



# **Auditor-General Act 2009**

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Queensland

# Auditor-General Act 2009

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# Auditor-General Act 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**

## **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) The auditor-general is an officer of the Parliament.
- (3) Also, there is to be a Queensland Deputy Auditor-General.
- (4) An office called the Queensland Audit Office is established.

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- (5) The office consists of the auditor-general, the deputy auditor-general and the staff of the audit office.

## **7 Control of audit office**

The auditor-general is to control the audit office.

## **8 Auditor-general not subject to direction**

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.

## **8A Audit office not public sector entity**

The audit office is an entity prescribed not to be a public sector entity for the *Public Sector Act 2022*, section 8(2)(s).

## **8B Audit office to comply with obligations relating to equity, diversity, respect and inclusion**

The audit office is an entity prescribed for the *Public Sector Act 2022*, section 25, definition *prescribed entity*, paragraph (c).

## **8C Application of provisions of Public Sector Act 2022**

- (1) A regulation may—
- (a) apply particular provisions of the *Public Sector Act 2022*, including, for example, particular directives made under the *Public Sector Act 2022*, to the audit office, the auditor-general and employees; and
  - (b) provide for the way in which the provisions mentioned in paragraph (a) are to apply, including, for example, that they apply with or without change.

- (2) Before recommending to the Governor in Council the making of a regulation under subsection (1), the Minister must consult with the auditor-general about the proposed regulation.
- (3) If a regulation is made under subsection (1)—
  - (a) the *Public Sector Act 2022* applies to the audit office, the auditor-general and employees only to the extent provided for under the regulation; and
  - (b) the *Public Sector Act 2022* applies in the way mentioned in paragraph (a) with necessary changes.
- (4) Also, a regulation may prescribe anything necessary or convenient to be prescribed—
  - (a) to enable a regulation under subsection (1) to be made; or
  - (b) to carry out or give effect to a regulation made under subsection (1); or
  - (c) because of the making of a regulation under subsection (1), including, for example, the portability of employment rights and entitlements.

## **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.

## **10 Duration of appointment**

The appointment of the auditor-general is for a fixed, non-renewable term of 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.

## **11A Oath before performing duties**

- (1) Before performing the duties of office, the auditor-general must make an oath or affirmation to the effect that they will faithfully and impartially perform the duties of the office.
- (2) The oath must be administered by the Speaker, or if there is no Speaker or the Speaker is unavailable, the clerk of the Parliament.

## 12 Declaration of interests

- (1) This section applies to the auditor-general on appointment.
- (2) The auditor-general must, within 1 month, give the Speaker a statement setting out the information mentioned in subsection (3) in relation to—
  - (a) the interests of the auditor-general; and
  - (b) the interests of each person who is a related person in relation to the auditor-general.
- (3) The information to be set out in the statement is the information that would be required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the auditor-general were a member of the Legislative Assembly.
- (4) Subsections (5) and (6) apply if, after the giving of the statement—
  - (a) there is a change in the interests mentioned in subsection (2); and
  - (b) the change is of a type that would have been required to be disclosed under the *Parliament of Queensland Act 2001*, section 69B if the auditor-general were a member of the Legislative Assembly.
- (5) The auditor-general must give the Speaker a revised statement.
- (6) The revised statement must—
  - (a) be given as soon as possible after the relevant facts about the change come to the auditor-general's knowledge; and
  - (b) comply with subsection (3).
- (7) 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 Corruption Commission; or
  - (d) a member of the parliamentary committee; or
  - (e) the integrity commissioner.
- (8) 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.
- (9) 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.
- (10) A reference in this section to an interest is a reference to the matter within its ordinary meaning under the general law and the definition in the *Acts Interpretation Act 1954*, schedule 1 does not apply.
- (11) In this section—

*integrity commissioner* means the Queensland Integrity Commissioner under the *Integrity Act 2009*.

*related person*, in relation to the auditor-general, means—

- (a) the auditor-general's spouse; or
- (b) a person who is totally or substantially dependent on the auditor-general and—
  - (i) the person is the auditor-general's child; or
  - (ii) the person's affairs are so closely connected with the affairs of the auditor-general that a benefit derived by the person, or a substantial part of it, could pass to the auditor-general.

## 12A Conflicts of interest

- (1) If the auditor-general has an interest that conflicts or may conflict with the discharge of the auditor-general's responsibilities, the auditor-general—
- (a) must disclose the nature of the interest and conflict to the Speaker and parliamentary committee as soon as

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practicable after the relevant facts come to the auditor-general's knowledge; and

- (b) must not take action or further action concerning a matter that is, or may be, affected by the conflict until the conflict or possible conflict is resolved.
- (2) If the conflict or possible conflict between an interest of the auditor-general and the auditor-general's responsibilities is resolved, the auditor-general must give to the Speaker and parliamentary committee a statement advising of the action the auditor-general took to resolve the conflict or possible conflict.
  - (3) A reference in this section to an interest or to a conflict of interest is a reference to those matters within their ordinary meaning under the general law and, in relation to an interest, the definition in the *Acts Interpretation Act 1954*, schedule 1 does not apply.

### **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.

### **15 Leave of absence**

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



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## **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.

## **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.
- (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 (4)(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 (5), 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.

### **19A Restriction on employment after office ends**

- (1) This section applies to a person who stops holding office as the auditor-general, whether because of resignation or ending a term of appointment.
- (2) For 2 years after the person stops holding the office, the person must not hold an office in or be employed by a public sector entity.

### **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.

### **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            Employment of deputy auditor-general**

- (1) The auditor-general may employ a deputy auditor-general.
- (2) Division 4 applies in relation to the employment of the deputy auditor-general as if the deputy auditor-general were a member of the staff of the audit office.

### **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.

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

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.

**25 Declaration of interests and conflicts of interest**

- (1) Section 12 applies to the deputy auditor-general in the same way as it applies to the auditor-general.
- (2) If the deputy auditor-general is acting as auditor-general, section 12A applies to the deputy auditor-general in the same way as it applies to the auditor-general.

**25A Oath of office before acting as auditor-general**

- (1) Before performing the duties of office while acting as auditor-general, the deputy auditor-general must make an oath or affirmation under section 11A as if the deputy auditor-general were the auditor-general.
- (2) Subsection (1) does not apply to a person employed as the deputy auditor-general if—
  - (a) the person has previously made an oath or affirmation before performing the duties of office while acting as auditor-general; and
  - (b) the person has continued in the person's employment as deputy auditor-general since the oath or affirmation was made.

**25B Acting deputy auditor-general**

The auditor-general may appoint a person to act as the deputy auditor-general during—

- (a) a vacancy in the office of deputy auditor-general; or

- (b) a period when the deputy auditor-general is absent from duty or from Australia or is, for another reason, unable to perform the functions of the office.

## **Division 4                      Staff of audit office**

### **26            Employment of staff**

- (1) The auditor-general may employ the persons the auditor-general considers necessary for staffing the audit office.
- (2) The staff of the audit office are employed under this Act and not the *Public Sector Act 2022*.
- (3) Subject to this Act and any relevant industrial instrument within the meaning of the *Industrial Relations Act 2016*, the conditions of service of the staff of the audit office are those decided by the auditor-general.
- (4) The employment of a member of the staff of the audit office may be—
  - (a) full-time or part-time; or
  - (b) on a permanent, temporary or casual basis.

### **27            Secondment of public service employees**

- (1) A public service employee may be seconded to the audit office.
- (2) While seconded under this section—
  - (a) the person is taken to be a member of the staff of the audit office; and
  - (b) the *Public Sector Act 2022* does not apply to the person.

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## **28 Restriction on employment or secondment of person**

A person may not be employed under section 22 or 26, or seconded under section 27, unless the person has given the auditor-general written consent to obtain the information mentioned in section 29(1)(a) and (b) in relation to the person's criminal history.

## **29 Criminal history report**

- (1) To decide if a person is suitable to be employed under section 22 or 26, or seconded under section 27, the auditor-general may ask the commissioner of the police service for—
  - (a) a written report about the criminal history of the person; and
  - (b) a brief description of the circumstances of a conviction mentioned in the criminal history.
- (2) However, the auditor-general may make the request only if the person has given the auditor-general written consent for the request.
- (3) The commissioner of the police service must comply with the request.
- (4) However, the duty to comply applies only to information in the commissioner's possession or to which the commissioner has access.
- (5) Before using information obtained under subsection (1) to decide if the person should be employed or seconded, the auditor-general must—
  - (a) disclose the information to the person; and
  - (b) allow the person a reasonable opportunity to make representations to the auditor-general about the information.
- (6) In this section—

*criminal history*, of a person, means the person's criminal history within the meaning of the *Criminal Law (Rehabilitation of Offenders) Act 1986*.

## **29A Confidentiality of criminal history information**

- (1) This section applies to a person who possesses criminal history information because the person is or was the auditor-general, deputy auditor-general or a member of the staff of the audit office.
- (2) The person must not, directly or indirectly, disclose the criminal history information to another person unless the disclosure is permitted under subsection (3).

Maximum penalty—100 penalty units.

- (3) The person may disclose the criminal history information to another person—
  - (a) to the extent necessary to perform the person's functions under this Act; or
  - (b) if the disclosure is authorised under an Act; or
  - (c) if the disclosure is otherwise required or permitted by law; or
  - (d) if the person to whom the information relates consents to the disclosure; or
  - (e) if the disclosure is in a form that does not identify the person to whom the information relates; or
  - (f) if the information is, or has been, lawfully accessible to the public.
- (4) The auditor-general must ensure the criminal history information is destroyed as soon as practicable after it is no longer needed for the purpose for which it was requested.

- (5) In this section—

*criminal history information* means a report or information given to the auditor-general under section 29.



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## **Division 5                      Preservation of rights**

### **29B      Preservation of rights if public service employee appointed or employed**

- (1) This section applies if a person who is a public service employee is appointed or employed as—
  - (a) the auditor-general; or
  - (b) the deputy auditor-general; or
  - (c) a member of the staff of the audit office.
- (2) The person is entitled to retain all existing and accruing rights to superannuation or recreation, sick, long service or other leave as if service in the audit office under this Act were a continuation of service as a public service employee.

### **29C      Preservation of rights if person becomes public service employee**

- (1) This section applies if—
  - (a) a person is appointed or employed as a public service employee; and
  - (b) immediately before the appointment or employment, the person was the deputy auditor-general or a member of the staff of the audit office.
- (2) The person's service in the audit office under this Act must be regarded as service as a public service employee.

### **29D      Preservation of rights if public service employee seconded**

- (1) A public service employee seconded under section 27—
  - (a) keeps the person's existing and accruing rights to superannuation or recreation, sick, long service or other leave as if employment as a member of the staff of the audit office were a continuation of employment as a public service employee; and

- (b) may apply for positions, and be employed, in the public service as if the person were a public service employee.
- (2) On ending the secondment, the person's employment on secondment as a member of the staff of the audit office is taken to be employment of the same nature in the public service for working out the person's rights as a public service employee.
- (3) If the secondment ended for a reason other than misconduct, the person is entitled—
  - (a) to return to the person's employment as a public service employee; and
  - (b) to be employed on the same terms of employment as applied to the person's employment as a public service employee before the secondment, subject to any subsequent variation of the terms under—
    - (i) any relevant laws or industrial instruments applying to the person's employment; or
    - (ii) the person's contract of employment.

## **Part 3                      Audit mandate**

### **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—

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- (a) a public sector entity exempted from audit by the auditor-general—
    - (i) under section 30A; or
    - (ii) 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.

### **30A Exemption of public sector entities from audit by auditor-general under s 30**

- (1) The auditor-general may, by written notice given to a public sector entity, exempt the public sector entity from audit by the auditor-general for a financial year under section 30.
- (2) The auditor-general may grant the exemption only if the auditor-general is reasonably satisfied that the audit of the public sector entity for the financial year is small in size and of low risk having regard to a general standard mentioned in section 58(1)(a)(iii).
- (3) If the auditor-general grants the exemption, the public sector entity must engage an appropriately qualified person to audit the public sector entity for the financial year.
- (4) For the purposes of auditing the public sector entity—
  - (a) the person engaged to audit the public sector entity (the *engaged auditor*) has all the powers of an authorised auditor; and
  - (b) this Act and other Acts apply to the engaged auditor as if the engaged auditor were an authorised auditor.
- (5) The engaged auditor must give the certified annual financial statements and a report on the audit to—
  - (a) if the public sector entity is a department—the accountable officer of the department; or
  - (b) otherwise—the chief executive officer or chairperson of the public sector entity.

- (6) The public sector entity must give the auditor-general any document about the audit of the public sector entity requested by the auditor-general.
- (7) A notice under subsection (1) may exempt a public sector entity for a maximum of 3 financial years.
- (8) However, more than 1 notice may be made under subsection (1) for a public sector entity.
- (9) The auditor-general may repeal an exemption granted to a public sector entity under subsection (1) by written notice given to the public sector entity.
- (10) A valid exercise of a function or power under an exemption continues to be valid despite the exemption being revoked.
- (11) A list of public sector entities granted an exemption under subsection (1) must be published by the auditor-general on the website of the audit office.
- (12) This section does not prevent the auditor-general from performing any of the functions or exercising any of the powers of the auditor-general under this Act for the audit of a public sector entity granted an exemption under subsection (1).
- (13) In this section—  
***appropriately qualified person***, to audit a public sector entity, means—
  - (a) a member of CPA Australia who is entitled to use the letters ‘CPA’ or ‘FCPA’ and holds a current public practice certificate issued by CPA Australia; or
  - (b) a member of the Institute of Chartered Accountants in Australia who is entitled to use the letters ‘CA’ or ‘FCA’ and holds a current certificate of public practice issued by the institute; or
  - (c) a member of the Institute of Public Accountants who is entitled to use the letters ‘MIPA’ or ‘FIPA’ and holds a professional practice certificate issued by the institute.

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**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;
  - (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—
    - (i) other public sector entities that have been exempted from being audited by the auditor-general under section 30A; or
    - (ii) other public sector entities that have been exempted from being audited by the

- auditor-general under a regulation made under section 31; or
- (iii) 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.
- (5) This section does not apply to a public sector entity that is, or is a part of, a department.
- (6) In this section—

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*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 granted an exemption from audit by the auditor-general under section 30A; or
  - (b) a company exempt from audit by the auditor-general under a regulation made under section 31; or
  - (c) 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.

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

### **36A Auditor-general may conduct audit of matters**

- (1) The auditor-general may conduct an audit of a matter relating to property that is, or was, held or received by a public sector entity and given to a non-public sector entity.
- (2) The object of conducting the audit includes deciding whether the property has been applied economically, efficiently and effectively for the purposes for which it was given to the non-public sector entity.

*Note—*

Property includes money. See the *Acts Interpretation Act 1954*, schedule 1.

- (3) If the auditor-general conducts an audit under subsection (1), the auditor-general must apply the general standards set out in the auditor-general's report mentioned in section 58.

## **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.



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### 37A Performance audit of public sector entities

- (1) The auditor-general may conduct an audit (a *performance audit*) of all or any particular activities of a public sector entity.
- (2) The performance 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 performance audit includes—
  - (a) deciding whether the objectives of the public sector entity are being achieved economically, efficiently and effectively and in compliance with all relevant laws; and
  - (b) identifying any opportunities for the public sector entity to achieve its objectives more economically, efficiently and effectively.
- (4) When conducting the performance audit, the auditor-general must have regard to the prescribed requirements that apply to the entity.
- (5) The auditor-general must not question the merits of policy objectives of the State or a local government, including—
  - (a) a decision of Cabinet; and
  - (b) a direction of a Minister; and
  - (c) a policy statement in the budget papers of the State or a local government; and
  - (d) a document evidencing a policy decision of Cabinet or a Minister; and
  - (e) a document evidencing a policy decision of a local government.
- (6) In this section—

*annual appropriation Act* see the *Financial Accountability Act 2009*, section 6.

*budget papers* means the budget papers of the State tabled in Parliament with an annual appropriation Act.

### **38A Preparation of strategic audit plans for performance audits**

- (1) The auditor-general must prepare a plan (a *strategic audit plan*) for audits under section 37A that the auditor-general proposes to conduct in the next 3 years.
- (2) When preparing the strategic audit plan, the auditor-general must consult with the parliamentary committee and any relevant entity and prepare a draft of the strategic audit plan.
- (3) The auditor-general must give the draft of the strategic audit plan to the parliamentary committee.
- (4) The parliamentary committee must return the draft of the strategic audit plan with any comments to the auditor-general within 42 days of receiving the draft.
- (5) The auditor-general must consider any comments made by the parliamentary committee when finalising the strategic audit plan.
- (6) The strategic audit plan must be finalised before the end of each financial year.
- (7) The strategic audit plan must be published by the auditor-general on the website of the audit office.
- (8) No person is to direct the auditor-general in relation to the content of the strategic audit plan.
- (9) In this section—  
*relevant entity* means—
  - (a) a public sector entity that the auditor-general proposes to include in a draft of the strategic audit plan; or
  - (b) a portfolio committee for a public sector entity mentioned in paragraph (a).

### **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
  - (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.
- (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'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'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's report to the chief executive officer of the local government; and

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- (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’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’s report to the chief executive officer of the controlled entity; and
    - (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—
  - (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.

### **42A Auditor-general may conduct joint audit**

The auditor-general may conduct an audit jointly, or in collaboration, with the auditor-general of the Commonwealth or another State if the auditor-general reasonably believes the Commonwealth or other State has an interest in the audit.

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### **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
  - (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) Subject to subsection (5), 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) Subject to subsection (5), 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
  - (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.



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- (5) For the purpose of conducting an audit under section 36A, subsections (2) and (3)(a)(i) and (ii) do not apply to a non-public sector entity subject to audit.
  - (6) 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.

- (7) 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.
- (8) 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.

## **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.

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- (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 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.

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## 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 protected 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 protected information to—
- (a) the parliamentary committee or a portfolio committee; or
  - (b) the Crime and Corruption Commission; or
  - (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; or
  - (e) if the auditor-general conducts an audit jointly, or in collaboration, with the auditor-general of the Commonwealth or another State under

section 42A—the auditor-general of the Commonwealth or other State; or

- (f) the Treasurer or the department in which the *Financial Accountability Act 2009* is administered.
- (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, observations, comments, suggestions or notations that—

  - (a) are not publicly available; and
  - (b) are disclosed to, obtained by or made 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
  - (c) are 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

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further consideration, the auditor-general must give them, and any comments on them—

- (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 a matter under section 36A—
    - (i) for a report relating to a public sector entity—to the accountable officer, chief executive officer or chairperson of the public sector entity; and
    - (ii) to any other person whom the auditor-general considers to have a special interest in the report; or
  - (d) if they otherwise 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 must assess the fees for an audit having regard to the basic rates of fees decided under section 56A.
- (4) Unpaid fees may be recovered by the auditor-general as a debt due to the auditor-general.

## **56A Basic rates of fees**

- (1) The auditor-general may decide the basic rates of fees for section 56.
- (2) In deciding the basic rates of fees, the auditor-general must have regard to—
  - (a) the reasonable costs that may be incurred for conducting an audit; and
  - (b) amounts ordinarily charged for conducting an audit by entities that provide audit services.
- (3) The auditor-general may increase the basic rates of fees once each financial year, with the approval of the parliamentary committee.
- (4) The auditor-general must include the reasons for a proposed increase in the basic rates of fees for a financial year when seeking the parliamentary committee's approval for the increase.
- (5) For deciding whether or not to approve a proposed increase in the basic rates of fees for a financial year, the parliamentary committee may—
  - (a) have regard to the government indexation rate for the financial year; and



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- (b) obtain, and have regard to, advice from the Treasurer about the proposed increase.
- (6) As soon as practicable after deciding to approve or not approve a proposed increase in the basic rates of fees for a financial year, the parliamentary committee must prepare a report to the Legislative Assembly stating—
- (a) whether or not the parliamentary committee approved the increase; and
  - (b) the reasons for the parliamentary committee’s decision, including, details about whether the parliamentary committee considered either of the following in making the decision—
    - (i) the government indexation rate for the financial year;
    - (ii) advice obtained from the Treasurer about the proposed increase.
- (7) In this section—

*government indexation rate*, for a financial year, means the government indexation rate for fees and charges published in the State budget for the financial year.

## **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
    - (iii) a decision whether an audit of a public sector entity for a financial year is small in size and of low risk; 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) This section does not apply to an audit of a matter under section 36A.
- (2) The auditor-general must prepare a report to the Legislative Assembly on each audit conducted of a public sector entity by an authorised auditor.
- (3) 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) if the public sector entity was granted an exemption under section 30A for the relevant financial year—state that the public sector entity was granted an exemption under section 30A and the reasons for the exemption; and
  - (c) 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
  - (d) set out—
    - (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

- (e) 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.

### **61A Reports on audit of matters**

- (1) If the auditor-general conducts an audit of a matter under section 36A, the auditor-general must prepare a report to the Legislative Assembly setting out the reasons for conducting the audit and the results of the audit.
- (2) If the auditor-general proposes to make an adverse comment about a non-public sector entity in the report, the auditor-general must not make the proposed adverse comment unless, before the report is prepared, the auditor-general gives the non-public sector entity an opportunity to make submissions about the proposed adverse comment.

*Note—*

See also section 65.

- (3) If the non-public sector entity makes submissions and the auditor-general still proposes to make the adverse comment, the auditor-general must ensure the non-public sector entity's submissions, or a fair statement of them, are included in the report.

## **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.

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### **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;
- (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
- (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) If the auditor-general gives written advice of the matter under subsection (2) or (3), the auditor-general must as soon as practicable give a copy of the written advice to the Premier.
- (5) 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 by a person mentioned in subsection (3)—
- (a) within 21 days after the advice is received; or
- (b) within the longer period that is stated in the advice.
- (6) 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.
- (7) In this section—
- control** see section 5(2).

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**65 Proposed reports 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, or a proposed report, or part of a proposed report, of the auditor-general under section 61A, 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 an entity; or
  - (b) reveal trade secrets of an 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.

# **Part 4 Monitoring and oversight**

## **Division 1 Role of parliamentary committee**

### **67A Functions of parliamentary committee**

The parliamentary committee has the following functions—

- (a) to monitor and review the performance by the auditor-general of the auditor-general's functions under this Act;
- (b) to report to the Legislative Assembly on any matter concerning the auditor-general's functions or the performance of the auditor-general's functions that the committee considers should be drawn to the Legislative Assembly's attention;
- (c) the other functions conferred on the committee by this Act or another Act.



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## Division 2                      Strategic review of audit office

### 68            Conduct of strategic review of audit office

- (1) Strategic reviews of the audit office must be conducted under this part.
- (2) A strategic review must be conducted at least every 5 years, counting from when the Minister makes a response to the parliamentary committee report in the Legislative Assembly for the most recent earlier strategic review, up to when the reviewer is appointed under subsection (3) to conduct the latest strategic review.
- (3) Each strategic review is to be conducted by an appropriately qualified person (*reviewer*), appointed by the Governor in Council, who is to give a report on the review.
- (4) The terms of reference for a strategic review are to be decided by the Governor in Council.
- (5) Before a reviewer is appointed to conduct a strategic review, the Minister must consult with the parliamentary committee and the auditor-general about—
  - (a) the appointment of the reviewer; and
  - (b) the terms of reference for the review.
- (6) The remuneration and other terms of appointment of the reviewer are as decided by the Governor in Council.
- (7) In this section—

*strategic review* includes—

  - (a) a review of the auditor-general's functions; and
  - (b) a review of the auditor-general's performance of the functions to assess whether they are being performed economically, effectively and efficiently.

### 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.
- (7) For the *Parliament of Queensland Act 2001*, section 92(2) the report is referred to the parliamentary committee.

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## **Division 3                      Independent audit of audit office**

### **71            Audit of audit office**

- (1) The Governor in Council must appoint a person who is a registered company auditor under the Corporations Act to conduct an audit of the audit office for each financial year for which the person is appointed.
- (2) A person may not be appointed under subsection (1) for more than 5 consecutive financial years.
- (3) The person is entitled to be paid the fee decided by the Governor in Council for each financial year for which the person is appointed.

### **72            Conduct of independent audit**

- (1) For conducting an audit under section 71(1)—
  - (a) the person 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.
- (2) After an audit, the person must give—
  - (a) a report about the audit to the Premier; and
  - (b) a copy of the report to the auditor-general and the Treasurer.
- (3) The auditor-general must include the person's report in the annual report of the audit office.

## Part 5 General provisions

### 72A Sharing information with Treasurer and Queensland Treasury

- (1) The auditor-general may disclose to the Treasurer and Queensland Treasury any information obtained by the auditor-general for the purpose of conducting an audit of—
  - (a) a department; or
  - (b) a public sector entity prescribed by regulation.
- (2) The Treasurer or Queensland Treasury may use the information only for the purposes of whole-of-government budgeting and monitoring, including each of the following—
  - (a) conducting economic and financial analysis;
  - (b) budget forecasting;
  - (c) preparing a whole-of-government budget;
  - (d) developing and monitoring budget policies.
- (3) The information that may be disclosed under subsection (1)—
  - (a) may include protected information within the meaning of section 53(6); and
  - (b) may be used by the Treasurer or Queensland Treasury as mentioned in subsection (2) regardless of the purpose for which the information was originally obtained by the auditor-general.

*Note—*

This section authorises the use and disclosure of personal information within the meaning of the *Information Privacy Act 2009*, section 12. See the information privacy principles stated in schedule 3, sections 10(1)(c) and 11(1)(d) of that Act.

- (4) In this section—

***control*** see section 5(2).

***department*** means a department within the meaning of the *Public Sector Act 2022*, section 10.

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*public sector entity* does not include a local government or an entity subject to the control of a local government.

*Queensland Treasury* means the department in which the *Financial Accountability Act 2009* is administered.

### **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 6 Transitional provisions**

### **Division 1 Provisions for Act No. 8 of 2009**

#### **74 Definitions for div 1**

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.
- (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 finished under the repealed Act are taken to have started under this Act.

## **Division 2**                      **Provision for Integrity Reform (Miscellaneous Amendments) Act 2010**

### **86**            **Declarations of interests by auditor-general and deputy auditor-general**

- (1) The auditor-general is taken to have complied with section 12 as amended by the *Integrity Reform (Miscellaneous Amendments) Act 2010* if, at the commencement of this section, the auditor-general is not in breach of section 12 as in force before the commencement.
- (2) The deputy auditor-general is taken to have complied with section 12 as amended by the *Integrity Reform (Miscellaneous Amendments) Act 2010* if, at the commencement of this section, the deputy auditor-general is not in breach of section 12 as in force before the commencement.

## **Division 3**                      **Transitional provisions for the Parliamentary Service and Other Acts Amendment Act 2011**

### **87**            **First strategic audit plan to be prepared**

The first strategic audit plan to be prepared under section 38A must be finalised before either 1 July 2012 or another date agreed between the auditor-general and the parliamentary committee.

### **88**            **Existing audits of performance management systems**

- (1) This section applies if, before the commencement—
  - (a) the auditor-general started an audit of performance management systems of a public sector entity other than a GOC or controlled entity of a GOC under section 38; and



- (b) the audit has not been finished.
- (2) On the commencement, the auditor-general may finish the audit as if section 38 had not been amended by the *Parliamentary Service and Other Acts Amendment Act 2011*.
- (3) In this section—  
*commencement* means the commencement of this section.

## **89 Duration of appointment of auditor-general not affected**

- (1) This section applies to the appointment of the auditor-general that was in force immediately before the replacement of section 10 by the *Parliamentary Service and Other Acts Amendment Act 2011*.
- (2) The appointment continues in force until the end of the term stated in the auditor-general's instrument of appointment or the appointment otherwise ends under this Act.
- (3) The person holding the appointment can not be reappointed under section 10.

## **Division 4 Transitional provisions for the Integrity and Other Legislation Amendment Act 2022**

### **Subdivision 1 Provisions about office of auditor-general**

#### **90 Definitions for subdivision**

In this subdivision—

*existing auditor-general* means the person who, immediately before the commencement, was holding office as the auditor-general.

*existing deputy auditor-general* means the person who, immediately before the commencement, was holding office as the deputy auditor-general.

## 91 Existing appointment unaffected

The amendment of this Act by the *Integrity and Other Legislation Amendment Act 2022* does not affect the appointment of the existing auditor-general.

## 92 Oath of office

- (1) The existing auditor-general must comply with section 11A—
  - (a) if, on the commencement, the existing auditor-general is absent from duty or from Australia or is, for another reason, unable to perform the functions of the office—before the auditor-general starts performing the duties of office after the commencement; or
  - (b) otherwise—within 28 days after the commencement.
- (2) If, on the commencement, the existing deputy auditor-general is acting as auditor-general, the existing deputy auditor-general must comply with section 25A within 28 days after the commencement.
- (3) Subsection (2) does not apply, or stops applying, if the existing deputy auditor-general stops acting as auditor-general before the 28-day period mentioned in the subsection ends.

## Subdivision 2 Provision about audits

### 93 Existing audits

- (1) This section applies in relation to an audit under this Act started but not finished before the commencement.

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- (2) The audit must be continued under this Act as in force before the commencement as if the *Integrity and Other Legislation Amendment Act 2022* had not been enacted.

### **Subdivision 3 Provisions about employment arrangements**

#### **94 Definitions for subdivision**

In this subdivision—

*existing deputy auditor-general* means the person who, immediately before the commencement, was holding office as the deputy auditor-general.

*existing staff member* means a person who, immediately before the commencement, was employed as a member of the staff of the audit office.

#### **95 Change of employment**

- (1) On the commencement, a person who is the existing deputy auditor-general or an existing staff member—
- (a) is taken to be employed under this Act; and
  - (b) stops being employed as a public service employee.
- (2) The person's employment continues on the same terms of employment as applied to the person immediately before the commencement, subject to any subsequent variation of the terms under—
- (a) any relevant laws or industrial instruments applying to the person's employment; or
  - (b) the person's contract of employment.
- (3) The change in the person's employment under subsection (1) does not—

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- (a) prejudice the person's existing or accruing rights to superannuation or recreation, sick, long service or other leave; or
  - (b) interrupt continuity of service, except that the person is not entitled to claim the benefit of a right or entitlement more than once in relation to the same period of service; or
  - (c) constitute a termination of employment, retrenchment or redundancy.
- (4) Subsection (1)(a) applies despite sections 28 and 29.

## **96 Right of return to public service**

- (1) A person who is the existing deputy auditor-general or an existing staff member may, within 6 months after the commencement, elect to return to being a public service employee by giving written notice to the auditor-general.

*Note—*

See also section 29C in relation to a person who is appointed as a public service employee after being the deputy auditor-general or a member of the staff of the audit office.

- (2) An election under subsection (1) takes effect when the person who made the election is transferred to a department or public service entity as a public service employee.
- (3) On a person's return to the public service—
- (a) the person is taken not to have stopped being a public service employee when the person's employment changed under section 95(1); and
  - (b) the person's service as a public service employee is taken to have continued while the person was employed in the audit office under this Act; and
  - (c) the person's terms of employment are the same terms of employment that applied to the person immediately before the person's employment changed under section 95(1), subject to any changes in relevant laws or

industrial instruments applying to the person's employment.

- (4) Subsection (3) does not allow the person to claim the benefit of a right or entitlement more than once in relation to the same period of service.

## 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 local government—the Minister administering the *Local Government Act 1993*; or
- (f) for a statutory body—the Minister administering the Act under which the statutory body is established; or
- (g) for GOCs—the shareholding Ministers as defined under the *Government Owned Corporations Act 1993*; or
- (h) for another public sector entity—the Minister administering matters connected with the entity.

***audit office*** means the Queensland Audit Office established under section 6(4).

***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.

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

**parliamentary committee** means—

- (a) if the Legislative Assembly resolves that a particular committee of the Assembly is to be the parliamentary committee under this Act—that committee; or
- (b) if paragraph (a) does not apply and the standing rules and orders state that the portfolio area of a portfolio committee includes the auditor-general—that committee; or
- (c) otherwise—the portfolio committee whose portfolio area includes the department, or the part of a department, in which this Act is administered.

**portfolio area** see the *Parliament of Queensland Act 2001*, schedule.

**portfolio committee** see the *Parliament of Queensland Act 2001*, schedule.

**portfolio committee** see the *Parliament of Queensland Act 2001*, schedule.

**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.

***standing rules and orders*** see the *Parliament of Queensland Act 2001*, schedule.

***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).