



Australian Capital Territory

Financial Management Act 1996 No 22

Republication No 6 (RI)

Republication date: 4 January 2002
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Last amendment made by Act 2001 No 97
(Retrospective amendment made by Act 2002 No 30)

Amendments incorporated to 1 January 2002

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Financial Management Act 1996* as in force on 4 January 2002. It includes any amendment, repeal or expiry affecting the republished law to 1 January 2002 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Financial Management Act 1996

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Amendments incorporated to
1 January 2002



Australian Capital Territory

Financial Management Act 1996

An Act to provide for the financial management of the government of the Territory, to provide for the scrutiny of that management by the Legislative Assembly, to specify financial reporting requirements for the government of the Territory, and for related purposes

Part 1 Preliminary

1 Name of Act

This Act is the *Financial Management Act 1996*.

2 Act subject to Territory Superannuation Provision Protection Act

This Act is subject to the *Territory Superannuation Provision Protection Act 2000*.

3 Dictionary

The dictionary at the end of this Act is part of this Act.

Note 1 The dictionary at the end of this Act defines certain words and expressions used in the Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

For example, the signpost definition '*superannuation appropriation*—see the *Territory Superannuation Provision Protection Act 2000*, dictionary.' means that the expression 'superannuation appropriation' is defined in the dictionary to that Act and the definition applies to this Act.

Note 2 A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see *Legislation Act 2001*, s 155 and s 156).

3A Notes

A note included in this Act is explanatory and is not part of the Act.

Note See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of notes.

3B Declaration that certain authorities are not Territory authorities for Act

- (1) The Treasurer may, in writing, declare that a stated body is not a Territory authority for this Act.
- (2) A declaration under subsection (1) is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

4 Application of pts 2, 3 and 5 to Legislative Assembly secretariat

Unless the contrary intention appears, the provisions of parts 2, 3 and 5 apply to the Legislative Assembly secretariat as if—

- (a) a reference in those provisions to a department included a reference to the Legislative Assembly secretariat; and
- (b) a reference in those provisions to the responsible Minister of a department were a reference to the Speaker of the Legislative Assembly; and
- (c) a reference in those provisions to the responsible chief executive of a department included a reference to the clerk of the Legislative Assembly.

Part 2 Territory budget and appropriations

5 Timing of first Appropriation Bill for financial year

Except as otherwise provided by a resolution of the Legislative Assembly, the first Appropriation Bill relating to a financial year shall be introduced into the Legislative Assembly not later than 3 months after the commencement of the financial year.

6 Necessity for appropriation

No payment of public money shall be made otherwise than in accordance with an appropriation.

7 Payments authorised on lapse of appropriation

If, before the end of a financial year, no Act other than this Act has been passed appropriating public money to meet the requirements of the next financial year, the Treasurer may pay such sums as are necessary to meet those requirements subject to the following provisions:

- (a) the authority of the Treasurer under this section shall cease upon the commencement of the first Appropriation Act for the next financial year;
- (b) upon that commencement all payments made under this section for the next financial year shall be taken for all purposes to have been paid out of moneys appropriated by that Act;
- (c) the payments made under this section for any purpose shall not exceed, in total, $\frac{1}{2}$ of the amount appropriated by Appropriation Acts for the immediately preceding financial year for that purpose.

8 Form of appropriation

An Appropriation Act shall make separate appropriations in respect of each department for—

- (a) the provision of outputs by the department; and
- (b) any capital injection to be provided to the department; and
- (c) any payments to be made by the department on behalf of the Territory.

9 Net appropriations for outputs

- (1) An appropriation for the provision of outputs may be expressed to be made for the net cost of providing the outputs.
- (2) Despite section 6, if an appropriation for a department is stated to be made for the net cost of providing outputs, the department may apply the following in paying the expenses and liabilities of the department in providing the outputs:
 - (a) the payments it is entitled to receive otherwise than under an appropriation Act for providing the outputs;
 - (b) the value of the input tax credits to which it is entitled for taxable supplies in relation to providing the outputs.
- (3) To remove any doubt, it is declared that, if the appropriations made by an Appropriation Act for a department do not state an amount, or state an '0' appropriation, for the provision of outputs by the department, the appropriations have effect as if they included an appropriation stated to be made for the provision of outputs by the department at no net cost to the Territory.

9A Net appropriations for capital injections

- (1) An appropriation for a capital injection may be stated to be made for, or partly for, the net cost of purchasing or developing assets.

- (2) Despite section 6, if an appropriation is stated to be made for, or partly for, the net cost of purchasing or developing assets, the value of the input tax credits to which the relevant entity is entitled for taxable supplies in relation to purchasing or developing the assets may be applied by the entity in paying the expenses and liabilities of the entity in purchasing or developing the assets.
- (3) In this section:

relevant entity, in relation to an appropriation for a capital injection, means the department, authority or corporation that is to undertake the purchasing or developing of assets for which the appropriation is made.

9B Appropriations for payments on behalf of Territory to be net appropriations

Despite section 6 (Necessity for appropriations), if an appropriation for a department is made for payments to be made on behalf of the Territory, the department may apply input tax credits to which the Territory is entitled for taxable supplies for which the payments are made towards the payments under the appropriation.

10 Budget papers

The Treasurer shall, for each financial year, immediately after the presentation of the Bill for the first Appropriation Act relating to the year, present to the Legislative Assembly—

- (a) the proposed budget for the Territory for the year; and
- (b) the proposed budget for each department for the year; and
- (c) the proposed budget for each public trading enterprise for the year; and
- (d) a consolidated financial management statement in relation to—
 - (i) the general government sector; and
 - (ii) the public trading enterprise sector.

11 Territory budgets

- (1) A proposed budget for the Territory for a financial year presented to the Legislative Assembly under section 10 (a) must include the financial statements required under the financial management guidelines.
- (2) A proposed budget shall be prepared in a form that facilitates a comparison, for each appropriation unit, between the budget for the Territory for the previous financial year and the proposed budget.
- (3) A proposed budget shall include budget estimates, for each appropriation unit, for each of the next 3 financial years.
- (4) A proposed budget for the Territory for a financial year shall be prepared taking into account the principles of responsible fiscal management specified in subsection (5).
- (5) The principles of responsible fiscal management are—
 - (a) ensuring that the total liabilities of the Territory are at prudent levels so as to provide a buffer against factors that may impact adversely on the level of total Territory liabilities in the future, and ensuring that, until such levels have been achieved, the total operating expenses of the Territory in each financial year are less than its operating levels revenues in the same financial year; and
 - (b) when prudent levels of total Territory liabilities have been achieved, maintaining these levels by ensuring that, on average, over a reasonable period of time, the total operating expenses of the Territory do not exceed its operating levels revenues; and
 - (c) achieving and maintaining levels of Territory net worth that provide a buffer against factors that may impact adversely on that net worth in the future; and
 - (d) managing prudently the fiscal risks of the Territory.

- (6) The proposed budget may depart from the principles specified in subsection (5), but when it does so—
- (a) any departure shall be temporary; and
 - (b) the Treasurer shall cause to be presented to the Legislative Assembly, at the same time as the first Appropriation Bill relating to the financial year to which the departure relates is introduced into the Legislative Assembly—
 - (i) the reasons for the departure;
 - (ii) the approach intended to be taken to return to the principles; and
 - (iii) the period of time expected to be taken to return to those principles.

12 Departmental budgets

- (1) A proposed budget for a department for a financial year presented to the Legislative Assembly under section 10 (b) must include—
- (a) the financial statements required under the financial management guidelines; and
 - (b) a statement of the classes of outputs it is proposed the department should provide during the year and the performance criteria to be met by the department in providing the outputs; and
 - (c) if, during the year, the department is to be given a capital injection that must be repaid—a statement that—
 - (i) states that the capital injection is such an injection; and
 - (ii) sets out the conditions under which the injection is to be given, including the requirements about the time within which it must be repaid.
- (2) Subsection (1) (b) does not apply to the Legislative Assembly secretariat.

- (3) A proposed budget is to be in a form that facilitates a comparison, in respect of outputs, between—
 - (a) the proposed budget; and
 - (b) the budget for the department for the previous financial year; and
 - (c) the expected whole of year results for the department for that previous financial year.
- (4) A proposed budget shall include budget estimates in respect of outputs of the department for each of the next 3 financial years.

12A Public trading enterprise budgets

- (1) A proposed budget presented to the Legislative Assembly under section 10 (c) must include the financial statements required under the financial management guidelines.
- (2) A proposed budget shall be prepared in a form that facilitates a comparison between the budget for the public trading enterprise for the previous financial year and the proposed budget.
- (3) A proposed budget shall include budget estimates for each of the next 3 financial years.

13 Supplementary budget papers

- (1) The Treasurer must, on the presentation of a bill for an Appropriation Act other than the first Appropriation Act relating to a financial year, present to the Legislative Assembly supplementary budget papers.
- (2) The supplementary budget papers must, for each department for which an appropriation is provided by the bill (an *affected department*)—
 - (a) state, for each purpose mentioned in section 8—
 - (i) the amount of the appropriation provided in the first Appropriation Act; and

- (ii) the variations (if any) previously made to the appropriation under this Act; and
 - (iii) the amount of the appropriation provided by the bill; and
 - (iv) the total amount appropriated for the department for the financial year; and
- (b) indicate the impact of the proposed variation.
- (3) For subsection (2) (b), the supplementary budget papers need not include an original or final budgeted financial statement (a ***budgeted statement***) for an affected department.
- (4) If the supplementary budget papers do not include a budgeted statement for an affected department—
 - (a) the supplementary budget papers must state the reasons why the budgeted statement for the department is not included; and
 - (b) the Treasurer must present the budgeted statement for the department to the Legislative Assembly as soon as practicable after the passing of the bill.
- (5) A budgeted statement for a department—
 - (a) must include details of the impact on the budget of the department of all variations to the appropriation which happened in the financial year before the passing of the bill; and
 - (b) may show the impact of variations other than those resulting from additional appropriations.

Example for para (b)

The impact of revised economic forecasts.

14 Transfer of funds between appropriations

- (1) Notwithstanding section 6, the Executive may, by instrument, direct that appropriations made by an Appropriation Act be varied by transfers of funds between the appropriations.

- (3) A transfer of funds between appropriations under this section shall not cause an appropriation from which funds are transferred to be reduced by more than 3%.
- (4) If the Executive gives a direction under subsection (1), the Treasurer must present the following to the Legislative Assembly within 3 sitting days after the direction is given:
 - (a) a copy of the direction;
 - (b) a statement of the reasons for giving it.
- (5) Subsection (1) does not apply to a superannuation appropriation.

15 Transfer of funds within appropriations

- (1) The Executive may, by instrument, direct that funds within the same appropriation that are allocated for the provision of different classes of outputs be reallocated in respect of those classes of outputs.
- (2) If a reallocation of funds under subsection (1) involves an amount larger than 3% of the appropriation within which the reallocation is made or \$150 000 (whichever is the larger), the Treasurer must present the following to the Legislative Assembly within 3 sitting days after a direction is given:
 - (a) a copy of the direction;
 - (b) a statement of the reasons for the reallocation.

15A Reclassification of certain appropriations

- (1) Where an appropriation has been classified by the Act by which it was made as an appropriation for payments to be made by a department on behalf of the Territory, the Treasurer may, if he or she is satisfied that the appropriation should be classified as an appropriation for the provision of outputs by the department, by instrument direct that the classification of the appropriation be changed accordingly.

- (2) Where an appropriation has been classified by the Act by which it was made as an appropriation for the provision of outputs by a department, the Treasurer may, if he or she is satisfied that the appropriation should be classified as an appropriation for payments to be made by the department on behalf of the Territory, by instrument direct that the classification of the appropriation be changed accordingly.
- (3) Where the Treasurer gives a direction under subsection (1) or (2), the Treasurer must present a copy of the direction to the Legislative Assembly within 3 sitting days after the direction is given.

16 Transfer of functions between departments

- (1) Where, after the passing of an Appropriation Act for a financial year, the responsibility for a service or function for which an appropriation is made in that Act is transferred from the department for which the appropriation was made to another department, the Treasurer may, by instrument, direct that the appropriation shall not lapse but may be issued to, or applied by, that other department, in accordance with the instrument, for that service or function.
- (2) Where the Treasurer gives a direction under subsection (1), the Treasurer must present a copy of the direction to the Legislative Assembly within 3 sitting days after it is given.
- (3) This section does not apply to a superannuation appropriation.

17 Variation of appropriations for Commonwealth grants

- (1) This section applies to an appropriation that is declared by the Act by which it is made to be an appropriation to which this section applies.
- (2) Where—
 - (a) an appropriation to which this section applies is to be funded in whole or in part by a specific purpose payment made to the Territory by the Commonwealth; and

- (b) an estimate of the level of the funding to be provided to the Territory by the Commonwealth for that purpose is contained in the budget papers presented to the Legislative Assembly in conjunction with the bill for the Act by which the appropriation was made; and
- (c) the level of funding provided to the Territory by the Commonwealth for that purpose for the financial year for which the appropriation was made is greater than the level of funding specified in those budget papers;

the Treasurer may, by instrument, direct that the appropriation be increased by an amount not exceeding the difference between the level of funding specified in the budget papers and the level of funding provided by the Commonwealth.

- (3) Where the Treasurer gives a direction under subsection (2), the Treasurer must present a copy of the direction to the Legislative Assembly within 3 sitting days after it is given.

17A Variations of appropriations for certain payments to Commonwealth

- (1) This section applies to an appropriation that is declared by the Act by which it is made to be an appropriation to which the section applies.
- (2) Where—
 - (a) an appropriation to which this section applies is made wholly or partially for a payment required to be made to the Commonwealth for the provision of a service; and
 - (b) an estimate of the amount of the payment is contained in the budget papers presented to the Legislative Assembly in conjunction with the bill for the Act by which the appropriation is made; and
 - (c) the amount of the payment exceeds the amount of the estimate;

the Treasurer may, by instrument, direct that the appropriation be increased by an amount not exceeding the difference between the amount of the estimate and the amount of the payment.

- (3) Where the Treasurer gives a direction under subsection (2), the Treasurer must present a copy of the direction to the Legislative Assembly within 3 sitting days after it is given.
- (4) This section ceases to have effect on the expiration of 30 June 2002.

18 Treasurer's advance

- (1) Expenditure that is—
 - (a) in excess of the amount specifically appropriated for expenditure of that kind; or
 - (b) not provided for by any appropriation;may be authorised by the Treasurer by instrument provided that—
 - (c) the need for the expenditure could not reasonably have been foreseen at the time of presentation to the Legislative Assembly of the bill for the first Appropriation Act relating to the financial year in which the expenditure is to happen; and
 - (d) the total expenditure authorised under this subsection in any financial year does not exceed the amount appropriated for that year for this section.
- (2) The Treasurer must, at the time of presentation of a bill for an Appropriation Act other than the first Appropriation Act relating to a financial year, present details of all expenditure authorised under subsection (1) since the passing of the first Appropriation Act.
- (3) The amount appropriated for this section for a financial year shall not exceed 1% of the total amount appropriated by all Appropriation Acts for that year.
- (4) If the Treasurer has authorised expenditure under subsection (1) during a financial year and expenditure has been incurred under that authorisation during the year, the Treasurer must present the

following to the Legislative Assembly as soon as practicable after the end of the year:

- (a) a copy of the authorisation;
- (b) a statement of the reasons for giving it.

18A Payments in anticipation of appropriation or supply

- (1) Where, after 1 June in a financial year—
 - (a) a department has an obligation to discharge a liability that is not provided for by an appropriation or for which the money available from an appropriation is insufficient to enable the liability to be discharged in full; and
 - (b) in the interests of prudent financial management, the liability should be discharged before the end of the financial year; and
 - (c) money will become available to discharge the liability during the next financial year from an appropriation made by an Appropriation Act that has already been passed or from money to be provided under section 7; and
 - (d) the Treasurer has, by instrument, authorised the discharge of the liability before the end of the financial year;the department may discharge the liability before the end of the financial year from the money referred to in paragraph (c).
- (2) The Treasurer shall not authorise a payment under subsection (1) (d) if the amount of the payment would exceed—
 - (a) if the payment is to be made from an appropriation made by an Appropriation Act that has already been passed—3% of the amount of that appropriation; or
 - (b) if the payment is to be made from money to be provided under section 7—3% of the money to be provided under that section for the purpose for which the liability was incurred.

- (3) Where the Treasurer has given an authorisation under subsection (1) (d) during a financial year, the Treasurer must present a copy of the authorisation to the Legislative Assembly as soon as practicable after the end of the year.

19 Refunds of payments made without liability

- (1) Where a payment is made to the Territory in purported discharge of a liability that does not exist, the amount paid may be refunded to the person by whom the payment was made whether or not there is an appropriation available for that purpose.
- (2) Where a payment made to the Territory to discharge a liability exceeds the amount of the liability, the amount by which the payment exceeds the liability may be refunded to the person by whom the payment was made whether or not there is an appropriation available for that purpose.
- (3) Where—
- (a) a person has paid an amount to the Territory for tax claimed by the Territory to be due from that person; and
 - (b) a court or tribunal of competent jurisdiction subsequently finds that the person was not liable for that tax or was liable for an amount of tax less than the amount paid;

the amount paid, or the amount by which the payment exceeds the liability, as the case requires, may be refunded to the person who made the payment whether or not there is an appropriation available for that purpose.

19A Payments for Territory GST liabilities

Payments may be made to the Commonwealth for the GST liabilities of the Territory whether or not there is an appropriation for the purpose.

19B Authorisation of expenditure of certain Commonwealth grants

- (1) Notwithstanding section 6, where—
- (a) funds have been provided to the Territory by the Commonwealth under an agreement that specifies how the funds may be applied; and
 - (b) no appropriation has been made in respect of the funds;
- the Treasurer may, by instrument, authorise the expenditure of the funds in accordance with the agreement.
- (2) Where the Treasurer gives an authorisation under subsection (1), the Treasurer must present a copy of the authorisation to the Legislative Assembly within 3 sitting days after it is given.

20 Budgets for Legislative Assembly secretariat

Before the commencement of a financial year, the Speaker of the Legislative Assembly may—

- (a) after consultation with an appropriate committee of the Legislative Assembly, advise the Treasurer of the appropriations that the Speaker considers should be made for the Legislative Assembly secretariat for the financial year; and
- (b) provide the Treasurer with a draft budget for the Legislative Assembly secretariat for the financial year that contains the information referred to in section 12 other than that referred to in subsections (1) (e) and (2) (b).

Part 3 Financial reports

Division 3.1 Financial reports of the Territory

21 Meaning of *the Territory* in div 3.1

In this division, a reference to *the Territory* includes a reference to all Territory authorities and all Territory owned corporations.

22 Annual financial statements of the Territory

- (1) The Treasurer shall, as soon as practicable after the end of a financial year, prepare annual financial statements for the Territory for that year.
- (2) The statements must be prepared in accordance with generally accepted accounting practice and include—
 - (a) the financial statements required under the financial management guidelines; and
 - (b) a statement of the accounting policies adopted by the Territory; and
 - (c) such other statements as are necessary to fairly reflect the financial operations of the Territory during the year and its financial position at the end of the year.

23 Responsibility for annual financial statements

- (1) Annual financial statements of the Territory shall have endorsed on them, or attached to them, a statement of responsibility signed by—
 - (a) the Treasurer; and
 - (b) the chief executive of the administrative unit to which responsibility for the administration of this Act has been allocated under the *Public Sector Management Act 1994*, section 14.

- (2) A statement of responsibility shall comprise—
- (a) a statement by the Treasurer that in his or her opinion the financial statements fairly reflect the financial operations of the Territory during the year to which they relate and the financial position of the Territory at the end of the year; and
 - (b) a statement by the chief executive that the financial statements have been prepared in accordance with generally accepted accounting practice.

24 Audit of annual financial statements

- (1) The Treasurer shall forward a copy of the annual financial statements relating to a financial year to the auditor-general within 4 months after the end of the year.
- (2) The auditor-general shall, within 30 days after he or she receives a copy of annual financial statements under subsection (1), provide the Treasurer with an audit opinion concerning the statements.

25 Tabling of annual financial statements

Where the Treasurer receives, under section 24 (2), an audit opinion concerning annual financial statements, the Treasurer must present to the Legislative Assembly, within 3 sitting days after receiving the opinion—

- (a) a copy of the annual financial statements; and
- (b) a copy of the audit opinion.

25A Quarterly departmental performance reports

- (1) A Minister shall within 30 days after the end of each quarter of a financial year, prepare a quarterly performance report for each department for which he or she is responsible.
- (2) A Minister shall, on the first sitting day after a report referred to in subsection (1) has been prepared, present the report to the Legislative Assembly.

- (3) Where the first sitting day referred to in subsection (2) does not fall within 30 days after the end of the relevant quarter, a Minister shall cause a copy of a report prepared under subsection (1) to be made available to members of the Legislative Assembly within those 30 days.
- (4) A report referred to in subsection (1) shall include—
 - (a) a progress report on delivery of outputs; and
 - (b) an explanation of any significant variations from performance targets.
- (5) This section does not apply in relation to the Legislative Assembly secretariat.

26 Periodic financial statements

- (1) Within 45 days after the end of each quarter of a financial year, the Treasurer must prepare financial statements for—
 - (a) the quarter; and
 - (b) the period from the beginning of the financial year until the end of the quarter.
- (2) The statements must be prepared in accordance with the financial management guidelines.
- (3) The Treasurer must present copies of the statements prepared under subsection (1) to the Legislative Assembly on the first sitting day after they are prepared.
- (4) If the first sitting day mentioned in subsection (3) does not fall within 45 days after the end of the relevant quarter, the Treasurer must give copies of the statements prepared under subsection (1) to each member of the Legislative Assembly within the 45 days.

Division 3.2 Financial reports of departments

27 Annual financial statements of departments

- (1) A department shall, as soon as practicable after the end of each financial year, prepare annual financial statements relating to its operations during the year.
- (2) The annual financial statements of a department shall be prepared in accordance with generally accepted accounting practice and in a form that facilitates a comparison between the financial operations of the department during the year and the estimates of those operations contained in the budget for the department for the financial year that was presented to the Legislative Assembly under section 10 (b).
- (3) The annual financial statements must include—
 - (a) the financial statements required under the financial management guidelines; and
 - (b) a statement of the performance of the department in providing each class of outputs provided by it during the year; and
 - (c) a statement of the accounting policies adopted by the department; and
 - (d) such other statements as are necessary to fairly reflect the financial operations of the department during the year and its financial position at the end of the year.
- (4) A statement of a department under subsection (3) (b) must—
 - (a) compare the performance of the department in providing each class of outputs provided by it during the financial year with the forecast of the performance in the budget for the department for the year presented to the Legislative Assembly under section 10 (b); and

- (b) give particulars of the extent to which the performance criteria included in the budget for the provision of the outputs were met.

28 Responsibility for departmental financial statements

- (1) Annual financial statements of a department shall have endorsed on them, or attached to them, a statement of responsibility made by the responsible chief executive.
- (2) A statement of responsibility shall—
 - (a) state that, in the opinion of the responsible chief executive, the financial statements fairly reflect the financial operations and service performance of the department during the year to which they relate and the financial position of the department at the end of the year; and
 - (b) be signed by the responsible chief executive.

29 Audit of financial statements of departments

- (1) The responsible chief executive of a department shall forward a copy of the financial statements of the department for a financial year to the auditor-general as soon as practicable after they are prepared.
- (2) The auditor-general shall, within 30 days after he or she receives a copy of financial statements of a department under subsection (1), provide the chief executive of the department with an audit opinion concerning the statements.

30 Presentation of departmental financial statements

Where, under section 29 (2), the responsible chief executive of a department receives an audit opinion concerning annual financial statements of the department, the responsible Minister of the department must present to the Legislative Assembly, within 6 sitting days after the chief executive receives the audit opinion—

- (a) a copy of the annual financial statements; and
- (b) a copy of the audit opinion.

Part 4 Financial management responsibilities of chief executives of departments

31 Responsibilities of chief executives of departments

- (1) The responsible chief executive of a department shall be accountable to the responsible Minister of the department for the efficient and effective financial management of the department.
- (2) The responsible chief executive of a department shall be responsible under the responsible Minister, for ensuring—
 - (a) that the moneys spent by the department are within the appropriations made for the department; and
 - (b) that the operations of the department during a financial year give a financial result at the end of the year that is in accordance with the estimates contained in the budget papers for that year relating to the department; and
 - (c) that the officers and employees of the department comply with the requirements of this Act and the financial management guidelines; and
 - (d) that proper accounts and records are kept of the transactions and affairs of the department in accordance with generally accepted accounting practice; and
 - (e) that adequate control is maintained over the assets of the department and assets in the control of the department; and
 - (f) that adequate control is maintained over the incurring of liabilities by the department.

Part 5 Banking and investment

32 Agreement for the conduct of banking for Territory

- (1) The Treasurer may enter into an agreement with an authorised deposit-taking institution relating to the conduct of banking for the Territory.
- (2) An agreement shall not be entered into unless it contains a provision to the effect that it may be terminated by the Territory at any time subject to the giving of notice in writing which specifies the date on which the termination is to take effect.

33 Territory banking account

The Treasurer shall open and maintain a banking account for the purposes of the Territory.

34 Departmental banking accounts

- (1) The responsible Minister or the responsible chief executive may open 1 or more banking accounts for the purposes of the relevant department.
- (2) A departmental banking account shall be maintained by the chief executive.
- (3) A departmental banking account shall not, without the approval in writing of the Treasurer, be opened or maintained except with the authorised deposit-taking institution that is for the time being the authorised deposit-taking institution with which the Territory banking account is maintained.
- (4) The responsible Minister or the responsible chief executive of a department may close a departmental banking account of the department.

- (5) If the responsible Minister or the responsible chief executive of a department closes a departmental banking account under subsection (3A), he or she must transfer any money standing to the credit of the account to another departmental banking account of the department or to the Territory banking account.
- (6) The Treasurer may, at any time, after consultation with the responsible Minister, close or suspend the operation of a departmental banking account.
- (7) A Minister or a chief executive shall not open or operate a departmental banking account otherwise than in accordance with this Act.

34A Transfer of departmental banking account

- (1) If, in the Treasurer's opinion, it is desirable, because of changes in departmental responsibilities, to transfer a departmental banking account from a department to another department, the Treasurer may, in writing, direct the responsible chief executive of the department that holds the account to arrange for it to be transferred to another department nominated in the direction.
- (2) A chief executive who receives a direction under subsection (1) must comply with the direction.
- (3) A departmental banking account transferred in accordance with a direction under subsection (1) becomes a departmental banking account of the department to which it is transferred.

34B End of year balances of departmental banking accounts

- (1) Where at the end of a financial year amounts appropriated for a department for that financial year are held in a departmental banking account, the amounts may be applied after the end of that financial year for the purposes for which they were appropriated.
- (2) Where at the end of a financial year a departmental banking account has a debit balance, the chief executive of the department shall devise and implement a scheme to recoup the amount of the deficit.

35 Payments into banking accounts

- (1) All public money is the property of the Territory.
- (2) Where public money is received by a person other than for the purpose of making a payment in the course of his or her duties, the person shall take reasonable steps to safeguard the money until it is paid into a banking account in accordance with this section.
- (3) Money shall be paid into a departmental banking account of a department if the money is—
 - (a) money that may be disbursed to the department as a consequence of an appropriation; or
 - (b) a receipt relating to the operations of the department; or
 - (c) a receipt relating to the sale or disposal of assets of the Territory held by the department.
- (4) All public money, except money payable into a departmental banking account, shall be paid into the Territory banking account.
- (5) The Treasurer may issue financial management guidelines regarding the banking of public money.

36 Transfer following change in departmental responsibilities

- (1) Where, in the opinion of the Treasurer, it is necessary as a consequence of changes in departmental responsibilities, to transfer to another account moneys held in the Territory banking account or a departmental banking account, the Treasurer shall determine the amount to be transferred and direct that the transfer be made.
- (2) The Treasurer shall not exercise his or her powers under subsection (1) in relation to a departmental banking account except after consultation with the responsible Minister.

37 Authority to issue public money

- (1) Money shall not be paid out of the Territory banking account except to a departmental banking account where authorised by a warrant signed by the Treasurer in accordance with an appropriation.
- (2) A warrant shall specify the total amounts of public money to be paid to departmental banking accounts.
- (3) This section is subject to—
 - (a) the *Territory Superannuation Provision Protection Act 2000*, section 11 (2) (which is about transfers between the Territory banking account and departmental banking accounts to facilitate investment of superannuation funds); and
 - (b) section 38 (2) of this Act (which is about transfers of public money to facilitate investment); and
 - (c) section 38 (5) of this Act (which is about the payment of interest on certain investments of public money); and
 - (d) section 56 (6) of this Act (which is about transfers between the Territory banking account and Territory authorities of interest earned on certain investments for Territory authorities).

U 38 Investment of certain public money

- (1) The Treasurer may invest any money held in the Territory banking account or departmental banking accounts for such period and on such terms and conditions as he or she thinks fit—
 - (a) on deposit with an authorised deposit-taking institution; or
 - (b) in the purchase of a bill of exchange that is drawn or accepted by an authorised deposit-taking institution; or
 - (c) in a loan to a person who is a dealer in the short-term money market; or
 - (d) in Territory, State or Commonwealth securities; or
 - (e) in any prescribed investment.

- (2) Transfers of money for investment, including transfers between the Territory banking account and departmental banking accounts to facilitate investment, may be made without appropriation.
- (3) Interest received from the investment of public money under this section shall be paid to the Territory banking account.
- (4) The Treasurer may decide the amounts of interest from investments under this section that are to be credited to departmental banking accounts.
- (5) The amounts decided by the Treasurer may be paid from the Territory banking account without further appropriation.
- (6) However, the total of the amounts paid under subsection (5) must not exceed the total of the interest received from investments under this section.
- (7) This section does not apply to money held in a superannuation banking account.

U Part 6 Borrowing, guarantees and financial derivatives

39 Power of Territory to borrow

The Territory may only borrow in accordance with this Act or another law of the Territory.

40 Treasurer may borrow on behalf of Territory

The Treasurer may, on behalf of the Territory, if necessary or expedient in the public interest to do so—

- (a) borrow money; or
- (b) give security for the repayment of an amount borrowed or the payment of interest on such an amount; or
- (c) enter into a financing lease.

41 Power of Territory authorities to borrow

Despite any other Act, a Territory authority may only borrow (other than from the Territory) in accordance with this Act.

42 Borrowings by Territory authorities to be approved

- (1) A Territory authority shall not borrow unless—
 - (a) the borrowing is approved in writing by the Treasurer; and
 - (b) the terms and conditions of the borrowing include the terms and conditions (if any) specified in the approval and are otherwise consistent with the approval; and
 - (c) the borrowing is within the borrowing limits (if any) of the authority for the financial year in which the borrowing is entered into, being limits approved in writing by the Treasurer.

- (2) However, subsection (1) (a) and (b) does not apply to a loan made to a Territory authority under section 57 (1) (b).

43 Territory authorities may give security

Subject to the Treasurer's approval of the borrowing under section 42 (a), a Territory authority may give security for the repayment of an amount borrowed, or for the payment of interest on that amount, by issuing securities.

44 Power to approve borrowings not delegable

The Treasurer shall not delegate to any person his or her power under section 42 (a) to approve borrowings by Territory authorities.

45 Loans to be paid into Territory banking account

Subject to this Act and any other Act, the proceeds of a loan raised on behalf of the Territory must be paid into the Territory banking account.

46 Payments by Treasurer

The Treasurer may make such payments as are required in respect of expenses incurred in borrowing on behalf of the Territory, and in respect of repayments of borrowings on behalf of the Territory, without further appropriation.

47 Guarantees by Territory

- (1) The Territory may only give a guarantee for the payment of money or the performance of an obligation in accordance with this Act.
- (2) The Treasurer may approve in writing a guarantee by the Territory for the payment of money or the performance by any person of an obligation under a contract, subject to such conditions as the Treasurer may specify in the approval.

- (3) Where the Treasurer approves a guarantee under subsection (2), the Treasurer must present a copy of the approval to the Legislative Assembly within 3 sitting days after the approval is given.

U **48 Financial derivatives**

- (1) This section applies to transactions known as financial derivatives, for example—
- (a) interest rate swaps; and
 - (b) currency swaps; and
 - (c) forward rate agreements; and
 - (d) interest rate options.
- (2) The Territory may only enter into a transaction to which this section applies if the Treasurer certifies in writing that the transaction relates to a borrowing by the Territory.

Part 7 Trust money

49 Identity of trust money

All trust money held by the Territory shall be accounted for separately from public money.

50 Administration of trust money

- (1) Trust money shall be administered by the appropriate department on behalf of the Territory.
- (2) The Treasurer may, by instrument, specify a department as the appropriate department in respect of an amount of trust money.
- (3) In this section:

appropriate department, in relation to an amount of trust money, means—

- (a) except where paragraph (b) applies—the department responsible for matters or enactments which relate most closely to the purpose of the payment; or
- (b) the department specified under subsection (2).

51 Departmental trust banking accounts

- (1) The responsible Minister or the responsible chief executive may open a trust banking account for the purposes of the relevant department.
- (2) A trust banking account shall be maintained by the chief executive.
- (3) A trust banking account shall not, without the approval in writing of the Treasurer, be opened or maintained except with the authorised deposit-taking institution that is for the time being the authorised deposit-taking institution with which the Territory banking account is maintained.

- (4) No money may be held in a trust banking account other than trust money.
- (5) A Minister or a chief executive shall not open or operate a trust banking account otherwise than in accordance with this Act.

52 Transfers between banking accounts

- (1) Money may only be transferred between a trust banking account and the Territory banking account—
 - (a) to facilitate investment of the trust money; or
 - (b) to make a payment required by section 53A (6).
- (2) Money may be transferred between trust banking accounts to facilitate investment of trust money.

53 Investment of trust money

The Treasurer may invest trust money as if the Treasurer were a trustee under the *Trustee Act 1925*.

53A Unclaimed trust moneys

- (1) For this section, money held in a trust banking account is unclaimed trust money if—
 - (a) a period not less than 6 years has elapsed since the date on which the money became payable; and
 - (b) during that period, no person entitled to the money has requested that the money be paid to him or her or according to his or her direction.
- (2) Where on 1 January in any year a trust banking account contains unclaimed trust money, the chief executive responsible for maintaining the account shall, on or before 31 January next following, deliver to the Treasurer a statement of all unclaimed trust money held in the account.

- (3) The statement shall set out—
- (a) the name, and last-known address, of each person entitled to unclaimed trust money held in the account; and
 - (b) the amount of the trust money to which each of those persons is entitled; and
 - (c) the authorised deposit-taking institution, and the branch of the institution, with which the trust money is held.
- (4) The statement is a notifiable instrument.
- Note* A notifiable instrument must be notified under the *Legislation Act 2001*.
- (5) The chief executive must also publish the statement in a newspaper published in the ACT.
- (6) The total amount shown in the statement shall be paid into the Territory banking account at the time of the delivery of the statement and, upon being paid into that account, shall become public money of the Territory.
- (7) A person who claims to be entitled to any money paid into the Territory banking account in accordance with subsection (6) may apply to the Treasurer for a payment of an amount equal to the money to which he or she is entitled.
- (8) The Treasurer shall consider each application and either refuse it or grant it wholly or partly.
- (9) The Treasurer shall give the applicant written notice of his or her decision.
- (10) A payment approved by the Treasurer under subsection (8) may be made whether or not an appropriation is available for the purpose.

53B Review of decisions

Application may be made to the administrative appeals tribunal for a review of a decision of the Treasurer under section 53A (8) refusing an application wholly or partly.

53C Notification of decisions

A notice given under section 53A (9) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

Part 8 Financial provisions relating to Territory authorities

54 Responsibilities of chief executive officers

- (1) The chief executive officer of a Territory authority is responsible, under the responsible Minister, for the efficient and effective financial management of the authority.
- (2) Subsection (1) has effect in relation to the chief executive officer of a Territory authority subject to the Act by which the authority was established.
- (3) The chief executive officer of a Territory authority shall be responsible, under the responsible Minister, for ensuring—
 - (a) that the expenses incurred by the authority are properly authorised; and
 - (b) that the operations of the authority during a financial year give a financial result at the end of the year that is in accordance with the estimates contained in the statement of intent of the authority for that year; and
 - (c) that the payments made by the authority are properly authorised and correctly made; and
 - (d) that the officers and staff of the authority comply with the requirements of this Act and the financial management guidelines; and
 - (e) that proper accounts and records are kept of the transactions and affairs of the authority in accordance with generally accepted accounting practice; and
 - (f) that adequate control is maintained over the assets of the authority and assets in the control of the authority; and

- (g) that adequate control is maintained over the incurring of liabilities by the authority.

55 Banking accounts

- (1) A Territory authority may open 1 or more banking accounts for the purposes of the authority.
- (2) A Territory authority shall at all times maintain at least 1 banking account.
- (3) Except with the approval of the Treasurer, a banking account of a Territory authority shall only be opened or maintained with the authorised deposit-taking institution that is for the time being the authorised deposit-taking institution with which the Territory banking account is maintained.

U 56 Investment

- (1) Funds not immediately required for the purposes of a Territory authority may be invested—
 - (a) on deposit with an authorised deposit-taking institution; or
 - (b) in Territory, State or Commonwealth securities; or
 - (c) by the Treasurer on behalf of the Territory authority; or
 - (d) in any other investment approved by the Treasurer.
- (2) Transfers between the Territory banking account and the banking account of a Territory authority to facilitate investments may be made without appropriation.
- (3) Interest received by the Territory for the investment of funds of a Territory authority must be paid to the Territory authority.
- (4) However, if an investment of funds of a Territory authority is made or managed by a department, the department may deduct from the interest received by the department for the investment a fee charged by the department for making or managing the investment.

- (5) Interest that is to be paid to a Territory authority under subsection (3) may be paid direct to the Territory authority or through the Territory banking account.
- (6) If interest to be paid to a Territory authority is paid into the Territory banking account under subsection (5), the interest may be paid to the authority from that account without further appropriation.

57 Borrowing

- (1) The Treasurer may—
 - (a) borrow money on behalf of a Territory authority; or
 - (b) lend public money to a Territory authority;on such terms and conditions as the Treasurer thinks fit.
- (2) Borrowing may be secured by the authority's assets approved by the Treasurer for this section.
- (3) A Territory authority may only arrange an overdraft or credit facility with the written approval of the Treasurer.
- (4) A loan under subsection (1) (b) may be made only from—
 - (a) money appropriated for the purpose of making the loan; or
 - (b) money appropriated for purposes that include the making of the loan.

58 Statements of intent

- (1) A Territory authority shall, in respect of each financial year, provide to the Treasurer a statement of intent.
- (2) A statement of intent shall be in such form as the Treasurer requires and be provided to the Treasurer within such period as the Treasurer specifies.
- (3) A statement of intent must include—

- (a) the financial statements required under the financial management guidelines; and
- (b) a statement of the objectives of the authority for the year; and
- (c) a statement of the nature and scope of the activities to be carried out by the authority during the year; and
- (d) the performance criteria and other measures by which the performance of the authority may be assessed against its objectives for the year; and
- (e) any other information the Treasurer directs.

59 Annual financial statements

- (1) A Territory authority shall, as soon as practicable after the end of each financial year, prepare annual financial statements relating to its operations during the year.
- (2) The annual financial statements shall be prepared in accordance with generally accepted accounting practice and in a form that facilitates a comparison between the financial operations of the authority during the year and the estimates of those operations contained in the statement of intent for the year that was provided by the authority pursuant to section 58.
- (3) The annual financial statements must include—
 - (a) the financial statements required under the financial management guidelines; and
 - (b) a statement of the performance of the authority in meeting the objectives set out in the statement of intent for the year provided by the authority under section 58; and
 - (c) such other statements as are necessary to fairly reflect the financial operations of the authority during the year and its financial position at the end of the year.

- (4) The statement of performance under subsection (3) (b) must assess the performance of the authority in meeting the objectives included in the statement of intent by reference to the performance criteria and other measures included in that statement in accordance with section 58 (3) (d).

60 Responsibility for annual financial statements

- (1) Annual financial statements of a Territory authority shall have endorsed on them, or attached to them, a statement of responsibility signed by the chief executive officer of the authority.
- (2) A statement of responsibility shall comprise—
- (a) a statement of the chief executive officer's responsibility for the preparation of the financial statements and the judgments exercised in preparing them; and
 - (b) a statement that, in the opinion of the chief executive officer, the financial statements fairly reflect the financial operations and service performance of the authority during the year to which they relate and the financial position of the authority at the end of the year.

61 Audit of annual financial statements

- (1) The chief executive officer of a Territory authority shall, within the prescribed period after the end of a financial year, forward a copy of the financial statements of the authority for the year to the auditor-general.
- (2) The auditor-general shall, within 30 days after he or she receives a copy of financial statements of a Territory authority under subsection (1), provide the chief executive officer of the authority with an audit opinion concerning the statements.

62 Presentation of annual financial statements

- (1) Where, under section 61 (2), the chief executive officer of a Territory authority receives an audit opinion concerning annual financial statements of the authority, he or she shall, within 7 days after receiving the opinion, forward to the responsible Minister of the authority—
 - (a) a copy of the annual financial statements; and
 - (b) a copy of the audit opinion.
- (2) The responsible Minister must present each document mentioned in subsection (1) (a) and (b) to the Legislative Assembly within 6 sitting days after the day the Minister receives the documents.

63 Interim financial statements

- (1) The Treasurer may, by instrument, direct the chief executive officer of a Territory authority to provide the responsible Minister of the authority with financial or other statements relating to the authority—
 - (a) for each month of the year; or
 - (b) for each period of 3 months ending on 30 September, 31 December, 31 March or 30 June.
- (2) A chief executive officer of a Territory authority who receives a direction under subsection (1) shall prepare the statements specified in the direction and deliver them to the responsible Minister within such period as is specified in the direction.

Part 9 Miscellaneous

64 Act of grace payments

- (1) If the Treasurer considers it appropriate to do so because of special circumstances, he or she may authorise the payment by a department of an amount to a person (the *payee*) although the payment of that amount (the *relevant amount*) would not otherwise be authorised by law or required to meet a legal liability.
- (2) The authorisation may provide for the relevant amount to be paid by—
 - (a) more than 1 instalment and on the dates specified in the authorisation; or
 - (b) periodical payments of an amount, and for the period, specified in the authorisation.
- (3) An authorisation may be expressed to be subject to conditions to be complied with by the payee.
- (4) Where a condition is contravened, the Treasurer may by notice in writing addressed to the last-known address of the payee require the payee, within 30 days of receipt of the notice, to pay an amount equal to all or part of the relevant amount.
- (5) Where the payee does not pay the amount specified in the notice under subsection (4), the amount may be recovered by the Territory as a debt.
- (6) Where the payment of an amount by a department is authorised under this section, the Treasurer shall—
 - (a) direct that the amount be paid from an appropriate appropriation for the department specified by the Treasurer; or
 - (b) authorise payment of the amount under section 18; or

- (c) authorise payment of the amount out of the public money of the Territory.
- (7) The public money of the Territory is appropriated for subsection (6) (c).
- (8) A payment made by a department under this section shall be reported in notes to the financial statements of the department that relate to the financial year during which the payment was made.
- (9) The notes shall indicate in relation to each payment under this section the amount and grounds for the payment.
- (10) The notes relating to a payment under this section shall not disclose the identity of the payee unless disclosure was agreed to by the payee as a condition of authorising the payment.

65 Waiver of debts etc

- (1) The Treasurer may, by instrument, on behalf of the Territory—
 - (a) waive the Territory's right to payment of an amount payable to the Territory; or
 - (b) postpone any right of the Territory to be paid a debt in priority to another debt; or
 - (c) allow the payment by instalments of an amount payable to the Territory; or
 - (d) defer the time for payment of an amount payable to the Territory.
- (2) A waiver relating to an amount payable to the Territory by a person may be expressed to be subject to a condition that the person agrees to pay an amount to the Territory in circumstances specified in the waiver.
- (3) A waiver relating to an amount payable to the Territory shall be reported in the notes to the financial statements of the relevant department that relate to the year in which the right to payment was waived.

66 Payments in respect of deceased estates

- (1) If, at the time of a person's death (whether before or after the commencement of this section), the Territory owed an amount to the person, the Treasurer may pay that amount to the person who the Treasurer considers should receive the payment.
- (2) In deciding who should be paid, the Treasurer shall have regard to—
 - (a) the provisions of any will of the deceased person which identify the persons entitled to property under the will; and
 - (b) the law relating to the disposition of the property of deceased persons.
- (3) Before making a payment to a person, the Treasurer may require the person to produce any documents and other evidence relating to—
 - (a) the disposition of the deceased person's estate; or
 - (b) the family of the deceased person and any other persons apparently entitled to share in the estate of the deceased person.
- (4) Subject to subsection (3), the Treasurer may make the payment without requiring production of probate of the will, or letters of administration of the estate, of the deceased person.
- (5) Where a payment is made in relation to an amount owing to a deceased person, the Territory is discharged from any further liability in respect of that amount.
- (6) This section does not relieve the recipient of a payment from liability to deal with the money in accordance with law.

67 Guideline-making power

- (1) The Treasurer may make financial management guidelines for this Act.
- (2) A financial management guideline is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

68 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

U Dictionary

(see s 3)

appropriation means an appropriation of public money by any Act including this Act.

Appropriation Act means an Act that makes appropriations in respect of a financial year for purposes referred to in section 8.

appropriation unit means a class of outputs, or a group of output classes, for which an appropriation is made by an Appropriation Act.

banking account means an account with an authorised deposit-taking institution that is, or is substantially the same as, a bank account.

borrowing includes—

- (a) raising money or obtaining credit, whether by dealing in securities or otherwise; and
- (b) entering into a financing lease;

but does not include using a credit card or overdraft facility, or otherwise obtaining credit, in a transaction forming part of the day-to-day operations of the Territory or a Territory authority.

budget papers means documents presented to the Legislative Assembly under section 10 or 13 (1).

capital injection means money provided, or to be provided, to a department for—

- (a) the purchase of assets to be held by the department or to be owned by a Territory authority or Territory owned corporation; or
- (b) the development of assets held by the department or owned by a Territory authority or Territory owned corporation; or

- (c) augmenting the assets held by the department or owned by a Territory authority or Territory owned corporation; or
- (d) reducing the liabilities of the department, a Territory authority or a Territory owned corporation;

but does not include money provided from an appropriation for a purpose referred to in section 8 (a) or (c).

chief executive officer, in relation to a Territory authority, means the person who has responsibility for managing the affairs of the authority.

class of outputs means a group of outputs identified as a class by an Appropriation Act.

department means—

- (a) an administrative unit (excluding any part of an administrative unit prescribed for paragraph (b) and any administrative unit forming part of a group of administrative units prescribed for paragraph (c)); or
- (b) a part of an administrative unit prescribed for this paragraph; or
- (c) a group of 2 or more administrative units prescribed for this paragraph.

departmental banking account means a banking account referred to in section 34 (1).

expenses, in relation to an output, means the expenses incurred in providing the output quantified on an accrual accounting basis and includes the overhead expenses properly attributable to the output.

financial management guidelines means the financial management guidelines under this Act.

general government sector means—

- (a) those organisations whose primary function is to provide services which are mainly not market orientated, are mainly for the consumption of the community generally, involve the

transfer or redistribution of income, and are financed mainly through appropriation; and

- (b) those organisations that are controlled by the Territory and provide investment or other financial services.

generally accepted accounting practice means accounting practices and procedures recognised by the accounting profession as appropriate for reporting financial information relating to government, a department or a Territory authority, being practices and procedures that are consistent with this Act and any relevant Appropriation Act.

GST—see the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), dictionary.

input tax credit—see the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), dictionary.

Legislative Assembly secretariat means the clerk of the Legislative Assembly and the officers and employees of the public service who assist the clerk in the exercise of the clerk's functions.

outcomes means the consequences for the community of outputs.

outputs means goods produced or services provided by a department or Territory authority or a person producing goods or providing services on behalf of a department or Territory authority.

prescribed means prescribed by the financial management guidelines.

public money means all moneys received by the Territory, including the proceeds of all loans raised on behalf of the Territory, but does not include—

- (a) money held by the Territory as trust money; or
- (b) money received by a Territory owned corporation; or
- (c) money received by a Territory authority; or

- (d) money received by the Territory from a Territory authority for investment for the authority; or
- (e) money received by the Territory—
 - (i) in repayment of an investment made by the Territory for a Territory authority; or
 - (ii) as interest on such an investment.

public trading enterprise means an organisation whose primary function is to provide goods and services which are mainly market orientated, non-regulatory and non-financial in nature and who recover a significant part of their costs from individual consumers.

public trading enterprise sector means those organisations whose primary function is to provide goods and services which are mainly market orientated and non-regulatory in nature and who may recover a significant part of their costs from individual consumers.

responsible chief executive, in relation to a department, means—

- (a) if the department is constituted by an administrative unit or a part of an administrative unit—the chief executive of that administrative unit; or
- (b) if the department is constituted by a group of 2 or more administrative units—the person prescribed as the responsible chief executive in relation to the department.

responsible Minister means—

- (a) in relation to a department that is constituted by an administrative unit or a part of an administrative unit—the Minister to whom responsibility for that administrative unit has been allocated under the *Public Sector Management Act 1994*, section 14; and
- (b) in relation to a department that is constituted by a group of 2 or more administrative units—the Minister prescribed as the responsible Minister in relation to the department; and

- (c) in relation to a Territory authority—the Minister administering the Act by which the authority was established.

securities includes stocks, debentures, notes, bonds, promissory notes, bills of exchange, and any other securities approved in writing by the Treasurer.

statement of intent means a statement of a Territory authority under section 58.

superannuation appropriation—see the *Territory Superannuation Provision Protection Act 2000*, dictionary.

superannuation banking account—see the *Territory Superannuation Provision Protection Act 2000*, section 7.

taxable supply—see the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth), dictionary.

Territory authority means a body corporate established by an Act, but does not include a body declared under section 3B not to be a Territory authority.

Territory banking account means the banking account referred to in section 33.

trust money means—

- (a) money deposited with the Territory pending the completion of a transaction or the determination of a dispute and which may become repayable to the depositor or payable to the Territory or any other person; or
- (b) all money that is paid into a Territory court for possible repayment to the payee or a third party by virtue of any Act, order, instruction or authority; or
- (c) money that belongs to or is due to any person and is collected by the Territory as a result of an agreement between the Territory and that person; or

- (d) unclaimed money that is due to or belongs to any person and is deposited with the Territory; or
- (e) money that is paid to the Territory in trust for any other lawful purpose including interest on trust money.

warrant means an instrument by which the Treasurer authorises payments from the Territory banking account.

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
IA = Interpretation Act 1967	renum = renumbered
ins = inserted/added	reloc = relocated
LA = Legislation Act 2001	R[X] = Republication No
LR = legislation register	RI = reissue
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
num = numbered	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

Endnotes

3 Legislation history

3 Legislation history

Financial Management Act 1996 No 22

notified 4 June 1996 (Gaz 1996 No 101)
commenced 1 July 1996 (s 2)

as amended by

Financial Management (Amendment) Act 1997 No 39

notified 1 September 1997 (Gaz 1997 No S257)
commenced 1 September 1997 (s 2)

Financial Management (Amendment) Act (No. 2) 1997 No 102

notified 24 December 1997 (Gaz 1997 No S420)
ss 1-3 commenced 24 December 1997 (s 2 (1))
remainder (ss 4-16) commenced 14 January 1998 (s 2 (2) and Gaz 1998 No S24)

Financial Management (Amendment) Act (No. 3) 1997 No 124

notified 24 December 1997 (Gaz 1997 No S420)
commenced 24 December 1997 (s 2)

Trustee (Amendment) Act 1999 No 28 sch

notified 21 May 1999 (Gaz 1999 No S24)
sch commenced 21 May 1999 (s 2)

Financial Sector Reform (ACT) Act 1999 No 33 sch

notified 25 June 1999 (Gaz 1999 No S34)
s 1, s 2 and dict commenced 25 June 1999 (s 2 (1))
sch commenced 1 July 1999 (s 2 (2) and Cwlth Gaz 1999 No S289)

Appropriation Act 1999-2000 No 36 s 9

notified 12 July 1999 (Gaz 1999 No S44)
s 9 commenced 12 July 1999 (s 2)

Financial Management Amendment Act 1999 No 58

notified 10 November 1999 (Gaz 1999 No 45)
commenced 10 November 1999 (s 2)

Territory Superannuation Provision Protection Act 2000 No 21 sch

notified 15 June 2000 (Gaz 2000 No 24)
s 1, s 2 commenced 15 June 2000 (IA s 10B)
sch commenced 1 July 2000 (s 2)

Financial Management Amendment Act 2000 No 27

notified 30 June 2000 (Gaz 2000 No S30)
s 1, s 2 commenced 30 June 2000 (IA s 10B)
remainder (ss 3-10) commenced 30 June 2000 (s 2)

Financial Management Amendment Act 2001 No 4

notified 8 March 2001 (Gaz 2001 No 10)
s 1, s 2 commenced 8 March 2001 (IA s 10B)
s 3 commenced 8 March 2001 (s 2)
remainder (s 4) commenced 8 September 2001 (IA s 10E)

Statute Law Amendment Act 2001 No 11 sch 3

notified 29 March 2001 (Gaz 2001 No 13)
commenced 29 March 2001 (s 2)

Financial Management Amendment Act 2001 (No 2) 2001 No 42

notified 29 June 2001 (Gaz 2001 No S36)
s 1, s 2 commenced 29 June 2001 (IA s 10B)
s 3, s 4, s 6, s 7 commenced 29 June 2001 (s 2 (1))
s 5 commenced 1 July 2001 (s 2 (2))

Appropriation Act 2001-2002 2001 No 43 s 12

notified 29 June 2001 (Gaz 2001 No S36)
s 1, s 2 commenced 29 June 2001 (IA s 10B)
s 12 commenced 1 July 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 146

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 146 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

Financial Management Legislation Amendment Act 2001 No 45 pt 2

notified 12 July 2001 (Gaz 2001 No 28)
s 1, s 2 commenced 12 July 2001 (IA s 10B)
pt 2 (ss 3-8) awaiting commencement (s 2)

Statute Law Amendment Act 2001 No 56 pt 3.20

notified 5 September 2001 (Gaz 2001 No S65)
commenced 5 September 2001 (s 2)

Endnotes

4 Amendment history

Financial Management Amendment Act 2001 (No 3) 2001 No 95

notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (IA s 10B)
remainder commenced 1 January 2002 (CN 2001 No 6)

Financial Management Amendment Act 2001 (No 4) No 97

notified LR 20 December 2001
commenced 20 December 2001 (s 2)

Statute Law Amendment Act 2002 No 30 amdt 3.369

notified LR 16 September 2002
s 1, s 2 taken to have commenced 19 May 1997 (LA s 75 (2))
amdt 3.369 taken to have commenced 31 December 2001 (s 2 (3))

4 Amendment history

Name of Act

s 1 sub 2001 No 56 amdt 3.255

Act subject to Territory Superannuation Provision Protection Act

s 2 sub 2000 No 21 sch

Dictionary

s 3 hdg sub 2000 No 21 sch
s 3 am 2000 No 21 sch
def **bank** om 1999 No 33 sch
def **banking institution** ins 1997 No 102 s 4
om 1999 No 33 sch
def **Territory activities** ins 1997 No 124 s 4
om 2001 No 95 amdt 1.3
def **Treasurer** om 2001 No 95 amdt 1.2
remaining defs reloc to dict 2001 No 95 amdt 1.4
sub 2001 No 95 amdt 1.5

Notes

s 3A orig s 3A renum as s 3B 2001 No 95 amdt 1.6
ins 2001 No 95 amdt 1.5

Declaration that certain authorities are not Territory authorities for this Act

s 3B (prev s 3A) ins 2000 No 21 sch
am 2001 No 44 amdt 1.1631, amdt 1.1632
renum as s 3B 2001 No 95 amdt 1.6

Net appropriations for outputs

s 9 am 2000 No 27 s 5

Net appropriations for capital injections

s 9A ins 2000 No 27 s 6

Appropriations for payments on behalf of Territory to be net appropriations
s 9B ins 2001 No 95 s 5**Budget papers**

s 10 am 1997 No 124 s 5; 2001 No 56 amdt 3.257

Territory budgetss 11 am 1997 No 124 s 6; 2001 No 4 s 4; 2001 No 56 amdt 3.258;
2001 No 95 s 6**Departmental budgets**s 12 am 1997 No 102 s 5; 1997 No 124 s 7; 1999 No 58 s 3; 2001
No 56 amdt 3.258; 2001 No 95 s 7; ss renum R6 LA (see
2001 No 95 amdt 1.7)**Public trading enterprise budgets**s 12A ins 1997 No 124 s 8
am 2001 No 56 amdt 3.258; 2001 No 95 s 8**Supplementary budget papers**s 13 am 2001 No 56 amdt 3.259, amdt 3.260
sub 2001 No 97 s 4**Transfer of funds between appropriations**

s 14 am 1997 No 102 s 6; 2000 No 21 sch; 2001 No 56 amdt 3.261

Transfer of funds within appropriations

s 15 am 1997 No 102 s 7; 2001 No 56 amdt 3.262

Reclassification of certain appropriations

s 15A ins 1997 No 102 s 8; 2001 No 56 amdt 3.263

Transfer of functions between departments

s 16 am 2000 No 21 sch; 2001 No 56 amdt 3.263

Variation of appropriations for Commonwealth grants

s 17 am 1997 No 102 s 9; 2001 No 56 amdt 3.264, amdt 3.265

Variations of appropriations for certain payments to Commonwealths 17A ins 1999 No 36 s 9
am 2000 No 27 s 7; 2001 No 43 s 12; 2001 No 56 amdt 3.266,
amdt 3.267
exp 30 June 2002 (s 17A (4))**Treasurer's advance**s 18 am 2001 No 56 amdt 3.268; 2001 No 97 s 5, s 6; ss renum
R4 LA**Payments in anticipation of appropriation or supply**s 18A ins 1997 No 102 s 10
am 2001 No 56 amdt 3.269

Endnotes

4 Amendment history

Payments for Territory GST liabilities

s 19A ins 1997 No 39 s 4
sub 2000 No 27 s 8

Authorisation of expenditure of certain Commonwealth grants

s 19B ins 1997 No 102 s 11
am 2001 No 56 amdt 3.269

Financial reports of the Territory

div 3.1 hdg (prev pt 3 div 1 hdg) renum R3 LA (see 2001 No 95 amdt 1.11)

Meaning of *the Territory* in div 3.1

s 21 hdg am R3 LA

Annual financial statements of the Territory

s 22 am 2001 No 95 s 9

Tabling of annual financial statements

s 25 am 2001 No 56 amdt 3.270

Quarterly departmental performance reports

s 25A ins 1997 No 124 s 9
am 2001 No 56 amdt 3.271; 2001 No 95 s 10

Periodic financial statements

s 26 am 1997 No 124 s 10; 2001 No 42 s 4
(6) and (7) exp 30 June 2001 (s 26 (7))
sub 2001 No 42 s 5; 2001 No 95 s 11

Financial reports of departments

div 3.2 hdg (prev pt 3 div 2 hdg) renum R3 LA LA (see 2001 No 95
amdt 1.11)

Annual financial statements of departments

s 27 am 2001 No 56 amdt 3.272; 2001 No 95 s 12

Audit of financial statements for departments for 2000-2001

s 29A ins 2001 No 42 s 6
exp 31 December 2001 (s 29A (2))

Presentation of departmental financial statements

s 30 am 2001 No 56 amdt 3.273

Agreement for the conduct of banking for Territory

s 32 am 1997 No 102 sch; 1999 No 33 sch

Territory banking account

s 33 am 1997 No 102 sch

Departmental banking accounts

s 34 am 1997 No 102 sch; 1999 No 33 sch; 2001 No 95 s 13; 2001
No 95 s 7; ss renum R6 LA (see 2001 No 95 amdt 1.8)

Transfer of departmental banking account

s 34A prev s 34A renum as s 34B
ins 2001 No 95 s 14

End of year balances of departmental banking accounts

s 34B (prev s 34A) ins 1997 No 102 s 12
renum 2001 No 95 s 15

Payments into banking accounts

s 35 am 1997 No 102 sch; 1999 No 33 sch

Transfer following change in departmental responsibilities

s 36 am 1997 No 102 sch

Authority to issue public money

s 37 am 1997 No 102 sch; 2000 No 21 sch; 2001 No 95 s 16

Investment of certain public money

s 38 hdg sub 2000 No 21 sch
s 38 am 1997 No 102 sch; 1999 No 33 sch; 2000 No 21 sch; 2001
No 45 s 5; 2001 No 95 s 17

Borrowing, guarantees and financial derivatives

pt 6 hdg sub 2001 No 45 s 6

Borrowings by Territory authorities to be approved

s 42 am 2001 No 95 s 18, amdt 1.9

Loans to be paid into Territory banking account

s 45 am 1997 No 102 sch; 2001 No 95 s 19

Guarantees by Territory

s 47 am 2001 No 56 amdt 3.274

Financial derivatives

s 48 om 2001 No 45 s 7

Departmental trust banking accounts

s 51 am 1997 No 102 sch; 1999 No 33 sch

Transfers between banking accounts

s 52 am 1997 No 102 sch
sub 2001 No 95 s 20

Investment of trust money

s 53 am 1999 No 28 sch

Unclaimed trust moneys

s 53A ins 1997 No 102 s 13
am 1999 No 33 sch; 2001 No 44 amdts 1.1633-1.1635; ss
renum R3 LA (see 2001 No 44 amdt 1.1636); 2001 No 95
s 21; ss renum R6 LA

Endnotes

4 Amendment history

Review of decisions

s 53B ins 1997 No 102 s 13

Notification of decisions

s 53C ins 1997 No 102 s 13

Banking accounts

s 55 am 1997 No 102 sch; 1999 No 33 sch

Investment

s 56 am 1997 No 102 sch; 1999 No 33 sch; 2001 No 45 s 8; 2001 No 95 s 22

Borrowing

s 57 am 2001 No 95 s 23

Statements of intent

s 58 am 2001 No 95 s 24

Annual financial statements

s 59 am 2001 No 95 s 25

Audit of annual financial statements for 2000-2001

s 61A ins 2001 No 42 s 7
exp 31 December 2001 (s 61A (2))

Presentation of annual financial statements

s 62 am 2001 No 56 amdt 3.275

Act of grace payments

s 64 am 2001 No 95 amdt 1.10

Guideline-making power

s 66A ins 2000 No 27 s 9
om 2001 No 44 amdt 1.1637

Guideline-making power

s 67 hdg sub 2000 No 27 s 10
s 67 am 2000 No 27 s 10
sub 2001 No 44 amdt 1.1637

Regulation-making power

s 68 ins 2001 No 44 amdt 1.1637

Dictionary

dict hdg ins 2002 No 30 amdt 3.369
def **appropriation** reloc from s 3 2001 No 95 amdt 1.4
def **Appropriation Act** reloc from s 3 2001 No 95 amdt 1.4
def **appropriation unit** reloc from s 3 2001 No 95 amdt 1.4
def **banking account** ins 1997 No 102 s 4
am 1999 No 33 sch
reloc from s 3 2001 No 95 amdt 1.4
def **borrowing** reloc from s 3 2001 No 95 amdt 1.4

-
- def **budget papers** am 2001 No 56 amdt 3.256
reloc from s 3 2001 No 95 amdt 1.4
- def **capital injection** reloc from s 3 2001 No 95 amdt 1.4
- def **chief executive officer** reloc from s 3 2001 No 95 amdt 1.4
- def **class of outputs** reloc from s 3 2001 No 95 amdt 1.4
- def **department** reloc from s 3 2001 No 95 amdt 1.4
- def **departmental banking account** am 1997 No 102 sch
reloc from s 3 2001 No 95 amdt 1.4
- def **expenses** reloc from s 3 2001 No 95 amdt 1.4
- def **financial management guidelines** sub 2001 No 11
amdt 3.125
reloc from s 3 2001 No 95 amdt 1.4
- def **general government sector** ins 1997 No 124 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **generally accepted accounting practice** reloc from s 3
2001 No 95 amdt 1.4
- def **GST** ins 2000 No 27 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **input tax credit** ins 2000 No 27 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **interest** ins 2001 No 45 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **invest** ins 2001 No 45 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **Legislative Assembly secretariat** sub 2001 No 95
amdt 1.1
reloc from s 3 2001 No 95 amdt 1.4
- def **outcomes** reloc from s 3 2001 No 95 amdt 1.4
- def **outputs** reloc from s 3 2001 No 95 amdt 1.4
- def **prescribed** reloc from s 3 2001 No 95 amdt 1.4
- def **public money** am 2001 No 95 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **public trading enterprise** ins 1997 No 124 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **public trading enterprise sector** ins 1997 No 124 s 4
reloc from s 3 2001 No 95 amdt 1.4
- def **responsible chief executive** reloc from s 3 2001 No 95
amdt 1.4
- def **responsible Minister** reloc from s 3 2001 No 95 amdt 1.4
- def **securities** reloc from s 3 dict 2001 No 95 amdt 1.4
- def **statement of intent** reloc from s 3 2001 No 95 amdt 1.4
- def **superannuation appropriation** ins 2000 No 21 sch
reloc from s 3 2001 No 95 amdt 1.4
- def **superannuation banking account** ins 2000 No 21 sch
reloc from s 3 2001 No 95 amdt 1.4
- def **taxable supply** ins 2000 No 27 s 4
reloc from s 3 2001 No 95 amdt 1.4

Endnotes

5 Earlier replications

def **Territory authority** am 2000 No 21 sch; 2001 No 95
amdt 1.3
reloc from s 3 2001 No 95 amdt 1.4
def **Territory banking account** am 1997 No 102 sch
reloc from s 3 2001 No 95 amdt 1.4
def **trust money** reloc from s 3 2001 No 95 amdt 1.4
def **warrant** am 1997 No 102 sch
reloc from s 3 2001 No 95 amdt 1.4

5 Earlier replications

Some earlier replications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised replications have also been published in printed format. These replications are marked with an asterisk (*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Replication No	Amendments to	Replication date
1	Act 1997 No 124	31 January 1998
2	Act 1999 No 58	10 November 1999
3	Act 2001 No 56	12 September 2001
4	Act 2001 No 97	20 December 2001
5	Act 2001 No 97	31 December 2001
5 (RI)	Act 2001 No 97 ‡	19 September 2002
6	Act 2001 No 97	4 January 2002

‡ includes retrospective amendments by Act 2002 No 30

6 Uncommenced amendments

The following amendments have not been included in this republication because they were uncommenced at the republication date:

Financial Management Legislation Amendment Act 2001, Act No 45, pt 2

Part 2 Financial Management Act 1996

3 Act amended in pt 2

This part amends the *Financial Management Act 1996*.

4 Definitions Section 3, new definitions

insert

interest includes a dividend and any other financial return on a deposit, loan or other investment.

invest includes enter into a transaction or arrangement for the protection or enhancement of investments.

5 Investment of certain public money Section 38 (1) (e)

substitute

(e) in any investment prescribed under the financial management guidelines for this paragraph.

Endnotes

6 Uncommenced amendments

6 Part 6, heading

substitute

Part 6 Borrowing and guarantees

7 Financial derivatives Section 48

omit

8 Investment Section 56 (1) (d)

substitute

- (d) in any investment prescribed under the financial management guidelines for this paragraph.

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