



AUSTRALIAN CAPITAL TERRITORY

Financial Management and Audit (Consequential and Transitional Provisions) Act 1996

No. 26 of 1996

**An Act to make certain transitional provisions, and to
amend certain Acts, in consequence of the enactment of the
Financial Management Act 1996 and the *Auditor-General Act
1996***

[Notified in ACT Gazette S130: 1 July 1996]

The Legislative Assembly for the Australian Capital Territory enacts as follows:

PART I—PRELIMINARY

Short title

1. This Act may be cited as the *Financial Management and Audit (Consequential and Transitional Provisions) Act 1996*.

Commencement

2. This Act commences on 1 July 1996.

Interpretation

3. (1) In this Act, unless the contrary intention appears—

“Audit Act” means the *Audit Act 1989*;

“Financial Management Act” means the *Financial Management Act 1996*.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as in the Financial Management Act.

PART II—REPEAL OF ACTS

Repeal of Acts

4. The following Acts are repealed:
- (a) *Audit Act 1989*;
 - (b) *Audit (Amendment) Act 1990*;
 - (c) *Audit (Amendment) Act 1991*.

PART III—TRANSITIONAL

Continuing application of provisions of Audit Act

5. (1) Notwithstanding the repeal of the Audit Act—
- (a) subsection 47 (2) of that Act continues to apply in respect of the year that ended on 30 June 1996;
 - (b) subsections 47 (4) and 49 (2) of that Act continue to have effect;
 - (c) section 58 of that Act continues to apply in respect of the operations of an administrative unit during the year that ended on 30 June 1996;
 - (d) any requirements imposed under subsection 58 (1) of that Act that were in force immediately before that repeal and were applicable to the financial statements required to be provided pursuant to subsection 58 (2) of that Act continue to apply;
 - (e) Part VI of that Act and the financial statement guidelines in force under section 72 of the Act immediately before that repeal continue to apply in respect of the operations of the Territory and administrative units during the financial year that ended on 30 June 1996;
 - (f) section 93 of that Act continues to apply to an authority to which it applied immediately before that repeal in respect of the operations of the authority during the year that ended on 30 June 1996; and
 - (g) section 97 of that Act continues to apply to an authority to which it applied immediately before that repeal in respect of the operations of the authority during the year that ended on 30 June 1996.

(2) In their application under subsection (1), the provisions of the Audit Act referred to in paragraphs (1) (a), (e), (f) and (g) and the financial statement guidelines referred to in paragraph (1) (e) shall, unless the contrary intention appears, have effect as if a reference in those provisions and guidelines to the Minister were a reference to the Treasurer.

(3) Part III and sections 59 to 62 (inclusive) of the Financial Management Act do not apply in respect of the year that ended on 30 June 1996.

(4) The provisions of the Audit Act referred to in paragraphs (1) (c) and (e), the requirements referred to in paragraph (1) (d) and the financial statement guidelines referred to in paragraph (1) (e) apply in relation to the Department of Education and Training, the Australian Capital Territory Schools Authority and the Children's and Youth Services Bureau in respect of the year that ended on 30 June 1996 as if the Authority and the Bureau were each a part of the Department.

(5) The provisions referred to in paragraph (1) (g) do not apply to the Australian Capital Territory Schools Authority in respect of the year that ended on 30 June 1996.

Auditor-General

6. (1) The person who immediately before the commencement of this Act held office as Auditor-General under section 6 of the Audit Act (in this section called the "previous office") is to be taken to have been appointed on that commencement to be the Auditor-General under clause 1 of the Schedule to the *Auditor-General Act 1996*.

(2) The person is to be taken to have been so appointed—

- (a) for a period equal to the remainder of the term of his or her appointment to the previous office; and
- (b) on the terms and conditions on which he or she held the previous office insofar as those terms and conditions are not inconsistent with the provisions of the Schedule to the *Auditor-General Act 1996* as modified by subsection (3).

(3) Subclause 1 (3) of the Schedule to the *Auditor-General Act 1996* does not apply in relation to the appointment that is to be taken to have been made by virtue of subsection (1).

Supply for 1996-1997 financial year

7. Section 7 of the Financial Management Act has effect in relation to the financial year commencing on 1 July 1996 as if the reference in paragraph (c) of that section to Appropriation Acts were a reference to Acts providing for the appropriation of money for the ordinary annual services of the government, or for capital works of the government, or both.

Treasurer's directions relating to accounts

8. (1) The Treasurer may, by instrument, give directions—

- (a) requiring that a bank account conducted by the Territory or a Territory authority that has not been opened and maintained in accordance with the Financial Management Act be closed and that the balance of the account be transferred to—
 - (i) a bank account established in accordance with the Financial Management Act; or
 - (ii) 2 or more bank accounts established in accordance with that Act in such proportions as the Treasurer specifies in the direction; or
- (b) requiring the closure of a ledger account that relates to a bank account that is required to be closed under paragraph (a) and the transfer of the balance of the ledger account to—
 - (i) a ledger account specified by the Treasurer; or
 - (ii) 2 or more ledger accounts specified by the Treasurer in such proportions as the Treasurer directs.

(2) A reference in subsection (1) to a bank account conducted by the Territory shall be read as including a reference to a bank account conducted by a department.

Transfer of certain trust funds to new accounts

9. (1) For the purposes of this section each of the following accounts is a designated trust account:

- (a) the Energy Research and Development Trust Account established under subsection 85 (2) of the Audit Act;
- (b) the Australian Capital Territory Racecourse Development Fund established by subsection 41 (1) of the *Betting (Totalizator Administration) Act 1964*;
- (c) the Financial Counselling Trust Fund established by subsection 241AA (1) of the *Credit Act 1985*;
- (d) the ledger account relating to bond money paid into the Trust Fund under subsection 62AK (1) of the *Landlord and Tenant Act 1949*;
- (e) the ledger account relating to compensation paid into the Trust Fund under subsection 75 (2) of the *Lands Acquisition Act 1994*;
- (f) the ledger account relating to compensation paid into the Trust Fund under subsection 95 (2) of the *Lands Acquisition Act 1994*.

(2) Each designated trust account shall be closed and the money standing to the credit of the account transferred to a trust bank account opened under subsection 51 (1) of the Financial Management Act to replace the designated trust account.

(3) In this section, unless the contrary intention appears—

“Trust Fund” means the account established under section 82 of the Audit Act.

Transfer of certain housing funds to new accounts

10. (1) For the purposes of this section each of the following accounts established under subsection 85 (2) of the Audit Act is a designated housing account:

- (a) the Home Purchase Assistance Account;
- (b) the Housing Rental Trust Account;
- (c) the Home Loan Trust Account.

(2) Each designated housing account shall be closed and the money standing to the credit of the account transferred to—

- (a) a bank account opened under section 34 of the Financial Management Act to replace the designated housing account; or
- (b) another bank account maintained under that section for the purposes of the department that is constituted by, or includes, the administrative unit with responsibility for administering the *Housing Assistance Act 1987*.

(3) If the money standing to the credit of a designated housing account is paid into a bank account referred to in paragraph (2) (b), a ledger account having the same title as the designated housing account shall be established in relation to that bank account.

Regulations

11. (1) The Executive may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for transitional matters arising out of—

- (a) the repeal of the Audit Act;
- (b) the enactment of the Financial Management Act, the *Auditor-General Act 1996* and the *Public Sector Management (Amendment) Act 1996*; or
- (c) the transition from the Audit Act to an Act referred to in paragraph (b).

PART IV—AMENDMENT OF ACTS

Amendment of Acts

12. The Acts specified in the Schedule are amended as set out in the Schedule.

**SCHEDULE
AMENDMENTS OF ACTS**

Part 1

Administrative Decisions (Judicial Review) Act 1989

Schedule 2—

Omit paragraphs (c) and (d), substitute the following paragraphs:

- “(c) decisions authorised by an Act to issue sums out of the public money of the Territory;
- (d) decisions of the Treasurer under subsection 18 (1) of the *Financial Management Act 1996*.”.

Part 2

Agents Act 1968

Section 17A—

Repeal the section.

Subsection 71R (2)—

Omit “an account with a bank in the Territory”, substitute “a bank account maintained under section 55 of the *Financial Management Act 1996*”.

Subsection 71U (4)—

Omit “in the Territory to the credit of a separate account to be”, substitute “account maintained under section 55 of the *Financial Management Act 1996* and”.

Part 3

Canberra Institute of Technology Act 1987

Paragraph 10 (5) (c)—

Omit “*Audit Act 1989*”, substitute “*Financial Management Act 1996*”.

Subsection 16 (2)—

Omit “*Audit Act 1989* and any regulations made”, substitute “*Financial Management Act 1996* and any regulations and financial management guidelines made or issued”.

Subsection 26 (2)—

Omit “*Audit Act 1989* and any regulations made”, substitute “*Financial Management Act 1996* and any regulations and financial management guidelines made or issued”.

SCHEDULE—continued

Section 54—

Repeal the section.

Subsections 56 (2), (3) and (4)—

Omit the subsections.

Section 57—

Repeal the section.

Subsection 58 (1)—

Omit “an account with a bank that is an approved bank for the purposes of section 94 of the *Audit Act 1989*”, substitute “a bank account maintained under section 55 of the *Financial Management Act 1996*”.

Subsection 58 (2)—

Omit “an account with a bank that is an approved bank for the purposes of section 89 of the *Audit Act 1989*”, substitute “a bank account maintained under section 55 of the *Financial Management Act 1996*”.

Sections 60 and 61—

Repeal the sections, substitute the following section:

Application of Part VIII of Financial Management Act

“60. Part VIII of the *Financial Management Act 1996* applies in relation to the Institute and the Hotel School as if a reference in that Part to a financial year were a reference to a calendar year.”.

Part 4

Canberra Theatre Trust Act 1965

Section 20—

Add at the end the following subsection:

“(2) The Trust shall include in each report it presents under section 8 of the *Annual Reports (Government Agencies) Act 1995* details of any directions given under subsection (1) during the period to which the report relates.”.

Sections 31 and 32—

Repeal the sections.

Part 5

Casino Control Act 1988

Section 38A—

Repeal the section.

SCHEDULE—continued

Subsection 123 (1)—

Omit “a person approved by the Minister”, substitute “the Auditor-General”.

Subsection 123 (2)—

Omit “an auditor”, substitute “the Auditor-General”.

Part 6

Cemeteries Act 1933

Sections 21C and 21D—

Repeal the sections.

Part 7

Credit Act 1985

Section 241AA (2)—

Omit the subsection.

New section 241AAA—

After section 241AA insert the following section:

Bank account

“241AAA. All money received by the Financial Counselling Trust Fund shall be paid into a trust bank account maintained under section 51 of the *Financial Management Act 1996*.”.

Section 241AB—

Omit “into”, substitute “to”.

Section 241AC—

Omit “Moneys standing to the credit”, substitute “The moneys”.

Part 8

Financial Institutions (Supervisory Authority) Act 1992

Section 10—

Repeal the section.

SCHEDULE—continued

Part 9

Gas Act 1992

Section 49—

Omit the section, substitute the following section:

Trust account

“49. (1) A trust bank account called the Energy Research and Development Trust Account shall be maintained under section 51 of the *Financial Management Act 1996*.

“(2) The following amounts shall be paid into the account:

- (a) levy paid under section 45 or 46;
- (b) levy, and interest on unpaid levy, recovered under section 48;
- (c) interest earned from the investment of money paid into the account.”.

Section 50—

Omit “may not be expended under subsection 85 (10) of the *Audit Act 1989*”, substitute “shall not be expended”.

Part 10

Government Contractual Debts (Interest) Act 1994

Section 9—

Omit the section, substitute the following section:

Availability of funds to pay interest

“9. (1) Interest for which the Territory is liable under section 7 is payable whether or not there is an appropriation available for the purpose.

“(2) Where a commercial account is payable out of trust moneys standing to the credit of a bank account maintained under section 51 of the *Financial Management Act 1996*, any interest payable under section 7 in respect of that commercial account is also payable out of those moneys.”.

Part 11

Interpretation Act 1967

Subsection 7 (6)—

Omit “within the meaning of the *Audit Act 1989*”.

Subsection 14 (1)—

- (a) Omit the definition of “Consolidated Revenue Fund”.

SCHEDULE—continued

(b) Insert the following definitions:

“ ‘public money of the Territory’ means revenues, loans and other money received by the Territory;

‘Territory bank account’ means the bank account maintained under section 33 of the *Financial Management Act 1996*.”.

Part 12

Landlord and Tenant Act 1949

Subsection 62AA (1) (definition of “Trust Fund”)—

Omit the definition, substitute the following definition:

“ ‘trust account’ means the bank account maintained pursuant to section 62AJA.”.

New section 62AJA—

After section 62AJ insert the following section:

Trust account

“62AJA. A trust bank account shall be maintained under section 51 of the *Financial Management Act 1996* to hold bond money received by the Director under this Part.”.

Subsections 62AK (1) and (2)—

Omit “Trust Fund”, substitute “trust account”.

Subsection 62AL (1)—

Omit “Trust Fund”, substitute “trust account”.

Paragraph 62AL (1) (a)—

Omit “to the Consolidated Revenue Fund”, substitute “into the Territory bank account as public money”.

Paragraph 62AL (1) (b)—

Omit “Consolidated Revenue Fund”, substitute “Territory bank account”.

Subsection 62AL (2)—

Omit “Trust Fund”, substitute “trust account”.

Subsection 62AM (1)—

Omit “Trust Fund”, substitute “trust account”.

Paragraph 62AM (1A) (b)—

Omit “Trust Fund”, substitute “trust account”.

SCHEDULE—continued**Subsections 62AP (1), (2) and (3)**—

Omit “Trust Fund”, substitute “trust account”.

Subsection 62AP (4)—

(a) Omit “Trust Fund”, substitute “trust account”.

(b) Omit “Fund” (second occurring), substitute “account”.

Subsection 62AS (1)—

Omit “Trust Fund”, substitute “trust account”.

Subsection 62AU (2)—

Omit “Trust Fund”, substitute “trust account”.

Section 62AV—

(a) Omit “Trust Fund” (first occurring), substitute “trust account”.

(b) Omit “the Trust Fund” (second occurring), substitute “that account”.

(c) Omit “Fund” (third occurring), substitute “account”.

Part 13***Lands Acquisition Act 1994*****Section 3 (definition of “Trust Fund”)**—

Omit the definition, substitute the following definition:

“ ‘trust account’ means the trust account referred to in section 104A.”.

Subsections 75 (2), (3), (4) and (5)—

Omit “Trust Fund” (wherever occurring), substitute “trust account”.

Subsections 95 (2), (3) and (4)—

Omit “Trust Fund” (wherever occurring), substitute “trust account”.

New section 104A—

Before section 105 insert the following section in Part X:

Trust account

“104A. A trust account called the Lands Acquisition Trust Account shall be maintained under section 51 of the *Financial Management Act 1996*.”.

SCHEDULE—continued

Part 14

Legal Aid Act 1977

Section 47—

Repeal the section, substitute the following section:

Audit

“47. (1) The Auditor-General shall inspect and audit the accounts and records of the financial transactions of the Commission and the records relating to the assets of, or in the custody of, the Commission and shall draw the attention of the Minister to any irregularity disclosed by the inspection and audit that is, in the opinion of the Auditor-General, of sufficient importance to justify his or her doing so.

“(2) The Auditor-General may, at his or her discretion, dispense with all or any part of the detailed inspection and audit of any accounts or records referred to in subsection (1).

“(3) The Auditor-General shall, at least once in each year, report to the Minister the results of the inspection and audit carried out under subsection (1).

“(4) In this section—

- (a) a reference to financial transactions includes a reference to financial transactions involving or related to money or property held on trust; and
- (b) a reference to assets includes a reference to property held on trust.”.

Part 15

Legal Practitioners Act 1970

Subsection 200 (3)—

Omit “into the Consolidated Revenue Fund”, substitute “to the Territory”.

Part 16

Long Service Leave (Building and Construction Industry) Act 1981

Subsection 23 (2)—

Omit “section 90 of the *Audit Act 1989*”, substitute “section 56 of the *Financial Management Act 1996*”.

Sections 25, 25A and 25B—

Repeal the sections.

SCHEDULE—continued

Part 17

Magistrates Court (Civil Jurisdiction) Act 1982

Subsection 374 (2)—

Omit “into the Consolidated Revenue Fund”, substitute “to the Territory”.

Part 18

Mercantile Law Act 1962

Subsection 27 (4)—

Omit “into the Consolidated Revenue Fund”, substitute “to the Territory”.

Part 19

Milk Authority Act 1971

Section 18A—

Add at the end the following subsection:

“(2) The Authority shall include in each report it presents under section 8 of the *Annual Reports (Government Agencies) Act 1995* details of any directions given under section 18A during the period to which the report relates.”.

Section 21F—

Omit “section 63E of the *Audit Act 1901* of the Commonwealth in its application to the Authority”, substitute “section 56 of the *Financial Management Act 1996*”.

Sections 21N and 21P—

Omit the sections.

Part 20

Motor Traffic Act 1936

Subsection 210 (2)—

Omit all the words after “motor tractor” (second occurring).

Part 21

National Environment Protection Council Act 1994

Section 57—

Repeal the section.

SCHEDULE—continued

Part 22

National Exhibition Centre Trust Act 1976

Sections 27, 27A and 27B—

Repeal the sections.

New section 29A—

After section 29 insert the following section:

Annual reports to refer to approvals and directions

“29A. The Trust shall include in each report it presents under section 8 of the *Annual Reports (Government Agencies) Act 1995* details of—

- (a) any approvals given by the Minister under paragraph 4 (c) or subsection 5 (2) or 28 (1); and
- (b) any direction given by the Minister under subsection 6 (1);

during the period to which the report relates.”.

Part 23

Payroll Tax Act 1987

Paragraphs 9 (1) (i) and (j)—

Omit the paragraphs, substitute the following paragraphs:

- “(i) from a bank account maintained under Part V of the *Financial Management Act 1996* (not being such an account that is specified by the Minister by writing for the purposes of this paragraph); or
- (j) by a Territory authority that is funded solely by money appropriated from the public money of the Territory by an Act.”.

Part 24

Pool Betting Act 1964

Section 13D—

Repeal the section.

Part 25

Pounds Act 1928

Subsection 30 (2)—

Omit “be paid into the Consolidated Revenue Fund”, substitute “become public money of the Territory”.

Section 40—

Repeal the section.

SCHEDULE—continued

Part 26

Proceeds of Crime Act 1991

Subsection 33 (2)—

Omit the subsection.

New section 33A—

After section 33 insert the following section:

Bank account

“33A. All moneys received by the Confiscated Assets Trust Fund shall be paid into a trust bank account maintained under section 51 of the *Financial Management Act 1996*.”.

Subsections 34 (1) and (3)—

Omit “into”, substitute “to”.

Part 27

Public Baths and Public Bathing Act 1956

Subsection 26 (4)—

Omit “paid into the Consolidated Revenue Fund”, substitute “public money of the Territory”.

Part 28

Public Sector Management Act 1994

Subsection 220 (3)—

Omit the subsection.

Part 29

Public Trustee Act 1985

Division 3 of Part VI—

Repeal the Division.

Part 30

Rabbit Destruction Act 1919

Section 47—

Repeal the section.

SCHEDULE—continued

Part 31

Schools Authority Act 1976

Section 6—

Add at the end the following subsection:

“(5) The Authority shall include in each report it presents under section 8 of the *Annual Reports (Government Agencies) Act 1995* details of—

- (a) any approvals given by the Minister under subparagraph (1) (a) (ii) or paragraph (1) (b); and
- (b) any directions given by the Minister under paragraph (1) (c) or subsection (3).”.

Sections 32 to 35 (inclusive)—

Repeal the sections, substitute the following section:

Application of Financial Management Act and Auditor-General Act

“32. The *Financial Management Act 1996* and the *Auditor-General Act 1996* apply in relation to the Authority as if the Authority were a part of the prescribed department.”.

Part 32

Statutory Appointments Act 1994

Subsection 4 (2)—

Omit “Division 1 of Part II of the *Audit Act 1989* to be the Auditor-General for the Territory or to act as Auditor-General for the Territory”, substitute “the *Auditor-General Act 1996* to be the Auditor-General or to act as the Auditor-General”.

Part 33

Superannuation (Legislative Assembly Members) Act 1991

Section 3 (definition of “contributing member”)—

- (a) Omit from paragraph (a) “and”.
- (b) Omit paragraph (b), substitute the following paragraphs:
 - “(b) a former member of the first Assembly who elected to and did contribute to the Consolidated Revenue Fund in accordance with section 13 or 14 as in force before 1 July 1996; and

SCHEDULE—continued

- (c) a former member of the first Assembly who elects to and does make a payment into the Territory bank account in accordance with section 13 or 14 as in force on and after that date;”.

Subsection 13 (1)—

- (a) Omit “contribute”, substitute “pay”.
- (b) Omit “to the Consolidated Revenue Fund”, substitute “into the Territory bank account”.

Subsection 13 (3)—

Omit “make a payment to the Consolidated Revenue Fund of”, substitute “pay into the Territory bank account”.

Subsection 14 (1)—

- (a) Omit “contribute”, substitute “pay”.
- (b) Omit “to the Consolidated Revenue Fund”, substitute “into the Territory bank account”.

Subsection 14 (2)—

Omit the subsection, substitute the following subsection:

- “(2) A person who—
- (a) elected to and did contribute in accordance with subsection (1) as in force before 1 July 1996; or
- (b) elects to and does contribute in accordance with that subsection as in force after that date;

shall be taken to have been a contributing member during his or her term of office as a member.”.

Part 34***Supreme Court Act 1933*****Subsection 17 (4)**—

Omit “Consolidated Revenue Fund”, substitute “public money of the Territory”.

Part 35***Territory Owned Corporations Act 1990*****Subsection 3 (1) (definition of “Auditor-General”)**—

Omit the definition.

NOTE ABOUT SECTION HEADINGS

On the day on which the Acts referred to below are amended by this Act, headings to sections of those Acts are amended as set out below.

Provision	Alteration
	<i>Landlord and Tenant Act 1949</i>
Section 62AK	Omit from the heading “ Trust Fund ”, substitute “ trust account ”.
	<i>Lands Acquisition Act 1994</i>
Sections 75 and 95	Omit from the headings “ Trust Fund ”, substitute “ trust account ”.
	<i>Proceeds of Crime Act 1991</i>
Section 34	Omit from the heading “ into ”, substitute “ to ”.

[Presentation speech made in Assembly on 23 May 1996]