

**2002**

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**FINANCIAL LEGISLATION (INTEGRITY AND RESPONSIBILITY)  
AMENDMENT BILL 2002**

**EXPLANATORY MEMORANDUM**

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## Financial Legislation (Integrity and Responsibility) Amendment Bill 2002

### Outline

The financial management of the ACT Government is regulated by the *Financial Management Act 1996*.

The current ACT legislation requires *performance* reporting at a fairly low level.

But it doesn't require the publication of *strategy* documentation - statements designed to make Government place on the public record its financial *objectives and policy*.

Given the financial reporting requirements are (largely) in place, it would be a good financial discipline to require a Government to have to spell out in a formal fashion its financial policies, so:

- the Assembly; and, ultimately
- the community

can judge the Government.

The Opposition is also concerned current legislative provisions do not require enough attention to be given to future generations of Canberrans.

Finally, the Opposition considers that when the electorate goes off to vote, they should be aware of:

- the state of the ACT Government's, finances; as well as
- the costs of promises made by political parties who are seeking to be the major partners in any Government

so they can make an informed choice of candidate and party on polling day.

The Opposition has have reviewed the financial management documentation of the Australian States and Territories. Overall, best practice is found in:

- the *Financial Management Act 1994* (Vic) (called in this memorandum **the Victorian Act**); and
- the *Charter of Budget Honesty Act 1998* (Cth) (called in this memorandum the **Commonwealth Act**)

This Bill, together with its companion legislation, the Costing of Election Commitments Bill 2002 aim to blend the best provisions mandating:

- the documentation of financial strategy; and

- the integrity of financial data, and of election promises, made immediately prior to polling day; and
- intergenerational reporting.

contained in other legislation from other jurisdictions with the performance reporting requirements currently contained in ACT law – already best practice.

### *Reporting of Non-Financial Matters*

The *Financial Management Act* requires financial data to be reported quarterly. However, the Opposition believes there should be more frequent reporting of matters of a non-financial nature.

The annual report reporting requirements mandated by the *Annual Reports (Government Agencies) Act 1995* only requires a report on the “operations” of the administrative unit.

Other things to be included in a report are very much left to the Minister.

There is an argument that:

- the requirement to report matters not strictly of a financial nature can be made more frequent; and
- what needs to be reported can be specified by not only the Executive, but by the Legislative Assembly itself.

It is proposed to make changes to the *Annual Reports (Government Agencies) Act 1995* so that on a quarterly basis, information as required to be reported by both

- the Minister; **and**
- the Legislative Assembly

is available to judge the overall performance of government – and so again, transparency and accountability of Government is assured.

## DETAIL OF CLAUSES

### Part 1 - Preliminary

#### Name of Act

Clause 1 names the Act the *Financial Legislation (Integrity an Responsibility) Amendment Act 2002*.

#### Commencement

Clause 2 sets the Act's commencement as **1 July 2003**. This means the terms of the legislation will commence as from the 2003-4 financial year.

- The naming and commencement provisions automatically commence on the notification day –see subsection 75(1) of the *Legislation Act 2001*.

## Part 2 – Financial Management Act 1996

### Act Amended

Clause 3 identifies the Act being amended as the *Financial Management Act 1996*.

### New Part 1A

Clause 4 adds a new section 4A to the *Financial Management Act*.

This is a provision similar in terms to section 23C of the Victorian legislation.

It places a legal duty on the Government to establish a budgeting and reporting framework that is consistent with **principles of sound financial management**.

The object is to establish the policy parameters within which budgets and (financial reports) must be framed.

It is only in this way that the sustainable social and economic services and infrastructure fairly to all ACT residents can be assured.

Proposed new subsection 4A(2) then enumerates 5 principles of sound financial management that establish the relevant policy parameters under which Governments must operate.

Those parameters are that the Government must:

- manage financial risks faced by the Territory prudently, having regard to economic circumstances; and
- pursue spending and taxing policies that are consistent with a reasonable degree of stability and predictability in the level of the tax burden; and
- maintain the integrity of the Territory's tax system; and
- ensure that it takes into account the financial impact on future generations when making policy decisions; and
- give full, accurate and timely disclosure of financial information relating to the activities of the government and its agencies.

### New sections 9C, 9D and 9E

Clause 5 adds new sections 9C, 9D and 9E to the *Financial Management Act*.

It is based on Division 2 of Part 5 of the Victorian legislation.

They place a legal duty on the Treasurer to make 2 financial policy objectives and strategy statements for each financial year - 1 with the Budget, and 1 with the Budget update, to be tabled in the Assembly on the first sitting day of the second half of a financial year.

As section 9D says, the purpose of a financial policy objectives and strategies statement is to make transparent the Government's financial strategies and to establish a benchmark for evaluating the Government's conduct and financial policy.

Section 9E then requires the Treasurer to set out the objectives and strategies that are to be adopted over the next 3 years.

It should be noted these reports accompany the Budget, and the Budget update.

This is intended.

One set of documentation contains the financial data. The second is designed to set out what the Government hopes to achieve – and thereby setting out performance criteria against which the community can make judgements.

### **Territory budgets New section 11(3A)**

Clause 6 requires a budget to include a statement of the economic or other assumptions used to make the budget estimates, as well as a statement of the budget estimates to changes in the economic or other assumptions and a statement of risks that may affect the budget estimates.

The provision is based on the premise that any estimate of expenditure is only as good as the policy and factual presumptions that underlie it. It is the intention to make public the presumptions that gave rise to the estimate published in the Budget.

### **New section 11(5)(aa) to (ac)**

So as to increase responsibility in decision making, clause 7 adds to the **principles of prudent fiscal management** – the things that must, in law, be considered when framing a budget for a particular financial year – requirements that

- spending and taxing policies are to be consistent with a reasonable degree of stability and predictability in the level of tax burden; and
- the integrity of the Territory's tax system is maintained; and
- the financial impact on future generations is taken into account when making policy decisions.

### **Section 11(5)**

Clause 8 requires the numbers of subsection 11(5) to be renumbered when the Act is republished.

## **New Sections 13A to 13C**

Clause 9 requires the Treasurer to prepare a Budget update for each financial year, to be presented on the first day the Assembly sits in the second half of the financially year.

As section 13B says, the purpose of the budget update for a financial year is to give updated information to allow the assessment of the Government's financial policy objectives and strategies statement for the Territory Budget for the financial year.

The intention is to keep the Assembly informed as to how the Government is performing against the Budget prepared prior to the commencement of the particular financial year.

They complement the periodic financial statements that need to be made quarterly.

The provisions are based on Division 4 of Part 5 of the Victorian legislation.

## **New Sections 19F and 19G**

Clause 10 requires the Treasurer to prepare an intergenerational report every 5 financial years, commencing 1 July 2004. These provisions specify what have to be in the report.

As section 19G says, the report must assess the long-term sustainability of current government policies over the next 30 years, including by taking account of the financial implications of demographic change.

The intention is to provide a discipline on governments to take stock every half decade, to ensure that not only are the policies being pursued are appropriate for the Canberrans of today, but they are sufficiently prudent that the Canberrans of tomorrow are not saddled with so much debt that they have no discretionary funds to apply to their own wishes, needs and aspirations.

The provision is based on the terms of the Commonwealth legislation.

## **New Part 2A**

Clause 11 adds a new Part 2A, which requires the Chief Executive of the Treasury and Under Treasurer to prepare a budget update. It must be given to Parliamentary Counsel to be notified as a notifiable instrument.

As the proposed section 20B says, its purpose is to:

- allow the assessment of the Government's financial performance against the financial policy objectives and strategies set out in the financial policy objectives and strategies statement; and
- give the electorate an accurate picture of the Territory's financial position before the election.

The duties of the section are vested in public officers rather than the political office of Treasurer so that as far as possible the document can be prepared without political pressure.

In particular, the provisions require:

- a statement of the risks that may effect economic or other assumptions, including contingent liabilities and publicly announced government commitments not yet included in the updated financial statements and budget estimates; and
- government decisions and other circumstances that may have material effect on the financial statements and budget estimates.

In deciding who to vote for, the electorate has a right to know whether:

- financial conditions have deteriorated since the framing of the Budget; and
- government spending initiatives announced in the run-up to a Government, in an endeavour to gather support, effectively spoils the fiscal efforts of the term of Government, and places burden on an incoming government.

In this way, transparency in the political process is enhanced.

It is based on Division 6 of Part 5 of the Victorian legislation.

### **Annual financial statements of departments section 27(3)(ab)**

Clause 12 requires a statement of the amount by which the total estimated expenditure for the department for the year (contained in the budget estimates for the year) exceeded or was less than the total actual expenditure of the department of the year.

### **Section 27(3)**

### **Section 27(5)**

Clauses 13 and 14 make consequential amendments as a result of the insertion of paragraph 27(3)(ab).

### **Quarterly departmental performance reports Section 30A(1), new note**

Clause 15 adds a note to the legislation that makes clear that any other information a department has to provide quarterly to a Department can, for convenience, be included in a quarterly departmental performance report that has to be prepared for the purposes of the *Financial Management Act*.



## **Annual financial statements Section 59(3)(ab)**

Clause 16 requires a statement of the amount by which the total estimated expenditure for statutory authorities for the year (contained in the budget estimates for the year) exceeded or was less than the total actual expenditure of the department of the year.

## **Section 59(3)**

Clauses 17 requires the renumbering of the paragraphs of subsection 59(3) when republishing the *Financial Management Act*.

## **Part 3 – Annual Reports (Government Agencies) Act 1995**

### **Act amended – pt 3**

Clause 18 identifies the *Annual Reports (Government Agencies) Act 1995* as the legislation being amended.

### **Short Title – section 1**

Clause 19 changes the name of the *Annual Reports (Government Agencies) Act 1995* to the *Government Agencies Reports Act 1995*. This reflects the fact that agencies may be required to report some things more often than annually.

### **New section 7A**

#### **Reporting period other than financial year-public authorities**

#### **Section 10(1A) and (1B)**

Clause 20 and 21 allows either the Minister or the Assembly to require certain information to be reported to the Assembly on a quarterly basis. This is designed to be a device to enhance accountability and transparency in public administration.

### **Section 10**

Clause 22 requires section 10 of the newly named Act to be renumbered when next republished.

## **References to Annual Reports (Government Agencies Act) 1995**

Clause 23 is a facultative provision treating any legislative references to the *Annual Reports (Government Agencies) Act 1995* to be a reference to the *Government Agencies Reports Act 1995*.

### **Title**

Clause 24 changes the long title of the *Annual Reports (Government Agencies) Act* to reflect the fact the law now requires some things to be reported more frequently than annually.