6) The regulations must prescribe scales of allowances and expenses to be allowed to persons required to attend under this section.
- (7) A person must comply with a notice under subsection (1), unless the person has a reasonable excuse.
Maximum penalty—40 penalty units.
- (8) It is not a reasonable excuse for a person who is an individual to fail to comply with a notice under subsection (1) that complying with the notice might tend to incriminate the person.
- (9) An answer given by a person who is an individual under this section, or any information, document or other thing obtained as a direct or indirect consequence of the person giving the answer, is not admissible against the person in a criminal proceeding, other than a proceeding relating to the falsity of the answer if the answer might in fact tend to incriminate the person.
- (10) The fact that a document was produced by a person who is an individual under this section is not admissible in evidence against the person in a criminal proceeding, other than a

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proceeding relating to the falsity of the document, if producing the document might in fact tend to incriminate the person.

49 Compensation

- (1) A person, other than a public sector entity, or anyone else subject to audit, who incurs any loss or expense—
 - (a) because of the exercise or purported exercise of a power under this division; or
 - (b) in complying with a requirement made of the person under this division;may claim compensation from the State.
- (2) A payment of compensation may be claimed and ordered—
 - (a) in a proceeding for compensation brought in a court having jurisdiction in relation to the recovery of a debt in the amount of the compensation claimed; or
 - (b) during a proceeding for an offence against this Act brought against the person by whom the claim is made.
- (3) A court may order the payment of compensation for the loss or expense only if it is satisfied that it is just to do so in the circumstances of the particular case.

50 False or misleading information

A person must not state anything to an authorised auditor that the person knows is false or misleading in a material particular.

Maximum penalty—80 penalty units.

51 Obstruction of authorised auditor

- (1) A person must not obstruct an authorised auditor in the exercise of a power under this Act, unless the person has a reasonable excuse.

Maximum penalty—80 penalty units.

(2) In this section—

obstruct includes hinder and resist, and attempt to obstruct.

52 Impersonation of authorised auditor

A person must not pretend to be an authorised auditor.

Maximum penalty—80 penalty units.

53 Confidentiality and related matters

(1) This section applies to a person who is or has been any of the following, including before the commencement of this subsection—

- (a) an authorised auditor;
- (b) a person engaged by the auditor-general;
- (c) a person engaged or employed by a contract auditor;
- (d) a person receiving proposed reports, or extracts of proposed reports, under section 64.

(2) The person must not—

- (a) make a record of protected information; or
- (b) whether directly or indirectly, divulge or communicate protected information;

unless the record is made, or the information is divulged or communicated, under this Act or in the performance of duties, as a person to whom this section applies, under this Act.

Maximum penalty—200 penalty units or imprisonment for 1 year.

(3) Subsection (2) does not prevent the disclosure of information to—

- (a) the parliamentary committee; or
- (b) the Crime and Misconduct Commission; or

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- (c) a police officer, or an entity, responsible for the investigation or prosecution of offences in any jurisdiction; or
 - (d) a court for the purposes of the prosecution of a person for an offence in any jurisdiction.
- (4) Compliance by a person mentioned in subsection (1) in relation to the Corporations Act, section 311 or the *Australian Securities and Investments Commission Act 2001*, section 30A is declared to be an excluded matter for the Corporations Act, section 5F.
- (5) Nothing in subsection (4) is intended to affect the power of a person mentioned in subsection (1) to disclose information to the Australian Securities and Investments Commission under subsection (3)(c).
- (6) In this section—
- protected information*** means information, other than information that is publicly available, that—
- (a) is disclosed to, or obtained by, a person to whom this section applies in relation to an audit that has been, is being or will be conducted under this Act; and
 - (b) is relevant to the audit.

54 Report on audit

- (1) The auditor-general may prepare a report on any audit conducted under this Act.
- (2) An authorised auditor, other than the auditor-general, must give the auditor-general a report on every audit conducted by the authorised auditor.
- (3) A report under subsection (1) or (2) may contain observations and suggestions about anything arising out of the audit.
- (4) If the auditor-general considers that observations or suggestions made under subsection (3) require attention or further consideration, the auditor-general must give them, and any comments on them—

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- (a) if they arose out of an audit of the consolidated fund accounts—to the Treasurer and any other person whom the auditor-general considers to have a special interest in the report; or
 - (b) if they arose out of an audit of a department—to the accountable officer of the department and any other person whom the auditor-general considers to have a special interest in the report; or
 - (c) if they arose out of an audit of another entity—to the chief executive officer or chairperson of the entity and the person responsible for the financial administration of the entity, and any other person whom the auditor-general considers to have a special interest in the report.
- (5) If the auditor-general considers that the observations or suggestions made under subsection (3) are of significance, the auditor-general must also give them, and any comments on them, to the appropriate Minister and the Treasurer.

55 Protection from liability

- (1) An authorised auditor does not incur civil liability for an act or omission done or omitted to be done honestly and without negligence under or for this Act.
- (2) A liability that would, apart from subsection (1), attach to an authorised auditor attaches instead to the State.

56 Audit fees

- (1) The auditor-general may charge fees for an audit conducted by the auditor-general.
- (2) The auditor-general may also charge reasonable costs and expenses incurred by or for the auditor-general in conducting the audit.
- (3) The auditor-general may, under the Treasurer's approval, decide the basic rates of fees.

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- (4) The auditor-general must assess the fees for an audit having regard to the basic rates of fees decided under subsection (3).
- (5) Unpaid fees may be recovered by the auditor-general as a debt due to the auditor-general.

57 Act does not limit other powers of auditor-general

This Act does not limit any power the auditor-general has apart from this Act.

Division 3 Reports to the Legislative Assembly

58 Reports on auditing standards

- (1) The auditor-general must prepare a report to the Legislative Assembly—
 - (a) setting out the general standards the auditor-general applies, or proposes to apply, to—
 - (i) the conduct of audits; and
 - (ii) the selection, engagement, and quality control of the work of contract auditors; and
 - (b) stating the extent to which the standards are in accordance with auditing standards made by relevant professional or statutory bodies.
- (2) If the auditor-general later makes a significant change to, or replaces, the general standards, the auditor-general must, as soon as practicable after making the change or replacement, prepare a report to the Legislative Assembly stating—
 - (a) the nature of the change or replacement; and
 - (b) the extent to which the changed or replaced standards are in accordance with auditing standards made by relevant professional or statutory bodies.
- (3) A report to the Legislative Assembly prepared by the auditor-general on the conduct of an audit must refer to any

occasion of significance on which the general standards were not applied.

- (4) The auditor-general must arrange for copies of the report under subsection (1), and each report under subsection (2), to be made accessible to the public free of charge on the Queensland Audit Office website.

59 Annual report on consolidated fund accounts

- (1) The auditor-general must prepare a report to the Legislative Assembly on each audit conducted of the consolidated fund accounts.
- (2) The report must—
 - (a) deal with the matters mentioned in section 39; and
 - (b) deal with the action, if any, taken to remedy significant deficiencies reported in previous reports on audits conducted of the consolidated fund accounts.

60 Annual reports on audits of public sector entities

- (1) The auditor-general must prepare a report to the Legislative Assembly on each audit conducted of a public sector entity by an authorised auditor.
- (2) The report must—
 - (a) state whether or not—
 - (i) the audit of the public sector entity has been finished; and
 - (ii) the annual financial statements of the public sector entity have been audited; and
 - (b) draw attention to any case in which the functions relating to the financial management of the public sector entity were not adequately and properly performed if the auditor-general considers the matter to be significant enough to require inclusion in the report; and
 - (c) set out—

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- (i) the results of audits conducted, in relation to the relevant financial year, of controlled entities of the public sector entity by an authorised auditor; and
 - (ii) if audits were not conducted in relation to particular controlled entities—the reasons why they were not conducted; and
- (d) deal with the action, if any, taken to remedy significant deficiencies reported in previous reports on audits of the public sector entity.

61 Reports on audits requested by the Legislative Assembly

The auditor-general must prepare a report to the Legislative Assembly on each audit conducted at the request of the Legislative Assembly.

62 Interim, supplementary and combined reports

- (1) The auditor-general may prepare interim and supplementary reports to the Legislative Assembly on any matter on which the auditor-general is to report or has reported.
- (2) The auditor-general may combine reports on any 2 or more audits.

63 Other reports

The auditor-general may prepare any of the following reports to the Legislative Assembly—

- (a) if the auditor-general considers it desirable to do so at any particular time for reasons of urgency—a report on any significant matter arising out of an audit;
- (b) if the auditor-general considers it to be in the public interest to do so—a full report on, or a report on any specific matters arising out of, a particular audit;
- (c) if the auditor-general considers it otherwise appropriate to do so at any time—a report on any matter arising out of an audit to which attention should be drawn;

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- (d) if a regulation has been made for the purposes of section 31 that the auditor-general advised should not have been made or should have been made differently—a report setting out the advice and the reasons for it.

64 Comments on proposed audit reports

- (1) Subsections (2) and (3) apply if the auditor-general proposes to include in a report to the Legislative Assembly under this division a matter that the auditor-general considers to be a matter of significance.
- (2) The auditor-general must give written advice of the matter that is proposed to be included to—
 - (a) if the matter relates to a department—the accountable officer of the department and any other person whom the auditor-general considers to have a special interest in the report; or
 - (b) if the matter relates to a controlled entity that is subject to the control of a department—the chief executive officer or chairperson of the entity, the person responsible for the financial administration of the entity and the accountable officer of the department and any other person whom the auditor-general considers to have a special interest in the report; or
 - (c) if the matter relates to another public sector entity—the chief executive officer or chairperson of the entity and the person responsible for the financial administration of the entity and any other person whom the auditor-general considers to have a special interest in the report.
- (3) Also, the auditor-general must give written advice of the matter that is proposed to be included to—
 - (a) if the matter raises issues concerning the powers or functions of the Treasurer under the *Financial Accountability Act 2009*—the Treasurer and any other person whom the auditor-general considers to have a special interest in the report; or

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- (b) if the matter does not raise issues concerning the powers or functions of the Treasurer under the *Financial Accountability Act 2009*—the appropriate Minister and any other person whom the auditor-general considers to have a special interest in the report.
- (4) The advice mentioned in subsection (3) must include a statement that comments on the proposed matter may be made in writing given to the auditor-general—
 - (a) within 21 days after the advice is received; or
 - (b) within the longer period that is stated in the advice.
- (5) If comments are received within the 21 days or longer period, the auditor-general must include them, or a fair summary of them, in the report.
- (6) In this section—
control see section 5(2).

65 Proposed audit report to remain confidential

A person who receives a proposed audit report, or part of a proposed audit report, of the auditor-general under section 64 must not disclose any information contained in the report unless—

- (a) disclosure is required for the purpose of—
 - (i) making submissions or comments to the auditor-general in relation to the proposed report; or
 - (ii) obtaining legal advice in relation to matters raised by the proposed report; or
- (b) the information has been made public by the auditor-general.

Maximum penalty—200 penalty units or 1 year's imprisonment.

66 Procedure for reporting certain sensitive information

- (1) If the auditor-general considers it to be against the public interest to disclose in a report under this division information that could—
 - (a) have a serious adverse effect on the commercial interests of a public sector entity; or
 - (b) reveal trade secrets of a public sector entity; or
 - (c) prejudice the investigation of a contravention or possible contravention of the law; or
 - (d) prejudice the fair trial of a person; or
 - (e) cause damage to the relations between the Government of the State and another Government;

the auditor-general must not disclose the information in the report but must instead include it in a report prepared and given to the parliamentary committee.

- (2) This section applies despite anything in this or any other Act.

67 Tabling of reports

- (1) A report prepared under this division must be given to the Speaker or, if there is no Speaker or the Speaker is unavailable, to the clerk of the Parliament.
- (2) The Speaker or clerk must table a copy of the report in the Legislative Assembly on its next sitting day.
- (3) For the purposes of its publication, a report given to the Speaker or the clerk under subsection (1) is taken to have been tabled in the Legislative Assembly, and to have been ordered to be published by the Legislative Assembly, when it is given to the Speaker or the clerk.

69 Powers of strategic review

In conducting a strategic review—

- (a) the reviewer has the powers an authorised auditor has for an audit of an entity; and
- (b) this Act and other Acts apply to the reviewer as if the reviewer were an authorised auditor conducting an audit of an entity.

70 Report of strategic review

- (1) The reviewer for a strategic review must give the copy of a proposed report on the strategic review to the Minister and the auditor-general.
- (2) The Minister and the auditor-general may, within 21 days after receiving the proposed report, give the reviewer written comments on anything in the proposed report.
- (3) If the auditor-general or the Minister provide comments under subsection (2), the reviewer must—
 - (a) if the reviewer and the person providing the comments can agree about how to dispose of a comment—incorporate into the report any agreed amendment necessary to dispose of the comment; or
 - (b) if the reviewer and the person providing the comments can not agree about how to dispose of a comment—include the comment, in full, in the report.
- (4) After complying with subsections (1) and (3), the reviewer must give the report (*review report*) to the Minister and the auditor-general.
- (5) The review report must be the same as the proposed report given to them under subsection (1), apart from the changes made under subsection (3).
- (6) The Minister must table the review report in the Legislative Assembly within 3 sitting days after the Minister receives the report.

Part 6 General provisions

73 Regulation-making power

- (1) The Governor in Council may make regulations under this Act.
- (2) A regulation may create offences and prescribe penalties for the offences of not more than 5 penalty units.

Part 7 Transitional provisions

74 Definitions for pt 7

In this part—

commencement means the commencement of this section.

repealed Act means the *Financial Administration and Audit Act 1977*.

75 Person holding appointment to conduct audit of audit office

- (1) On the commencement, a person who has been appointed by the Governor in Council under section 69 of the repealed Act is taken to have been appointed under section 71.
- (2) However, the person's term of appointment is taken to have commenced on appointment under the repealed Act.

76 Auditor-general continues to hold office

- (1) On the commencement, the person who, immediately before the commencement, held appointment as the auditor-general under the repealed Act continues to hold appointment as the auditor-general under this Act.

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- (2) However, the person's term of appointment is taken to have commenced on appointment under the repealed Act.

77 Deputy auditor-general continues to hold office

On the commencement, the person who, immediately before the commencement, held appointment as the deputy auditor-general under the repealed Act continues to hold appointment as the deputy auditor-general under this Act.

78 Delegations continue

- (1) On the commencement, a delegation of power made by the auditor-general under the repealed Act, section 66, continues to have effect according to its terms as a delegation made under section 20.
- (2) However, if the delegation is made—
- (a) under a particular section of the repealed Act; and
 - (b) a section under this Act is substantially the same as the section under the repealed Act;

the delegation has effect as if it were made under the section of this Act.

79 Rulings under Public Service Act 2008

On the commencement, a ruling made under the repealed Act, section 70, and in force immediately before the commencement, continues to have effect according to its terms.

80 Requests for reviews under Public Service Act 2008

On the commencement, a request for a review under section 71 of the repealed Act is taken to be a request for a review under section 29.

81 Strategic review of audit office under the repealed Act

- (1) On the commencement, any strategic review of the audit office that has started but has not been finished under the repealed Act, part 5, division 6 is taken to have been started under part 4.
- (2) On the commencement, the most recent finished report of a strategic review under the repealed Act, section 72B is taken to be report of a strategic review prepared under section 68.

82 References to documents under the repealed Act

A reference to the repealed Act, part 5 or 6 in any document may, if the context permits, be taken to be a reference to this Act.

83 Appointment of contract auditors

On the commencement, contract auditors appointed under section 82 of the repealed Act are taken to be appointed under section 43.

84 Reports on auditing standards to continue

On the commencement, the most recent reports for section 97 of the repealed Act are taken to have been prepared under section 58.

85 Continuation of audit reviews

On the commencement, any audit reviews which have been started but have not been not finished under the repealed Act are taken to have started under this Act.

Schedule Dictionary

section 4

accountable officer, of a department, means the person who is, or is appointed as, the accountable officer of the department under the *Financial Accountability Act 2009*.

appropriate Minister means—

- (a) for the department comprised of the Legislative Assembly and parliamentary service—the Premier; or
- (b) for the office of the Governor—the Premier; or
- (c) for a department—the Minister administering the department; or
- (d) for the Town Commission established under the *Alcan Queensland Pty. Limited Agreement Act 1965*—the Minister administering matters connected with the Town Commission; or
- (e) for a council established under the *Local Government (Aboriginal Lands) Act 1978*—the Minister administering matters connected with the council; or
- (f) for another local government—the Minister administering the *Local Government Act 1993*; or
- (g) for a statutory body—the Minister administering the Act under which the statutory body is established; or
- (h) for GOCs—the shareholding Ministers as defined under the *Government Owned Corporations Act 1993*; or
- (i) for another public sector entity—the Minister administering matters connected with the entity.

audit office means the Queensland Audit Office established under section 6(3).

auditor-general's report, for part 3, division 2, see section 40.

audit report, for a controlled entity, means a report given in relation to the financial operations of the controlled entity to the auditor-general.

authorised auditor means—

- (a) the auditor-general or deputy auditor-general; or
- (b) a member of the staff of the audit office; or
- (c) a contract auditor.

chairperson, of a public sector entity, means—

- (a) if the public sector entity is a corporation sole—the person who constitutes the corporation sole; or
- (b) otherwise—
 - (i) the person appointed as chairperson of the public sector entity; or
 - (ii) if no-one is appointed as chairperson—the person who presides at meetings of the public sector entity or of the governing body of the public sector entity.

consolidated fund means the consolidated fund continued in existence under the *Financial Accountability Act 2009*, section 16.

consolidated fund account see the *Financial Accountability Act 2009*, section 17(1).

consolidated whole-of-government financial statements see the *Financial Accountability Act 2009*, section 25(1).

contract auditor means a person who is appointed under this Act as a contract auditor.

controlled entity see section 5.

corporate group means a group consisting of the following entities—

- (a) a controlled entity;
- (b) 1 or more of the following that control the controlled entity—
 - (i) a department;

- (ii) a local government;
- (iii) a statutory body;
- (iv) a GOC;
- (v) an entity that is controlled by 1 or more of the entities mentioned in subparagraphs (i) to (iv).

department see the *Financial Accountability Act 2009*, section 8.

expenditure see the *Financial Accountability Act 2009*, schedule 3.

financial year see the *Financial Accountability Act 2009*, schedule 3.

full year report see the *Financial Accountability Act 2009*, schedule 3.

GOC means a government owned corporation.

internal control see the *Financial Accountability Act 2009*, schedule 3.

ministerial offices means the offices maintained for Ministers and their staff.

parliamentary committee means the Public Accounts and Public Works Committee of the Legislative Assembly.

prescribed requirements see the *Financial Accountability Act 2009*, schedule 3.

proposed audit report means a draft report of the auditor-general relating to an audit of a public sector entity and distributed to relevant entities under section 64.

public moneys see the *Financial Accountability Act 2009*, schedule 3.

public sector entity means—

- (a) a department; or
- (b) a local government; or
- (c) a statutory body; or
- (d) a GOC; or

(e) a controlled entity.

statutory body see the *Financial Accountability Act 2009*, section 9.

Treasurer's consolidated fund bank account see the *Financial Accountability Act 2009*, section 18(1).

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