Australian Capital Territory

Financial Management Act 1996

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(republication for amendments by A2015-33)

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Financial Management Act 1996* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 14 October 2015. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 14 October 2015.

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 does not include amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register (www.legislation.act.gov.au). For more information, see the home page for this law on the register.

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 the *Legislation Act 2001*, section 95.

Penalties

At the republication date, the value of a penalty unit for an offence against this law is $150 for an individual and $750 for a corporation (see *Legislation Act 2001*, s 133).

Australian Capital Territory

Financial Management Act 1996

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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

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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 terms used in the Act, and includes references (***signpost definitions***) to other terms 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 term 'superannuation appropriation' is defined in that dictionary 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, s 155 and s 156).

3A Notes

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

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

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3B Declaration that certain bodies are not territory authorities for Act

(1) The Treasurer may declare that a stated body is not a territory authority for this Act or a stated provision of this Act.

(2) A declaration is a notifiable instrument.

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

4 Application of pts 2 to 5—Office of the Legislative Assembly and officers of the Assembly

(1) Unless the contrary intention appears, the provisions of parts 2 to 5 apply to—

(a) the Office of the Legislative Assembly as if—

(i) a reference in those provisions to a directorate included a reference to the office; and

(ii) a reference in those provisions to the responsible Minister of a directorate were a reference to the Speaker; and

(iii) a reference in those provisions to the responsible director-general of a directorate included a reference to the clerk of the Legislative Assembly; and

(b) an officer of the Assembly as if—

(i) a reference in those provisions to a directorate included a reference to the officer; and

(ii) a reference in those provisions to the responsible Minister of a directorate were a reference to the Legislative Assembly; and

(iii) a reference in those provisions to the responsible director-general of a directorate included a reference to the officer.

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(2) Division 3.2 (Financial reports and performance statements of directorates) applies to the auditor-general as if a reference in that division to the auditor-general were a reference to the independent auditor engaged under the *Auditor-General Act 1996*, section 31 (Independent auditor).

Note Div 3.2, s 30A and s 30E do not apply to the auditor-general (see s 30A (3) and s 30E (4)).

(3) For section 20AB and section 20AC, a reference to an ***officer of the Assembly***, in relation to the electoral commissioner, includes the other members of the electoral commission.

Note The electoral commissioner is an ***officer of the Assembly*** (see Legislation Act, dict, pt 1). All members of the electoral commission are independent officers of the Legislative Assembly (see *Electoral Act 1992*, s 6A).

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Part 2 Budget management

Division 2.1 Appropriations and budgets

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 must be introduced into the Legislative Assembly not later than 3 months after the beginning of the financial year.

6 Necessity for appropriation

No payment of public money must 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 the amounts necessary to meet those requirements subject to the following provisions:

(a) the authority of the Treasurer under this section ceases on the commencement of the first Appropriation Act for the next financial year;

(b) on that commencement all payments made under this section for the next financial year are taken for all purposes to have been paid out of money appropriated by that Act;

(c) the payments made under this section for any purpose must not exceed, in total, 1/2 of the amount appropriated by Appropriation Acts for the immediately previous financial year for that purpose.

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8 Form of appropriations

(1) An Appropriation Act may make separate appropriations in relation to each directorate for—

(a) the provision of outputs by the directorate; and

(b) any capital injection to be provided to the directorate; and

(c) any payments to be made by the directorate on behalf of the Territory.

(2) An Appropriation Act may make separate appropriations in relation to a territory authority or territory-owned corporation for—

(a) the provision of outputs by the authority or corporation; and

(b) any capital injection to be provided to the authority or corporation.

(3) There must be a separate Appropriation Act for an appropriation for the Office of the Legislative Assembly.

(4) Any appropriation for an officer of the Assembly must be contained in an Appropriation Act for an appropriation for the Office of the Legislative Assembly.

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 directorate is stated to be made for the net cost of providing outputs, the directorate may apply the following in paying the expenses and liabilities of the directorate 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.

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(3) To remove any doubt, it is declared that, if the appropriations made by an Appropriation Act for a directorate do not state an amount, or state an '0' appropriation, for the provision of outputs by the directorate, the appropriations have effect as if they included an appropriation stated to be made for the provision of outputs by the directorate 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 territory entity 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 appropriation), if an appropriation for a directorate is made for payments to be made on behalf of the Territory, the directorate 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 must, 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—

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(a) the proposed budget for the Territory for the year; and

(b) the proposed budget for each directorate for the year; and

(c) the proposed budget for each territory authority and territory-owned corporation 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) The proposed budget for the Territory for a financial year presented to the Legislative Assembly under section 10 (a) must include—

(a) a financial policy objectives and strategies statement under section 11A for the financial year; and

(b) a statement of the economic or other assumptions used to make the budget estimates; and

(c) a statement about the sensitivity of the budget estimates to changes in the economic or other assumptions; and

(d) a statement of the risks, quantified if possible, that may affect the budget estimates, including contingent liabilities; and

(e) the financial statements required under the financial management guidelines; and

(f) a statement about the effect of the following on an ACT household for the financial year:

(i) Territory taxes and fees that have a direct effect on the household;

(ii) Territory concessions that offset the taxes and fees mentioned in subparagraph (i).

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(2) The proposed budget must be prepared in a form that assists a comparison, for each appropriation unit, between the budget for the Territory for the previous financial year and the proposed budget.

(3) The financial statements included in the proposed budget under subsection (1) (e) must include budget estimates, for each appropriation unit, for each of the next 3 financial years.

(4) The proposed budget must be prepared taking into account—

(a) the principles of responsible fiscal management;

(b) the object of providing a basis for sustainable social and economic services and infrastructure fairly to all ACT residents; and

(c) the object of ecologically sustainable development.

(5) The proposed budget may depart from the principles of responsible fiscal management, but if it does depart—

(a) any departure must be temporary; and

(b) the Treasurer must present to the Legislative Assembly, when the first Appropriation Bill for the financial year is presented to the Legislative Assembly, a statement setting out—

(i) the reasons for the departure; and

(ii) the approach intended to be taken to return to the principles; and

(iii) when the principles are expected to be returned to.

(6) In this section:

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

ecologically sustainable development means the effective integration of economic and environmental considerations in

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decision-making processes achievable through implementation of the following principles:

(a) the precautionary principle;

(b) the inter-generational equity principle;

(c) conservation of biological diversity and ecological integrity;

(d) improved valuation and pricing of environmental resources.

fiscal risks include the following:

(a) risks from the level of the Territory's general government sector debt;

(b) commercial risks from ownership of corporations and public enterprises;

(c) risks from changes in the structure of the Territory's tax base;

(d) risks from management of the Territory's assets and liabilities.

inter-generational equity principle means that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations.

precautionary principle means that, if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

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principles of responsible fiscal management means the following principles:

(a) ensuring that the total liabilities of the Territory are at prudent levels to provide a buffer against factors that may impact adversely on the level of total Territory liabilities in the future, and ensuring that, until prudent levels have been achieved, the total operating expenses of the Territory in each financial year are less than its operating income levels in the same financial year;

(b) when prudent levels of total Territory liabilities have been achieved, maintaining the levels by ensuring that, on average, over a reasonable period of time, the total operating expenses of the Territory do not exceed its operating income levels;

(c) achieving and maintaining levels of Territory net worth to provide a buffer against factors that may impact adversely on levels of Territory net worth in the future;

(d) managing prudently the fiscal risks of the Territory;

(e) pursuing spending and taxing policies that are consistent with a reasonable degree of stability and predictability in the level of the tax burden;

(f) giving full, accurate and timely disclosure of financial information about the activities of the government and its agencies.

11A Financial policy objectives and strategies statement

(1) The purposes of a financial policy objectives and strategies statement included in a proposed budget under section 11 (1) (a) are—

(a) to make transparent the government's financial strategies; and

(b) to establish a benchmark for evaluating the government's conduct of financial policy.

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(2) The statement must be based on the principles of responsible fiscal management.

(3) The statement must—

(a) state the government's long-term financial objectives within which financial policy for the financial year and the next 3 financial years will be framed; and

(b) explain the broad strategic priorities on which the budget is based; and

(c) state the key financial measures that the government has identified as being important and against which financial policy will be set and assessed; and

(d) state, for the financial year and the next 3 financial years—

(i) the government's short-term financial objectives; and

(ii) the targets for each stated key financial measure; and

(e) explain how the financial objectives and strategic priorities mentioned in paragraphs (a), (b) and (d) relate to the principles of responsible fiscal management; and

(f) state the reasons for any changes from the previous financial policy objectives and strategies statement.

(4) In this section:

principles of responsible fiscal management—see section 11 (6).

12 Directorate budgets

(1) A proposed budget for a directorate 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

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(b) a statement that sets out the outputs and classes of outputs it is proposed the directorate should provide during the year and the performance criteria to be met by the directorate in providing the outputs; and

(c) if, during the year, the directorate is to be given a capital injection that must be repaid—a statement that—

(i) states that the capital injection is a capital 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—

(a) the Office of the Legislative Assembly; or

(b) an officer of the Assembly.

(3) A proposed budget must be in a form that facilitates a comparison between—

(a) the proposed budget for the directorate; and

(b) the budget for the directorate for the previous financial year; and

(c) the estimated results for the directorate for the previous financial year.

(4) A proposed budget must also include, for the financial statements mentioned in subsection (1) (a), budget estimates for each of the next 3 financial years.

12A Territory authority and territory-owned corporation budgets

(1) A proposed budget presented to the Legislative Assembly under section 10 (c) for a territory authority or territory-owned corporation for a financial year must include—

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(a) the financial statements required under the financial management guidelines; and

(b) for a prescribed territory authority or prescribed territory-owned corporation—a statement that sets out the outputs and classes of outputs it is proposed that the authority or corporation should provide during the year and the performance criteria to be met by the authority in providing the outputs; and

(c) for a territory authority or territory-owned corporation that, during the year, is to be given a capital injection that must be repaid—a statement that—

(i) states that the capital injection is an injection that must be repaid; 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) A proposed budget must be in a form that facilitates a comparison between—

(a) the proposed budget for the authority or corporation; and

(b) the budget for the authority or corporation for the previous financial year; and

(c) the estimated results for the authority or corporation for the previous financial year.

(3) A proposed budget must also include, for the financial statements mentioned in subsection (1) (a), budget estimates for each of the next 3 financial years.

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13 Supplementary budget papers

(1) This section applies if the Treasurer presents a bill for an Appropriation Act relating to a financial year to the Legislative Assembly, other than—

(a) the bill for the first Appropriation Act relating to the year; or

(b) the bill for the first Appropriation Act for the appropriation for the Office of the Legislative Assembly relating to the year.

(2) The Treasurer must also present supplementary budget papers to the Assembly.

(3) The supplementary budget papers must, for each territory entity for which an appropriation is provided by the bill (an ***affected entity***)—

(a) state, for each purpose mentioned in section 8 that applies to the affected entity—

(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 entity for the financial year; and

(b) include a budgeted financial statement for each affected entity that—

(i) includes details of the impact on the budget of the affected entity of all variations to the appropriation that happened until the last day when it was practicable to provide for it in the relevant supplementary Appropriation Bill before the bill was introduced into the Legislative Assembly; and

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(ii) may show the impact of variations other than variations resulting from additional appropriations.

Example—par (b) (ii)

the impact of revised economic forecasts

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

13A Amendment of budgets for supplementary appropriation

(1) If an appropriation is made for a territory entity by an Appropriation Act other than the first Appropriation Act for it for a financial year, the budget for the territory entity is amended in accordance with—

(a) the supplementary budget papers presented to the Legislative Assembly under section 13 (1) in relation to the bill for the Act by which the appropriation was made; and

(b) any statement presented to the Legislative Assembly under section 13 (5) (b) in relation to the bill.

(2) In this section:

budget, for the territory entity, means the budget for the territory entity for the financial year presented to the Legislative Assembly under section 10 (b) or (c) (Budget papers) and, if the budget has been amended under this Act, the budget as amended.

14 Transfer of funds between appropriations

(1) Despite section 6 (Necessity for appropriation), the Treasurer may, in writing, direct that appropriations made by an Appropriation Act be varied by transfers of funds between the appropriations.

(2) A transfer of funds between appropriations under this section must not cause an appropriation from which funds are transferred to be reduced by more than 3%.

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(3) The Treasurer must attach a copy of the direction to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

(4) Subsection (1) does not apply to a superannuation appropriation.

(5) In this section:

appropriation means an appropriation made by an Appropriation Act in a financial year or, if the appropriation is amended during the financial year, the appropriation as amended.

14A Transfer of funds from capital injection appropriation to other appropriations

(1) Despite section 6 (Necessity for appropriation), the Treasurer may, in writing, direct that an appropriation for capital injection for an entity be varied by a transfer of funds from that appropriation to an appropriation for—

(a) the provision of outputs by the entity; or

(b) payments to be made on behalf of the Territory for the entity.

(2) If the transfer would cause the appropriation for the capital injection to be reduced by—

(a) up to 5% or $500 000, whichever is the greater—the Treasurer must attach a copy of the direction to the next financial statement presented to the Legislative Assembly; or

(b) more than 5% or $500 000, whichever is the greater—the direction is a disallowable instrument.

Note 1 For the presentation of financial statements, see s 26.

Note 2 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the Legislation Act.

(3) In this section:

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appropriation for capital injection means an appropriation for capital injection made by an Appropriation Act in a financial year or, if the appropriation is amended during the financial year, the appropriation as amended.

14B Transfer of funds from other appropriations to capital injection appropriation

(1) Despite section 6 (Necessity for appropriation), the Treasurer may, in writing, direct that an appropriation for provision of outputs or payments to be made on behalf of the Territory for an entity be varied by a transfer of funds from those appropriations to an appropriation for capital injection for the entity.

(2) The Treasurer must attach a copy of the direction to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

(3) In this section:

appropriation for payments to be made on behalf of the Territory means an appropriation for payments to be made on behalf of the Territory made by an Appropriation Act in a financial year or, if the appropriation is amended during the financial year, the appropriation as amended.

appropriation for provision of outputs means an appropriation for provision of outputs made by an Appropriation Act in a financial year or, if the appropriation is amended during the financial year, the appropriation as amended.

15 Transfer of funds within appropriations

(1) The Executive may, in writing, direct that funds within the same appropriation that are allocated for the provision of different classes of outputs be reallocated in relation to 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

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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) If an appropriation has been classified by the Act by which it was made as an appropriation for payments to be made by a directorate on behalf of the Territory, the Treasurer may, if the Treasurer is satisfied that the appropriation should be classified as an appropriation for the provision of outputs by the directorate, in writing, direct that the classification of the appropriation be changed accordingly.

(2) If an appropriation has been classified by the Act by which it was made as an appropriation for the provision of outputs by a directorate, the Treasurer may, if the Treasurer is satisfied that the appropriation should be classified as an appropriation for payments to be made by the directorate on behalf of the Territory, in writing, direct that the classification of the appropriation be changed accordingly.

(3) If the Treasurer gives a direction under subsection (1) or (2), the Treasurer must attach a copy of the direction to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

16 Transfer of functions to another entity

(1) This section applies if the responsibility for a service or function for which an appropriation is made in an Appropriation Act for a financial year is or has been transferred from the territory entity to which the appropriation is made to another territory entity.

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(2) The Treasurer may, in writing, direct that the appropriation does not lapse but may, in accordance with the direction, be issued to, or applied by, the other territory entity for the service or function.

(3) If the Treasurer gives a direction under subsection (2), the Treasurer must attach a copy of the direction to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

(4) This section does not apply to a superannuation appropriation.

16A Appropriation for accrued employee entitlements

(1) This section applies if—

(a) an employee entitlement exists in relation to a territory entity in a financial year; and

(b) the total amount of employee entitlements paid, or required to be paid, by the territory entity in the financial year exceeds the amount appropriated for the territory entity in relation to employee entitlements for the financial year.

(2) The Treasurer may, in writing, authorise an appropriation for the territory entity for the amount that the total amount paid, or required to be paid, in the financial year exceeds the amount appropriated for the territory entity for the financial year.

(3) If the Treasurer authorises an appropriation under this section, the Treasurer must attach a copy of the authorisation to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

16B Rollover of undisbursed appropriation

(1) This section applies to an amount of appropriation if, at the end of the financial year in which the appropriation is made, the amount is not disbursed to the territory entity to which it is appropriated.

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(2) The Treasurer may, in writing, authorise the amount to be disbursed in the following financial year to—

(a) the territory entity; or

(b) if responsibility for a service or function for which the appropriation is made is transferred from the territory entity to another territory entity—the other territory entity.

(3) The Treasurer may give the authorisation in the financial year in which the appropriation is made, or in the following financial year.

(4) The authorisation must identify—

(a) the territory entity to which the amount is to be disbursed; and

(b) the appropriation type; and

(c) the amount authorised to be disbursed; and

(d) the purpose for which the amount may be disbursed.

(5) If the Treasurer authorises an amount to be disbursed under this section—

(a) the amount is taken to be an amount of appropriation for the financial year in which the amount is authorised to be disbursed; and

(b) the amount is in addition to the appropriation to the territory entity for that financial year.

(6) If the Treasurer authorises an amount to be disbursed under this section, the Treasurer must attach a copy of the authorisation to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

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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) If—

(a) an appropriation to which this section applies is to be funded in whole or in part by a payment made to the Territory by the Commonwealth for a nominated purpose; 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, in writing, 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) The Treasurer may give the direction—

(a) in the financial year in which the Commonwealth provides the funding to the Territory; or

(b) in the following financial year.

(4) If the Treasurer gives the direction under subsection (3) (a), the direction may also state the financial year in which the appropriation may be disbursed to a territory entity.

(5) If the responsibility for a service or function for which the appropriation is made is transferred from the territory entity to

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which the appropriation is made to another territory entity, the Treasurer may also direct that the appropriation be disbursed to the other territory entity.

(6) If the Treasurer gives a direction under this section—

(a) the amount is taken to be an amount of appropriation for the financial year in which the amount is authorised to be disbursed; and

(b) the amount is in addition to the appropriation to the territory entity for that financial year.

(7) If the Treasurer gives a direction under this section, the Treasurer must attach a copy of the direction to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

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) If—

(a) an appropriation to which this section applies is made completely 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;

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the Treasurer may, in writing, direct that the appropriation be increased by an amount not more than the difference between the amount of the estimate and the amount of the payment.

(3) If the Treasurer gives a direction under subsection (2), the Treasurer must attach a copy of the direction to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

18 Treasurer's advance

(1) The Treasurer may, in writing, authorise an appropriation (a ***Treasurer's advance***) for a payment if—

(a) the Treasurer is satisfied that—

(i) there is an immediate requirement for the payment; and

(ii) the payment is not provided for, or is insufficiently provided for, by an appropriation because—

(A) there was an erroneous omission or understatement in an appropriation; or

(B) the payment was unforeseen until after the last day when it was practicable to provide for it in the relevant Appropriation Bill before the bill was introduced into the Legislative Assembly; and

(b) for a payment by an officer of the Assembly—the Speaker, after consulting with the appropriate Assembly committee, has advised the Treasurer that an additional appropriation is needed for the payment, stating the reasons for the additional appropriation; and

(c) the total Treasurer's advances authorised as Treasurer's advances in a financial year do not exceed the amount appropriated for that year for Treasurer's advances.

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(2) The amount appropriated for Treasurer's advances for a financial year must not exceed 1% of the total amount appropriated by all Appropriation Acts for the year.

(3) If, by the end of the financial year in which a Treasurer's advance is authorised, the Treasurer's advance is not fully disbursed to the entity to which it is appropriated, the undisbursed amount of the Treasurer's advance lapses and is not available to be disbursed to the entity in the following financial year.

(4) In this section:

relevant Appropriation Bill, for a payment, means—

(a) the bill for the first Appropriation Act for the financial year when the payment is to happen; or

(b) the bill for the first Appropriation Act for the appropriation for the Office of the Legislative Assembly or an officer of the Assembly for the financial year when the payment is to happen.

Note An appropriation for an officer of the Assembly must be contained in an Appropriation Act for an appropriation for the Office of the Legislative Assembly (see s 8 (4)).

18A Treasurer's advance—payment pending supplementary appropriation

(1) This section applies if—

(a) in a financial year, the Treasurer authorises a Treasurer's advance for a payment; and

(b) the authorisation states that the payment may be provided for in an Appropriation Act other than the first Appropriation Act (a ***supplementary appropriation Act***) in the financial year.

(2) If a supplementary appropriation Act is passed for the payment—

(a) the Treasurer's advance ceases; and

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(b) the amount of the Treasurer's advance is taken for all purposes to have been paid out of money appropriated by that Act; and

(c) the amount appropriated for section 18 (Treasurer's advance) for the financial year is taken to be restored by the amount of the Treasurer's advance.

(3) If a supplementary appropriation Act is not passed for the payment, the payment continues to be authorised from the appropriation for section 18 for the financial year.

18B Treasurer's advance—reduction of amounts

(1) This section applies if, in a financial year—

(a) the Treasurer has authorised a Treasurer's advance for an entity; and

(b) the Treasurer's advance has not been fully disbursed to the entity; and

(c) the Treasurer is satisfied that the undisbursed amount is no longer required by the entity.

(2) The Treasurer may, in writing, authorise a reduction of the amount of the Treasurer's advance to the entity to the amount actually disbursed to the entity.

(3) If the Treasurer authorises a reduction, the amount appropriated for section 18 (Treasurer's advance) for the financial year is taken to be restored by the amount of the reduction.

18C Assembly to be told about Treasurer's advance

(1) This section applies if the Treasurer authorises—

(a) a Treasurer's advance; or

(b) a reduction of an amount of Treasurer's advance under section 18B (2).

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(2) If an authorisation is given, the Treasurer must attach to the next financial statement presented to the Legislative Assembly—

(a) a copy of the authorisation; and

(b) a reconciliation stating the following:

(i) the total amount appropriated for section 18 (Treasurer's advance) in all Appropriation Acts for the financial year;

(ii) the total amount of Treasurer's advance authorised previously in the financial year under section 18 (1);

(iii) the total amount of payments restored previously in the financial year under section 18A (2) (c);

(iv) the total reduction of the amounts of Treasurer's advance previously authorised in the financial year under section 18B (2);

(v) the amount authorised in the authorisation;

(vi) the amount of appropriation for section 18 that remains for the financial year.

Note For the presentation of financial statements, see s 26.

19 Refunds of payments made without liability

(1) If 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) If 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) If—

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(a) a person has paid an amount to the Territory for tax claimed by the Territory to be owing from the 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, 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.

19AA Payments for Territory GST administration costs

Despite section 6, payments may be made to the Commonwealth for GST administration costs payable by the Territory (including by way of deduction by the Commonwealth from GST revenue payable to the Territory) whether or not there is an appropriation for the purpose.

19B Authorisation of appropriation for certain Commonwealth grants

(1) This section applies if—

(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 relation to the funds.

(2) Despite section 6 (Necessity for appropriation), the Treasurer may, in writing, authorise an appropriation to a territory entity for payments by the territory entity in accordance with the agreement.

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(3) The Treasurer may—

(a) give the authorisation—

(i) in the financial year in which the Commonwealth provides the funds to the Territory; or

(ii) in the following financial year; and

(b) for an authorisation under paragraph (a) (i)—state in the authorisation the financial year in which the appropriation under subsection (2) may be disbursed to the territory entity.

(4) For an authorisation under this section, an appropriation under subsection (2)—

(a) is taken to be an amount of appropriation for the financial year in which the appropriation is authorised to be disbursed; and

(b) is in addition to the appropriation to the territory entity for that financial year.

(5) If the Treasurer gives an authorisation under this section, the Treasurer must attach a copy of the authorisation to the next financial statement presented to the Legislative Assembly.

Note For the presentation of financial statements, see s 26.

19C Amendment of capital injection conditions

(1) This section applies in relation to the conditions of a capital injection set out in a statement included in a proposed budget for a directorate, a territory authority or a territory-owned corporation for a financial year under section 12 (1) (c) (ii) or section 12A (1) (c) (ii).

(2) The Treasurer may amend the conditions.

(3) An amendment must state the Treasurer's reasons for the amendment.

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(4) An amendment is a notifiable instrument.

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

19D Amendment of performance criteria

(1) This section applies in relation to the performance criteria set out in a statement included in a proposed budget for a directorate, a prescribed territory authority or a prescribed territory-owned corporation for a financial year under section 12 (1) (b) or section 12A (1) (b).

(2) The performance criteria may be amended by—

(a) the responsible Minister for the territory entity; and

(b) the Treasurer.

(3) Without limiting subsection (2) the performance criteria may be amended if—

(a) the appropriations for the territory entity are varied under—

(i) section 14 (Transfer of funds between appropriations); or

(ii) section 14A (Transfer of funds from capital injection appropriation to other appropriations); or

(iii) section 14B (Transfer of funds from other appropriations to capital injection appropriation); or

(iv) section 17 (Variation of appropriations for Commonwealth grants); or

(b) a direction is given under section 15 (1) (Transfer of funds within appropriations) in relation to an appropriation made for the territory entity; or

(c) funds are transferred to or from the territory entity under section 16 (Transfer of functions to another entity); or

(d) funds are—

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(i) given to the territory entity under section 18; or

(ii) reduced under section 18B (Treasurer's advance—reduction of amounts); or

(e) funds mentioned in section 19B (Authorisation of appropriation for certain Commonwealth grants) are given to the territory entity; or

(f) changes happen in the priorities of the territory entity; or

(g) the responsible Minister and the Treasurer are satisfied that other performance criteria should be adopted for the provision of outputs by the territory entity.

(4) An amendment of the performance criteria must be made in a way that—

(a) for a directorate—the budget as amended will comply with section 12 (3); and

(b) for a territory authority or territory-owned corporation—the budget as amended will comply with section 12A (2).

(5) An amendment of the performance criteria is a notifiable instrument.

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

(6) In this section:

budget, for the territory entity, means the budget for the territory entity for the financial year presented to the Legislative Assembly under section 10 (b) or (c) (Budget papers) and, if the budget has been amended under this Act, the budget as amended.

prescribed territory authority means a territory authority prescribed for section 12A (1) (b).

prescribed territory-owned corporation means a territory-owned corporation prescribed for section 12A (1) (b).

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20 Recommended appropriation for Office of the Legislative Assembly

Before the beginning of a financial year, the Speaker must—

(a) after consultation with an appropriate committee of the Legislative Assembly, advise the Treasurer of the appropriation that the Speaker considers should be made for the Office of the Legislative Assembly for the financial year (the ***recommended appropriation***); and

(b) give the Treasurer a draft budget for the Office of the Legislative Assembly for the financial year that contains the information mentioned in section 12 that applies to the office.

20AA Appropriation for Office of the Legislative Assembly

(1) This section applies if—

(a) the Treasurer presents a bill for an Appropriation Act for the appropriation for the Office of the Legislative Assembly relating to a financial year in the Legislative Assembly; and

(b) the appropriation is less than the recommended appropriation for the financial year.

(2) Immediately after presenting the bill, the Treasurer must present to the Legislative Assembly a statement of reasons for departing from the recommended appropriation.

(3) In this section:

recommended appropriation—see section 20.

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20AB Recommended appropriation for officers of the Assembly

Before the beginning of a financial year, the Speaker must for an officer of the Assembly—

(a) after consultation with the officer and the appropriate committee of the Legislative Assembly, advise the Treasurer of the appropriation that the Speaker considers should be made for the officer for the financial year (the ***recommended appropriation***); and

(b) present the recommended appropriation to the Assembly; and

(c) give the Treasurer a draft budget for the officer for the financial year that contains the information mentioned in section 12 that applies to the officer.

20AC Appropriation for officers of the Assembly

(1) This section applies if—

(a) the Treasurer presents a bill for an Appropriation Act for the appropriation for an officer of the Assembly relating to a financial year in the Legislative Assembly; and

(b) the appropriation is less than the recommended appropriation for the office for the financial year.

(2) Immediately after presenting the bill, the Treasurer must present to the Legislative Assembly a statement of reasons for departing from the recommended appropriation.

(3) In this section:

recommended appropriation—see section 20AB.

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Division 2.2 Budget reviews and pre-election updates

20A Budget review

(1) The Treasurer must prepare a budget review for each financial year.

(2) The Treasurer must present the budget review for a financial year to the Legislative Assembly not later than 15 February in the financial year.

Note This is the same day as financial statements for the 2nd quarter of the financial year are required to be presented under s 26 (Periodic financial statements).

(3) However, if a sitting day does not fall in that year on or before 15 February, the Treasurer must give copies of the budget review to each member of the Legislative Assembly on or before that day.

20B Purpose and contents of budget review

(1) The purpose of the budget review for a financial year is to give updated information to allow the assessment of the government's financial performance against the financial policy objectives and strategies set out in the financial policy objectives and strategies statement for the Territory budget for the financial year.

(2) The budget review for a financial year must be based on the financial policy objectives and strategies statement for the Territory budget for the financial year.

(3) The budget review for a financial year must—

(a) include updated financial statements required under the financial management guidelines for the general government sector for the financial year; and

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(b) include whole-of-year results for the previous financial year, the budget for the financial year, the estimated financial position of the Territory at the end of the financial year and updated budget estimates for each of the next 3 financial years; and

(c) include a review of the financial policy objectives and strategies statement included in the budget for the financial year that satisfies the requirements of section 11A (2) and (3); and

(d) state the date as at when the review was done.

(4) However, if particular information required to be included in the budget review is unchanged from information set out in full in the budget for the Territory under section 11 (1) for the financial year, the review may instead summarise the information and state that it is unchanged from that set out in the budget.

(5) For subsection (3):

budget, for a financial year, means the budget for the year presented to the Legislative Assembly under section 10 (a) (Budget papers) and, if that budget has been amended under this Act, the budget as amended.

20C Pre-election budget update

(1) At least 30 days before the polling day for an ordinary election, the under treasurer must prepare a pre-election budget update and give it to the parliamentary counsel for notification.

(2) At least 20 days before the polling day for an election mentioned in the Self-Government Act, section 16 (Dissolution of Assembly by Governor-General) or section 48 (Resolution of no confidence in Chief Minister), the under treasurer must prepare a pre-election budget update and give it to the parliamentary counsel for notification.

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(3) A pre-election budget update is a notifiable instrument.

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

(4) In this section:

ordinary election—see the *Electoral Act 1992*, dictionary.

polling day—see the *Electoral Act 1992*, dictionary.

20D Purpose and contents of pre-election budget update

(1) The purpose of a pre-election budget update for an election is—

(a) to allow the assessment of the government's financial performance against the financial policy objectives and strategies set out in the latest financial policy objectives and strategies statement; and

(b) to give the electorate an accurate picture of the Territory's financial position before the election.

(2) A pre-election budget update must be based on the latest financial policy objectives and strategies statement.

(3) A pre-election budget update for an election must include—

(a) updated financial statements required under the financial management guidelines for the financial year in which the election is to be held; and

(b) updated budget estimates for the general government sector, the public trading enterprise sector and the Territory for that financial year and for each of the next 3 financial years; and

(c) a statement of the economic or other assumptions used in preparing the updated financial statements and budget estimates; and

(d) a statement about the sensitivity of the updated financial statements and budget estimates to changes in the economic or other assumptions; and

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(e) a statement of the risks, quantified if possible, that may affect the economic or other assumptions, including—

(i) contingent liabilities; and

(ii) publicly announced government commitments that are not yet included in the updated financial statements and budget estimates.

(4) Information in the pre-election budget update must—

(a) take into account government decisions and other circumstances that may have material effect on the financial statements and budget estimates; and

(b) state the date as at when the updating was done.

(5) However, if particular information required to be included in the pre-election budget update is unchanged from information set out in full in the latest financial statements, the budget estimates mentioned in section 11 (Territory budgets) or budget review, the pre-election budget update may instead summarise the information and state that it is unchanged from that set out in the financial statements, budget estimates or budget review.

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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 under treasurer must, 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 principles 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) the other statements that 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) An annual financial statement of the Territory must have a statement of responsibility attached to it.

(2) The statement of responsibility must include—

(a) a statement—

(i) signed by the Treasurer; and

(ii) that, in the Treasurer's opinion, the financial statements fairly reflect—

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(A) the financial operations of the Territory during the year to which they relate; and

(B) the financial position of the Territory at the end of the year; and

(b) a statement—

(i) signed by the under treasurer; and

(ii) stating that the under treasurer is satisfied the financial statements have been prepared in accordance with generally accepted accounting principles.

(3) The statement of responsibility may be signed at any time before the auditor-general gives the Treasurer an audit opinion for the financial statement in accordance with section 24.

24 Audit of annual financial statements

(1) The under treasurer must give the auditor-general the annual financial statements of the Territory for a financial year in sufficient time for the auditor-general to give an audit opinion about the statements within 4 months after the end of the financial year.

(2) The auditor-general must give the Treasurer an audit opinion about the annual financial statements within 4 months after the end of the financial year.

(3) Despite subsections (1) and (2), if an ordinary election is to be held in the year after the end of the financial year—

(a) the under treasurer must give the auditor-general the annual financial statements of the Territory for the financial year in sufficient time for the auditor-general to give an audit opinion about the statements within 3 months after the end of the financial year; and

(b) the auditor-general must give an audit opinion to the Treasurer within 3 months after the end of the financial year.

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(4) In this section:

ordinary election—see the *Electoral Act 1992*, dictionary.

25 Presentation of annual financial statements to Legislative Assembly

(1) If the Treasurer receives, under section 24 (2), an audit opinion about 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.

(2) If the Treasurer receives, under section 24 (3) (b), an audit opinion about annual statements, the Treasurer must give to each member of the Legislative Assembly, within 7 days after receiving the opinion—

(a) a copy of the annual financial statements; and

(b) a copy of the audit opinion.

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—

(a) be prepared in accordance with the financial management guidelines; and

(b) include a summary of any instruments attached to statements.

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Note Instruments made under s 14, s 14A, s 14B, s 15A, s 16, s 16A, s 16B, s 17, s 17A, s 18C and s 19B may be attached to the financial statements.

(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 and performance statements of directorates

27 Annual financial statements of directorates

(1) A directorate must, 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 directorate must be prepared in accordance with generally accepted accounting principles and in a form that facilitates a comparison between the financial operations of the directorate during the year and the estimates of those operations contained in the budget for the directorate for the financial year.

(3) The annual financial statements must include—

(a) the financial statements required under the financial management guidelines; and

(b) if a change was made during the year to the conditions of a capital injection set out under section 12 (1) (c) (ii) (Directorate budgets) in a statement included in a proposed budget for the directorate for a financial year—a statement of the change and the reasons for it; and

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(c) a statement of the accounting policies adopted by the directorate; and

(d) any other statements necessary to fairly reflect the financial operations of the directorate during the year and its financial position at the end of the year.

(4) In this section:

budget, for a directorate for a financial year, means the budget for the directorate for the year presented to the Legislative Assembly under section 10 (b) (Budget papers).

28 Responsibility for annual financial statements of directorates

(1) An annual financial statement of a directorate must have a statement of responsibility attached to it.

(2) The statement of responsibility must—

(a) state that, in the responsible director-general's opinion, the annual financial statements fairly reflect—

(i) the financial operations of the directorate during the financial year; and

(ii) the financial position of the directorate at the end of the year; and

(b) be signed by the responsible director-general.

(3) The statement of responsibility may be signed at any time before the auditor-general gives the responsible director-general an audit opinion for the financial statement in accordance with section 29.

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29 Audit of financial statements of directorates

(1) The responsible director-general of a directorate must give the auditor-general the financial statements of the directorate for a financial year as soon as practicable after the statements are prepared.

(2) The auditor-general must give the responsible director-general an audit opinion about the financial statements as soon as practicable after the auditor-general receives them.

30 Directorate annual financial statements to be included in annual reports etc

A report prepared under the *Annual Reports (Government Agencies) Act 2004* for a directorate for a financial year must include, or have attached to it—

(a) the directorate's annual financial statements for the year; and

(b) the audit opinion under section 29 (2) about the financial statements.

30A Statements of performance of directorates

(1) As soon as practicable after the end of each financial year, each directorate must prepare a statement of the performance of the directorate in providing each class of outputs set out in the directorate's budget for the financial year and provided by it during the year.

(2) The statement must—

(a) compare the performance of the directorate in providing each class of the outputs with the forecast of the performance in the directorate's budget for the year; and

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

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(3) This section does not apply to—

(a) the Office of the Legislative Assembly; or

(b) an officer of the Assembly.

(4) In this section:

budget, for the directorate, means the budget for the directorate for the financial year presented to the Legislative Assembly under section 10 (b) (Budget papers) and, if that budget has been amended under this Act, the budget as amended.

30B Responsibility for directorate statements of performance

(1) A statement of performance of a directorate must have a statement of responsibility attached to it.

(2) The statement of responsibility must—

(a) state that, in the responsible director-general's opinion, the statement of performance fairly reflects the performance of the directorate in providing each class of outputs set out in the directorate's budget for the financial year during the financial year; and

(b) be signed by the responsible director-general.

(3) The statement of responsibility may be signed at any time before the auditor-general gives the responsible director-general a report about the statement of performance in accordance with section 30C.

(4) In this section:

budget, for the directorate, means the budget for the directorate for the financial year presented to the Legislative Assembly under section 10 (b) (Budget papers) and, if that budget has been amended under this Act, the budget as amended.

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30C Scrutiny of directorate statements of performance

(1) The responsible director-general of a directorate must give the auditor-general the directorate's statement of performance for a financial year as soon as practicable after the statement is prepared.

(2) The auditor-general must give the director-general a report about the statement of performance as soon as practicable after the auditor-general receives it.

(3) The report must be prepared in accordance with the financial management guidelines.

30D Directorate statements of performance to be included in annual reports etc

A report prepared under the *Annual Reports (Government Agencies) Act 2004* for a directorate for a financial year must include, or have attached to it—

(a) the directorate's statement of performance for the year; and

(b) the auditor-general's report under section 30C (2) about the statement of performance.

30E Half-yearly directorate performance reports

(1) Within 45 days after 31 December in each financial year, each Minister must—

(a) prepare a half-yearly performance report for each directorate for which the Minister is responsible; and

(b) present the report to the Legislative Assembly.

(2) The report must include—

(a) a progress report on delivery of outputs; and

(b) an explanation of any significant variations from performance criteria.

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(3) If the report is not presented to the Legislative Assembly under subsection (1) within 45 days after 31 December, the Minister must make a copy of the report available to members of the Legislative Assembly within the 45-day period.

(4) This section does not apply to—

(a) the Office of the Legislative Assembly; or

(b) an officer of the Assembly.

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Part 4 Financial management responsibilities of directors-general of directorates

31 Responsibilities of directors-general of directorates

(1) The responsible director-general of a directorate is accountable to the responsible Minister of the directorate for the efficient and effective financial management of the public resources for which the directorate is responsible.

(2) The responsible director-general of a directorate must manage the directorate in a way that—

(a) promotes the achievement of the purpose of the directorate; and

(b) promotes the financial sustainability of the directorate; and

(c) is not inconsistent with the policies of the government.

(3) In making decisions for the purposes of subsections (1) and (2), the responsible director-general must take into account the effect of those decisions on public resources generally.

(4) Without limiting subsections (1), (2) and (3), the responsible director-general of a directorate is responsible, under the responsible Minister, for ensuring—

(a) that money spent by the directorate is spent in accordance with appropriations made for the directorate (including appropriations available under section 34B); and

(b) that, as far as practicable, the operations of the directorate for a financial year are consistent with, and comparable to, the budget for the directorate for the year; and

(c) that the officers and employees of the directorate comply with this Act (including the financial management guidelines); and

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Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including any guideline (see Legislation Act, s 104).

(d) that proper accounts and records are kept of the transactions and affairs of the directorate in accordance with generally accepted accounting principles; and

(e) that adequate control is maintained over the assets of the directorate and assets in the control of the directorate; and

(f) that adequate control is maintained over the incurring of liabilities by the directorate.

(5) A report prepared under the *Annual Reports (Government Agencies) Act 2004* for a financial year by the responsible director-general of a directorate must include an explanation of material variations between the actual results of the directorate for the year and the budget for the directorate for the year.

(6) In this section:

budget, for a directorate for a financial year, means the budget for the directorate for the year presented to the Legislative Assembly under section 10 (b) (Budget papers) and, if that budget has been amended under this Act, the budget as amended.

public property means property, other than public money, that is owned or held by the Territory or held by a person on behalf of the Territory.

public resources means public money or public property.

Note ***Public money***—see the dictionary.

31A Directors-general may enter into contracts etc

(1) The responsible director-general of a directorate may—

(a) enter into a contract or memorandum of understanding relating to the operations of the directorate; and

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(b) vary and administer the contract or memorandum of understanding.

(2) In exercising powers under subsection (1), the responsible director-general must act in accordance with section 31 and any requirements prescribed by regulation for this section.

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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 must 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 written notice that specifies the date the termination is to take effect.

33 Territory banking account

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

34 Directorate banking accounts

(1) The responsible Minister or the responsible director-general may open 1 or more banking accounts for the purposes of the relevant directorate.

(2) A directorate banking account must be maintained by the director-general.

(3) A directorate banking account must not, without the Treasurer's written approval, be opened or maintained otherwise than with an authorised deposit-taking institution with which an agreement is in force under section 32.

(4) The responsible Minister or the responsible director-general of a directorate may close a directorate banking account of the directorate.

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(5) If the responsible Minister or the responsible director-general of a directorate closes a directorate banking account under subsection (4), he or she must transfer any money standing to the credit of the account to another directorate banking account of the directorate 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 directorate banking account.

(7) A Minister or a director-general must not open or operate a directorate banking account otherwise than in accordance with this Act.

34A Transfer of directorate banking account

(1) If, in the Treasurer's opinion, it is desirable, because of changes in directorate responsibilities, to transfer a directorate banking account from a directorate to another directorate, the Treasurer may, in writing, direct the responsible director-general of the directorate that holds the account to arrange for it to be transferred to another directorate nominated in the direction.

(2) A director-general who receives a direction under subsection (1) must comply with the direction.

(3) A directorate banking account transferred in accordance with a direction under subsection (1) becomes a directorate banking account of the directorate to which it is transferred.

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34B End of year balances of directorate banking accounts

(1) If at the end of a financial year amounts appropriated for a directorate for that financial year are held in a directorate banking account, the amounts may be applied after the end of that financial year for the purposes for which they were appropriated.

(2) If at the end of a financial year a directorate banking account has a debit balance, the director-general of the directorate must 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) If 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 must take reasonable steps to safeguard the money until it is paid into a banking account in accordance with this section.

(3) Money must be paid into a directorate banking account of a directorate if the money is—

(a) money that may be disbursed to the directorate as a consequence of an appropriation; or

(b) a receipt relating to the operations of the directorate; or

(c) a receipt relating to the sale or disposal of assets of the Territory held by the directorate.

(4) All public money, except money payable into a directorate banking account, must 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 directorate responsibilities

If, in the Treasurer's opinion, it is necessary as a consequence of changes in directorate responsibilities, to transfer to another account

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money held in the territory banking account or a directorate banking account, the Treasurer must decide the amount to be transferred and direct that the transfer be made.

36A Transfers from directorate banking accounts to territory banking account

If, in the Treasurer's opinion, it is desirable for the management of the public money of the Territory to transfer an amount held in a directorate banking account to the territory banking account, the Treasurer may direct that the transfer be made.

37 Payments from territory banking account

(1) An amount must not be paid out of the territory banking account except under an appropriation to a banking account of a territory entity.

(2) 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 directorate banking accounts to facilitate investment of superannuation funds); and

(b) this Act, section 38 (3) (which is about transfers of public money to facilitate investment); and

(c) this Act, section 38 (7) (which is about the payment of interest on certain investments of public money); and

(d) this Act, section 58 (7) (which is about transfers between the territory banking account and territory authorities of interest earned on certain investments for territory authorities).

(3) This section does not apply to an overdraft or credit facility for a territory authority approved under section 59 (5).

(4) Also, an amount paid into the territory banking account by a territory entity that is paid in excess, may be transferred from the

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territory banking account to the banking account of the territory entity without appropriation.

37A Payments into territory banking account

(1) This section applies if—

(a) a territory entity receives an amount appropriated for the territory entity from the territory banking account into its banking account; and

(b) the amount received by the territory entity is excess to requirements (the ***excess amount***).

(2) The territory entity may repay the excess amount or part of the excess amount to the territory banking account.

(3) If an amount is repaid under subsection (2)—

(a) the appropriation from which the excess amount was paid to the territory entity is taken to be restored by the amount repaid by the territory entity; and

(b) the balance of the appropriation, including the amount repaid, may be applied for the purposes for which it was appropriated.

38 Investment of certain public money

(1) The Treasurer may invest any money held in the territory banking account or directorate banking accounts for the period and on the terms and conditions the Treasurer considers appropriate—

(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

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

(2) However, an investment may be made under this section only to increase or protect the financial wealth of the Territory.

(3) Transfers of money for investment, including transfers between the territory banking account and directorate banking accounts to facilitate investment, may be made without appropriation.

(4) Interest received from the investment of public money under this section must be paid to the territory banking account.

(5) However, if an investment of public money is made or managed for the Territory by an entity other than a directorate, the entity may deduct from the interest received by the entity for the investment—

(a) a fee charged by the entity for making or managing the investment; and

(b) expenses reasonably incurred by the entity in making or managing the investment.

(6) The Treasurer may decide the amounts of interest from investments under this section that are to be credited to directorate banking accounts.

(7) The amounts decided by the Treasurer may be paid from the territory banking account without further appropriation.

(8) However, the total of the amounts paid under subsection (7) must not exceed the total of the interest received from investments under this section.

(9) This section does not apply to money held in a superannuation banking account.

(10) In this section:

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

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Part 6 Borrowing and guarantees

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 an amount borrowed; 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 must 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, that are 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 59 (1) (b).

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43 Territory authorities may give security

Subject to the Treasurer's approval of the borrowing under section 42 (1) (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 must not delegate to anyone the power under section 42 (1) (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, without further appropriation, make payments needed for—

(a) payment of interest on borrowings made for the Territory; or

(b) repayment of borrowings made for the Territory; or

(c) payment of the expenses of making or repaying borrowings for the Territory.

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 any conditions the Treasurer may specify in the approval.

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(3) If 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.

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Part 7 Trust money

49 Identity of trust money

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

50 Administration of trust money

(1) Trust money must be administered by the appropriate directorate on behalf of the Territory.

(2) The Treasurer may, in writing, specify a directorate as the appropriate directorate in relation to an amount of trust money.

(3) In this section:

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

(a) except if paragraph (b) applies—the directorate responsible for matters or enactments that relate most closely to the purpose of the payment; or

(b) the directorate specified under subsection (2).

51 Directorate trust banking accounts

(1) The responsible Minister or the responsible director-general may open a trust banking account for the purposes of the relevant directorate.

(2) A trust banking account must be maintained by the director-general.

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(3) A trust banking account must not, without the Treasurer's written approval, be opened or maintained otherwise than with an authorised deposit-taking institution with which an agreement is in force under section 32 (Agreement for the conduct of banking for Territory).

(4) No money may be held in a trust banking account other than trust money.

(5) A Minister or a director-general must not open or operate a trust banking account otherwise than in accordance with this Act.

51A Transfer of directorate trust banking accounts

(1) This section applies if the Treasurer believes that it is desirable, because of changes in directorate responsibilities, to transfer a directorate trust banking account from a directorate to another directorate.

(2) The Treasurer may, in writing, direct the responsible director-general of the directorate that holds the account to arrange for it to be transferred to the other directorate.

(3) If a director-general receives a direction under subsection (2), the director-general must comply with it.

(4) An account transferred in accordance with the direction becomes a trust banking account of the directorate to which it is transferred.

51B Transfers between trust banking accounts—changes in directorate responsibilities

(1) This section applies if the Treasurer believes that it is necessary, because of changes in directorate responsibilities, to transfer an amount held in a directorate trust banking account (the ***first account***) to a trust banking account of another directorate.

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(2) The Treasurer may, in writing, direct the responsible director-general of the directorate that holds the first account to transfer the amount.

(3) If a director-general receives a direction under subsection (2), the director-general must comply with it.

51C Transfers between trust banking accounts—investment

Amounts may at any time be transferred between trust banking accounts to facilitate investment of trust money.

52 Transfers between trust banking account and territory banking account

Amounts 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) (Unclaimed 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 money

(1) For this section, money held in a trust banking account is unclaimed trust money if—

(a) not less than 6 years has elapsed since the date the money became payable; and

(b) during that period, no-one entitled to the money has requested that the money be paid to him or her or according to his or her direction.

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(2) If on 1 January in any year a trust banking account contains unclaimed trust money, the director-general responsible for maintaining the account must, on or before 31 January in the year, give to the Treasurer a statement of all unclaimed trust money held in the account.

(3) The statement must 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 people 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.

(5) The director-general must give additional public notice of the statement.

Note ***Public notice*** means notice on an ACT government website or in a daily newspaper circulating in the ACT (see Legislation Act, dict, pt 1). The requirement in s (5) is in addition to the requirement for notification on the legislation register as a notifiable instrument.

(6) The total amount shown in the statement must be paid into the territory banking account when the statement is given to the Treasurer and, on being paid into that account, becomes 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 the person is entitled.

(8) The Treasurer must consider each application and either refuse it or approve it completely or partly.

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(9) The Treasurer must 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 Reviewable decision notices

If the Treasurer refuses an application under section 53A (8), completely or partly, the Treasurer must give a reviewable decision notice to the applicant.

Note 1 The Treasurer must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

Note 2 The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

53C Applications for review

The following may apply to the ACAT for review of a decision under section 53A (8):

(a) an applicant for payment under section 53A (8);

(b) any other person whose interests are affected by the decision.

Note If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

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Part 8 Financial provisions for territory authorities

54 Application––pt 8

This part applies to a territory authority prescribed by the financial management guidelines for this part.

55 Responsibilities of chief executive officers of territory authorities

(1) This section applies to a territory authority if the authority does not have a governing board.

Note A territory authority has a governing board if the establishing Act for the authority establishes a governing board for the authority (see s 76).

(2) The chief executive officer of the territory authority is responsible, under the responsible Minister, for the efficient and effective financial management of the resources for which the authority is responsible.

(3) The chief executive officer of a territory authority must manage the authority in a way that promotes—

(a) the achievement of the purpose of the authority; and

(b) the financial sustainability of the authority.

(4) Without limiting subsections (2) and (3), the chief executive officer of the territory authority is responsible, under the responsible Minister, for ensuring the following:

(a) that the expenses incurred by the authority are properly authorised;

(b) that, if an appropriation is made in relation to the authority, any amount of the appropriation spent by the authority is spent in accordance with the appropriation;

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(c) that, as far as practicable, the operations of the authority during a financial year are consistent with, and comparable to, the estimates in the authority's statement of intent for the year.

(d) that payments made by the authority are properly authorised and correctly made;

(e) that the staff of the authority comply with the requirements of this Act;

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including in this case the financial management guidelines (see Legislation Act, s 104).

(f) that proper accounts and records are kept of the transactions and affairs of the authority in accordance with generally accepted accounting principles;

(g) that adequate control is maintained over the assets of the authority and assets under the authority's control;

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

(5) A report prepared by the territory authority under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include an explanation of material variations between the actual results of the authority for the year and the estimates in the authority's statement of intent for the year.

(6) In this section:

property means property, other than money, that is owned or held by the territory authority or held by a person on behalf of the authority.

resources means money or property.

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56 Responsibilities of governing boards of territory authorities

(1) This section applies to a territory authority if the authority has a governing board.

Note A territory authority has a governing board if the establishing Act for the authority establishes a governing board for the authority (see s 76).

(2) The governing board of the territory authority is responsible, under the responsible Minister, for the efficient and effective financial management of the resources for which the authority is responsible.

(3) The governing board of a territory authority must manage the authority in a way that promotes—

(a) the achievement of the purpose of the authority; and

(b) the financial sustainability of the authority.

(4) Without limiting subsections (2) and (3), the governing board of the territory authority is responsible, under the responsible Minister, for ensuring the following:

(a) that expenses incurred by the authority are properly authorised;

(b) that, if an appropriation is made in relation to the authority, any amount of the appropriation spent by the authority is spent in accordance with the appropriation;

(c) that, as far as practicable, the operations of the authority during a financial year are consistent with, and comparable to, the estimates in the authority's statement of intent for the year;

(d) that payments made by the authority are properly authorised and correctly made;

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(e) that the staff of the authority comply with the requirements of this Act;

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including in this case the financial management guidelines (see Legislation Act, s 104).

(f) that proper accounts and records are kept of the transactions and affairs of the authority in accordance with generally accepted accounting principles;

(g) that adequate control is maintained over the assets of the authority and assets under the authority's control;

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

(5) A report prepared by the territory authority under the *Annual Reports (Government Agencies) Act 2004* for a financial year must include an explanation of material variations between the actual results of the authority for the year and the estimates in the authority's statement of intent for the year.

(6) In this section:

property means property, other than money, that is owned or held by the territory authority or held by a person on behalf of the authority.

resources means money or property.

57 Banking accounts of territory authorities

(1) A territory authority may open 1 or more banking accounts for the purposes of the authority.

(2) A territory authority must at all times keep at least 1 banking account.

(3) A banking account of a territory authority must not, without the Treasurer's written approval, be opened or kept otherwise than with an authorised deposit-taking institution with which an agreement is

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in force under section 32 (Agreement for the conduct of banking for Territory).

58 Investment by territory authorities

(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, for the territory authority, in an investment mentioned in section 38 (1) (a) to (e); or

(d) in an investment prescribed for this paragraph.

(2) However, the funds of the territory authority may only be invested under this section to increase or protect the financial wealth of the authority.

(3) Transfers between the territory banking account and the banking account of a territory authority to facilitate investments may be made without appropriation.

(4) Interest received by the Treasurer for the investment of funds of a territory authority must be paid to the territory authority.

(5) However, if an investment of funds of a territory authority is made or managed by a directorate, the directorate may deduct from the interest received by the directorate for the investment—

(a) a fee charged by the directorate for making or managing the investment; and

(b) expenses reasonably incurred by the directorate in making or managing the investment.

(6) Interest that is to be paid to a territory authority under subsection (4) may be paid direct to the territory authority or through the territory banking account.

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(7) If interest to be paid to a territory authority is paid into the territory banking account under subsection (6), the interest may be paid to the authority from that account without further appropriation.

(8) This section does not apply to money held on trust by a territory authority.

59 Borrowing by territory authorities

(1) The Treasurer may, on the terms and conditions the Treasurer considers appropriate—

(a) borrow money for a territory authority; or

(b) lend public money to a territory authority.

(2) A borrowing may be secured by the territory authority's assets approved by the Treasurer for this section.

(3) A territory authority may arrange an overdraft or credit facility only 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 purpose of making the loan.

(5) However, subsection (4) does not apply to an overdraft or credit facility for a territory authority from the territory banking account that is approved by the Treasurer for the authority.

(6) The Treasurer may approve an overdraft or credit facility for a territory authority under subsection (5) only if satisfied that it is for a purpose consistent with a function of the authority.

(7) An approval under subsection (5) must state, for the overdraft or credit facility—

(a) each purpose for which it may be used; and

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(b) the maximum amount that may be outstanding at any time; and

(c) conditions about—

(i) the repayment of principal; and

(ii) the interest rate; and

(iii) the repayment of interest.

(8) An approval under subsection (5) may also state any other condition that the Treasurer requires.

(9) An approval under subsection (5) is a disallowable instrument.

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

(10) An overdraft or credit facility approved under subsection (5) must be reviewed annually by the Treasurer.

60 Guarantees by territory authorities

A territory authority may only give a guarantee with the written approval of the Treasurer.

61 Territory authority statements of intent

(1) A territory authority must give the Treasurer a statement (a ***statement of intent***) for each financial year.

(2) A territory authority must consult the responsible Minister in preparing a statement of intent.

(3) A territory authority must show the responsible Minister a copy of the proposed statement of intent, and take into consideration any comment by the Minister, before giving it to the Treasurer.

(4) A statement of intent must be—

(a) in the form the Treasurer requires; and

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(b) as agreed between the relevant person for the authority and the Treasurer; and

(c) provided to the Treasurer within the period the Treasurer requires.

(5) A statement of intent for a financial year must include the following:

(a) the financial statements required under the financial management guidelines;

(b) a statement of the objectives of the authority for the year, and each of the next 3 financial years;

(c) a statement of the nature and scope of the activities to be carried out by the authority during the year, and each of the next 3 financial years;

(d) the performance criteria and other measures by which the performance of the authority may be assessed against its objectives for the year, and each of the next 3 financial years;

(e) an assessment of the performance (or estimated performance) of the authority in the previous financial year against its objectives for that year;

(f) the results of any review under section 59 (10) in the previous financial year of an overdraft or credit facility approved for the authority;

(g) any other information the Treasurer directs.

(6) In this section:

relevant person, for a territory authority, means—

(a) if the authority has a governing board—the chair of the governing board; or

(b) if the authority does not have a governing board—the chief executive officer.

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62 Presentation of statements of intent of territory authorities

(1) The Treasurer must present to the Legislative Assembly, with the budget papers for a financial year, a statement of intent for each territory authority for the year.

(2) If the Treasurer does not present to the Legislative Assembly, with the budget papers for a financial year, a statement of intent for a territory authority, the Treasurer must—

(a) as soon as practicable after the budget papers are presented, explain to the Legislative Assembly why the statement of intent was not presented; and

(b) present the statement of intent to the Legislative Assembly as soon as practicable after presenting the budget papers.

63 Annual financial statements of territory authorities

(1) As soon as practicable after the end of each financial year, each territory authority must prepare annual financial statements for its operations during the year.

(2) The annual financial statements must be prepared in accordance with generally accepted accounting principles and in a form that facilitates a comparison between the financial operations of the territory authority during the financial year and the estimates of the operations in the authority's statement of intent for the year.

(3) The annual financial statements must include—

(a) the financial statements required under the financial management guidelines; and

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(b) if a change was made during the year to the conditions of a capital injection set out under section 12A (1) (c) (ii) (Territory authority and territory-owned corporation budgets) in a statement included in a proposed budget for the authority for a financial year—a statement of the change and the reasons for it; and

(c) any other statement necessary to fairly reflect the financial operations of the authority during the year and its financial position at the end of the year.

64 Responsibility for annual financial statements of territory authorities

(1) An annual financial statement of a territory authority must have a statement of responsibility attached to it.

(2) The statement of responsibility must—

(a) state that, in the relevant person's opinion, the annual financial statements fairly reflect—

(i) the financial operations of the authority during the financial year; and

(ii) the financial position of the authority at the end of the year; and

(b) state the relevant person's responsibility for the preparation of the annual financial statements and the judgments exercised in preparing them; and

(c) be signed by the relevant person.

(3) The statement of responsibility may be signed at any time before the auditor-general gives the relevant person an audit opinion for the financial statement in accordance with section 65.

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(4) In this section:

relevant person, for the territory authority, means—

(a) if the authority has a governing board—the chair of the governing board; or

(b) if the authority does not have a governing board—the chief executive officer.

65 Audit of annual financial statements of territory authorities

(1) The chief executive officer of a territory authority must give the auditor-general the annual financial statements of the authority for a financial year within the prescribed period after the end of the year.

(2) The auditor-general must give the chief executive officer an audit opinion about the financial statements as soon as practicable after the auditor-general receives them.

66 Annual financial statements of territory authorities to be included in annual reports etc

A report prepared under the *Annual Reports (Government Agencies) Act 2004* for a territory authority for a financial year must include, or have attached to it—

(a) the authority's annual financial statements for the year; and

(b) the audit opinion under section 65 (2) about the financial statements.

67 Treasurer may require interim financial statements etc for territory authorities

(1) The Treasurer may, in writing, direct the relevant person for a territory authority to give the responsible Minister of the authority and the Treasurer financial or other statements relating to the authority for each month, quarter or other stated period of the year.

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(2) The relevant person must prepare the statements required by the direction and give them to the responsible Minister and Treasurer within 1 month after the day the person receives the direction or, if a longer period for compliance is stated in the direction, within the longer period.

(3) In this section:

relevant person, for a territory authority, means—

(a) if the authority has a governing board—the chair of the governing board; or

(b) if the authority does not have a governing board—the chief executive officer.

68 Statements of performance of territory authorities

(1) As soon as practicable after the end of each financial year, each territory authority must prepare a statement of the performance of the authority in meeting the objectives in the authority's statement of intent for the year.

(2) The statement must assess the performance by reference to the performance criteria and other measures included in the statement of intent in accordance with section 61 (5) (d).

(3) For a prescribed territory authority, the statement must also include a statement of the performance of the authority in providing each class of outputs provided by it during the year and, in particular—

(a) compare the performance of the territory authority in providing each class of the outputs with the forecast of the performance in the authority's budget for the year; and

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

(4) In this section:

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budget, for the territory authority, means the budget for the authority for the financial year presented to the Legislative Assembly under section 10 (c) (Budget papers) and, if that budget has been amended under this Act, the budget as amended.

prescribed territory authority means a territory authority prescribed for section 12A (1) (b) (Territory authority and territory-owned corporation budgets).

69 Responsibility for territory authority statements of performance

(1) A statement of performance of a territory authority must have a statement of responsibility attached to it.

(2) The statement of responsibility must—

(a) state that, in the relevant person's opinion, the statement of performance fairly reflects the performance of the authority during the financial year; and

(b) state the relevant person's responsibility for the preparation of the statement of performance and the judgments exercised in preparing it; and

(c) be signed by the relevant person.

(3) The statement of responsibility may be signed at any time before the auditor-general gives the report about the statement of performance to the chief executive officer under section 70 (2).

(4) In this section:

relevant person, for the territory authority, means—

(a) if the authority has a governing board—the chair of the governing board; or

(b) if the authority does not have a governing board—the chief executive officer.

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70 Scrutiny of territory authority statements of performance

(1) The chief executive officer of a territory authority must give the auditor-general the authority's statement of performance for a financial year within the prescribed period after the end of the year.

(2) The auditor-general must give the chief executive officer a report about the statement of performance as soon as practicable after the auditor-general receives it.

(3) The report must be prepared in accordance with the financial management guidelines.

71 Territory authority statements of performance to be included in annual reports etc

A report prepared under the *Annual Reports (Government Agencies) Act 2004* for a territory authority for a financial year must include, or have attached to it—

(a) the authority's statement of performance for the year; and

(b) the auditor-general's report under section 70 (2) about the statement of performance.

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Part 9 Governance of territory authorities

Notes for pt 9

Note 1 Div 9.1 and div 9.5 apply to a territory authority, whether or not it has a governing board, unless the establishing Act otherwise provides (see eg the *Legal Aid Act 1977*, s 94A).

Note 2 The Legislation Act contains provisions relevant to territory authorities, including the following:

- making appointments (s 206, s 207)
- consultation with a committee of the Legislative Assembly (div 19.3.3)
- eligibility for reappointment (s 208 and dict, pt 1, def ***appoint***)
- acting appointments (s 209)
- resignations (s 210)
- effect of appointment irregularity or defect (s 212).

Note 3 The *Remuneration Tribunal Act 1995* allows terms and conditions for people appointed to be set by determination under that Act.

Division 9.1 Definitions and important concepts

72 Definitions—pt 9

In this part:

applicable governmental policies, for a territory authority—see section 103.

establishing Act, for a territory authority, governing board or governing board member, means the Act that establishes the authority or governing board.

financial year, for a territory authority, means—

(a) a period of 12 months beginning on 1 July; or

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(b) if the territory authority has, in writing, fixed another 12-month period as its financial year—the period fixed.

governing board member, for a territory authority with a governing board, includes the CEO.

material interest—see section 88 (4).

relevant territory authority—a territory authority to which part 8 applies is a ***relevant territory authority***, unless the establishing Act for the authority provides otherwise.

73 Nature of relevant territory authorities

(1) A relevant territory authority—

(a) is a corporation; and

(b) may sue and be sued in its corporate name; and

(c) may have a seal.

(2) A relevant territory authority represents the Territory when exercising its functions, unless the establishing Act for the authority or another territory law otherwise provides.

(3) A relevant territory authority has the same status, privileges and immunities as the Territory so far as it represents the Territory.

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74 Powers of territory authorities generally

(1) A relevant territory authority has the legal capacity and powers of an individual both in and outside the ACT (including outside Australia).

Examples

1 to enter into a contract

2 to own, deal with and dispose of property

3 to act as trustee

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) Without limiting subsection (1), a relevant territory authority—

(a) has the powers given to it under this Act or another territory law; and

(b) may do anything that it is authorised to do by a territory law or a law of another jurisdiction; and

(c) may exercise its powers in and outside the ACT (including outside Australia).

Example for par (b)

A territory authority may arrange for the authority to be registered or recognised under a law of another jurisdiction.

(3) A relevant territory authority's legal capacity to do something is not affected by the fact that the authority's interests are not, or would not be, served by doing it.

(4) To remove any doubt, this section does not—

(a) authorise a relevant territory authority to do anything that is prohibited by a territory law or a law of another jurisdiction; and

(b) give a relevant territory authority a right that a territory law or a law of another jurisdiction denies to the authority.

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(5) In this section:

another jurisdiction means the Commonwealth, a State, another Territory or a foreign country.

75 Execution of documents and assumptions people dealing with relevant territory authority may make

(1) In this section:

applied Corporations Act provisions means the following provisions of the Corporations Act:

(a) section 127 (which is about the execution of documents by a company);

(b) section 128 (which is about a person's entitlement to make certain assumptions in dealing with a company);

(c) section 129 (which is about the assumptions that may be made).

(2) The applied Corporations Act provisions apply to a relevant territory authority as if—

(a) a reference to a ***company*** were a reference to the authority; and

(b) a reference to a ***common seal*** were a reference to any seal of the authority; and

(c) a reference to a ***director*** were a reference to a board member; and

(d) a reference to a company's ***constitution*** were a reference to this Act and the establishing Act; and

(e) a reference to an ***officer*** of a company were a reference to the chief executive officer and any member of staff of the authority; and

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(f) a reference to ***information available to the public from ASIC*** were a reference to information available to the public from the Territory; and

(g) any other necessary changes, and any change prescribed by regulation, were made.

76 Governing board of territory authority

A territory authority has a governing board if the establishing Act for the authority establishes a governing board for the authority.

77 Role of governing board

(1) If a territory authority has a governing board, the governing board has the following functions:

(a) setting the authority's policies and strategies;

(b) governing the authority consistently with the authority's establishing Act and other relevant legislation;

(c) ensuring, as far as practicable, that the authority operates in a proper, effective and efficient way;

(d) ensuring, as far as practicable, that the authority complies with applicable governmental policies (if any).

Examples of policies for par (a)

1 risk management

2 communication with government

3 corporate planning

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) This section does not limit the functions of a governing board.

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Division 9.2 Governing board member appointments

78 Appointment of governing board members generally

(1) This section applies to the appointment of the members of the governing board of a territory authority, other than the CEO.

(2) The responsible Minister for the territory authority may appoint the members.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

(3) The only criteria for deciding whether to appoint a person as a member are—

(a) the contribution the person can make to the goals and objectives of the governing board; and

(b) the criteria stated in applicable governmental policies (if any) relating to appointments.

(4) However, the establishing Act may prescribe other criteria for deciding whether to appoint a person as a member.

(5) Also, unless the establishing Act otherwise provides, a person must not be appointed as a member if—

(a) the person is a public servant; and

(b) if the governing board has a maximum of 6 members or less—the appointment would result in more than 1 public servant being a member of the board; and

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(c) if the governing board has a maximum of more than 6 members—the appointment would result in more than 2 public servants being members of the board.

(6) Subsection (5) does not apply if—

(a) the Minister is satisfied that there are special circumstances justifying the appointment; and

(b) the Legislative Assembly approves, by resolution, the appointment.

(7) An appointment of a member—

(a) must not be for longer than 3 years, unless the establishing Act allows a longer period; and

(b) is an appointment under the provision of the establishing Act that establishes the governing board.

(8) The conditions of appointment of a member (other than a member required under the establishing Act to be a public servant or statutory office holder) are the conditions agreed between the Minister and the member, subject to any determination under the *Remuneration Tribunal Act 1995*.

Note The terms ***public servant*** and ***statutory office holder*** are defined in the Legislation Act, dict, pt 1.

79 Appointment of chair and deputy chair

(1) The responsible Minister for a territory authority with a governing board may appoint a chair for the board and, unless the establishing Act otherwise provides, a deputy chair for the board.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

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(2) However, the responsible Minister must not appoint the CEO of the territory authority as chair or deputy chair.

(3) Also, the responsible Minister must not appoint a public servant as chair or deputy chair unless—

(a) there is no member of the board who—

(i) is not a public servant; and

(ii) is available to be appointed; and

(b) the Legislative Assembly approves, by resolution, the appointment.

(4) The responsible Minister must try to ensure that the governing board of a territory authority always has a chair and, unless the establishing Act otherwise provides, deputy chair.

80 Appointment of CEO of authority with governing board

(1) This section applies to a territory authority with a governing board.

(2) The governing board of the territory authority must, after consulting the responsible Minister, appoint a CEO for the authority.

Note 1 For the making of appointments (including acting appointments), see the Legislation Act, pt 19.3.

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see s 207).

(3) However, if the CEO is required under the establishing Act to be a public servant, the director-general of the administrative unit responsible for the establishing Act must, after consulting the governing board and the responsible Minister, appoint a CEO for the authority.

(4) The CEO is a member of the governing board.

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(5) However, the CEO is not a member of the governing board if it is considering or deciding—

(a) the appointment, or the ending of the appointment, of the CEO; or

(b) the CEO's conditions of appointment.

(6) The conditions of appointment of a CEO (other than a CEO required under the establishing Act to be a public servant) are the conditions agreed between the governing board and the CEO, subject to any determination under the *Remuneration Tribunal Act 1995*.

81 Ending board member appointments

(1) This section applies to a governing board member other than the CEO.

(2) The responsible Minister may end the member's appointment—

(a) if the member contravenes a territory law; or

(b) for misbehaviour; or

(c) if the member becomes bankrupt or personally insolvent; or

Note ***Bankrupt or personally insolvent***—see the Legislation Act, dictionary, pt 1.

(d) if the member is convicted, or found guilty, in Australia of an offence punishable by imprisonment for at least 1 year; or

(e) if the member is convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would be punishable by imprisonment for at least 1 year; or

(f) if the member exercises the member's functions other than in accordance with section 85 (Honesty, care and diligence of governing board members); or

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(g) if the member fails to take all reasonable steps to avoid being placed in a position where a conflict of interest arises during the exercise of the member's functions; or

(h) if the member contravenes section 88 (Disclosure of interests by governing board members); or

(i) if the member is absent from 3 consecutive meetings of the board, otherwise than on approved leave; or

(j) for physical or mental incapacity, if the incapacity substantially affects the exercise of the member's functions.

Note A person's appointment also ends if the person resigns (see Legislation Act, s 210).

(3) The Minister may also end the appointment of the member (the ***member concerned***) if the board tells the Minister in writing that it has resolved, by a majority of at least 2/3 of the members, to recommend to the Minister that the member's appointment be ended.

(4) The governing board may pass a resolution mentioned in subsection (3) only if—

(a) at least 3 weeks written notice of the intention to consider the proposed resolution has been given to the member concerned; and

(b) the member concerned has been given an opportunity to make submissions and present documents to a meeting of the board; and

(c) if the member concerned has used the opportunity mentioned in paragraph (b)—a summary of the member's submissions is recorded in the minutes of the board and a copy of any documents presented is included in the minutes.

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Division 9.3 Functions of governing board members

82 Chair's functions

The chair of the governing board of a territory authority has the following functions:

(a) managing the affairs of the governing board;

(b) ensuring, as far as practicable, that there is a good working relationship between the governing board and management of the authority;

(c) ensuring the responsible Minister is kept informed about the operations of the authority.

83 Deputy chair's functions

(1) If the chair of the governing board of a territory authority is absent or cannot for any reason exercise the functions of the chair, the deputy chair of the governing board must exercise the functions of the chair.

(2) However, this section does not apply to a territory authority if the establishing Act for the authority provides that it need not have a deputy chair.

Note The Legislation Act, s 209 deals with acting appointments.

84 CEO's functions

(1) The CEO of a territory authority with a governing board has the following functions:

(a) ensuring, as far as practicable, that the authority's statement of intent is implemented effectively and efficiently;

Example of implementation of statement of intent

achieving objectives in statement of intent

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(b) managing the day-to-day operations of the authority in accordance with—

(i) applicable governmental policies (if any); and

(ii) the policies of the authority set by the board; and

(iii) each legal requirement that applies to the authority;

Example for par (iii)

a direction by the independent competition and regulatory commission that relates to the authority

(c) regularly advising the board about the operation and financial performance of the authority;

(d) immediately advising the board about significant events.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) In this section:

significant event, for a territory authority, means an event that the authority is required to tell the responsible Minister about under section 101.

85 Honesty, care and diligence of governing board members

In exercising the functions of a governing board member, a member must exercise the degree of honesty, care and diligence required to be exercised by a director of a corporation in relation to the affairs of the corporation.

86 Conflicts of interest by governing board members

A governing board member must take all reasonable steps to avoid being placed in a position where a conflict of interest arises during the exercise of the member's functions.

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87 Agenda to require disclosure of interest item

The agenda for each meeting of a territory authority governing board must include an item requiring any material interest in an issue to be considered at the meeting to be disclosed to the meeting.

88 Disclosure of interests by governing board members

(1) If a governing board member has a material interest in an issue being considered, or about to be considered, by the governing board, the member must disclose the nature of the interest at a board meeting as soon as practicable after the relevant facts come to the member's knowledge.

Note ***Material interest*** is defined in s (4). The definition of ***indirect interest*** in s (4) applies to the definition of ***material interest***.

(2) The disclosure must be recorded in the governing board's minutes and, unless the board otherwise decides, the member must not—

(a) be present when the board considers the issue; or

(b) take part in a decision of the board on the issue.

Example

Albert, Boris and Chloe are members of a governing board. They have an interest in an issue being considered at a governing board meeting and they disclose the interest as soon as they become aware of it. Albert's and Boris's interests are minor but Chloe has a direct financial interest in the issue.

The governing board considers the disclosures and decides that because of the nature of the interests:

- Albert may be present when the board considers the issue but not take part in the decision
- Boris may be present for the consideration and take part in the decision.

The board does not make a decision allowing Chloe to be present or take part in the board's decision. Accordingly, since Chloe has a material interest she cannot be present for the consideration of the issue or take part in the decision.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

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(3) Any other governing board member who also has a material interest in the issue must not be present when the board is considering its decision under subsection (2).

(4) In this section:

associate, of a person, means—

(a) the person's business partner; or

(b) a close friend of the person; or

(c) a family member of the person.

executive officer, of a corporation, means a person (however described) who is concerned with, or takes part in, the corporation's management, whether or not the person is a director of the corporation.

indirect interest—without limiting the kinds of indirect interests a person may have, a person has an ***indirect interest*** in an issue if any of the following has an interest in the issue:

(a) an associate of the person;

(b) a corporation if the corporation has not more than 100 members and the person, or an associate of the person, is a member of the corporation;

(c) a subsidiary of a corporation mentioned in paragraph (b);

(d) a corporation if the person, or an associate of the person, is an executive officer of the corporation;

(e) the trustee of a trust if the person, or an associate of the person, is a beneficiary of the trust;

(f) a member of a firm or partnership if the person, or an associate of the person, is a member of the firm or partnership;

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(g) someone else carrying on a business if the person, or an associate of the person, has a direct or indirect right to participate in the profits of the business.

material interest—a governing board member has a ***material interest*** in an issue if the member has—

(a) a direct or indirect financial interest in the issue; or

(b) a direct or indirect interest of any other kind if the interest could conflict with the proper exercise of the member's functions in relation to the board's consideration of the issue.

89 Reporting of disclosed governing board interests to Minister

(1) Within 3 months after the day a material interest is disclosed under section 88 (1), the chair of the governing board must report to the responsible Minister in writing about—

(a) the disclosure; and

(b) the nature of the interest disclosed; and

(c) any decision by the board under section 88 (2).

(2) The chair must also give the responsible Minister, not later than 31 days after the end of each financial year, a statement that sets out the information given to the Minister in reports under subsection (1) that relate to disclosures made during the previous financial year.

(3) The responsible Minister must give a copy of the statement to the relevant committee of the Legislative Assembly within 31 days after the day the Minister receives the statement.

(4) In this section:

relevant committee means—

(a) a standing committee of the Legislative Assembly nominated by the Speaker for subsection (3); or

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(b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for public accounts.

90 Protection of governing board members from liability

(1) A governing board member is not civilly liable for anything done or omitted to be done honestly and without recklessness—

(a) in the exercise of a function under a territory law; or

(b) in the reasonable belief that the act or omission was in the exercise of a function under a territory law.

(2) Any liability that would, apart from this section, attach to a governing board member of a territory authority attaches instead to the authority.

91 Indemnification and exemption of governing board members

(1) A territory authority must not exempt a governing board member (whether directly or through another entity) from liability to the authority.

(2) A territory authority must not indemnify a governing board member (whether directly or through another entity and whether by agreement or by making a payment) against any of the following liabilities incurred as a board member:

(a) a liability owed to the authority;

(b) a liability owed to someone other than the authority that did not arise from honest conduct.

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(3) A territory authority must not indemnify a governing board member (whether directly or through another entity and whether by agreement or by making a payment) against legal costs incurred as a member if the costs are incurred—

(a) in defending or resisting a proceeding if the person is found to have a liability for which the person could not be indemnified under subsection (2); or

Note A governing board member is not personally liable for certain acts done or omissions made honestly and without recklessness (see s 90).

(b) in defending or resisting a criminal proceeding in which the person is found guilty.

(4) In this section:

authority includes a subsidiary (if any) of the authority.

92 Compensation for exercise of functions etc

(1) A person may claim compensation from the Territory if the person suffers loss because of the exercise, or purported exercise, of a function under this part or the establishing Act.

(2) Compensation may be claimed and ordered in a proceeding for compensation brought in a court of competent jurisdiction.

(3) A court may order the payment of reasonable compensation for the loss or expense only if it is satisfied it is just to make the order in the circumstances of the particular case.

(4) A regulation may prescribe matters that may, must or must not be taken into account by the court in considering whether it is just to make the order.

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Division 9.4 Governing board meetings

93 Time and place of governing board meetings

(1) Meetings of the governing board of a territory authority are to be held when and where it decides.

(2) However, the governing board must meet—

(a) at least once every 3 months; or

(b) if the establishing Act requires the governing board to meet more frequently—at the times required under the establishing Act.

(3) The chair—

(a) may at any time call a meeting of the governing board; and

(b) must call a meeting if asked by the Minister or at least 2 members.

(4) The chair must give the other members reasonable notice of the time and place of a meeting called by the chair.

94 Presiding member at governing board meetings

(1) The chair presides at all meetings at which the chair is present.

(2) If the chair is absent and the governing board has a deputy chair, the deputy chair presides.

(3) If the chair and the deputy chair are absent or the chair is absent and there is no deputy chair, the member chosen by the members present presides.

(4) However, the members must not choose the CEO to preside.

95 Quorum at governing board meetings

(1) Business may be carried on at a meeting of the governing board only if at least 1/2 the number of members appointed are present.

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(2) However, if the establishing Act for the governing board provides that a board member is a non-voting member, that board member is not counted as a member appointed or present for subsection (1).

96 Voting at governing board meetings

(1) At a meeting of the governing board each member has a vote on each question to be decided, unless the establishing Act for the board otherwise provides.

(2) A question is decided by a majority of the votes of the members present and voting but, if the votes are equal, the member presiding has a deciding vote.

97 Conduct of governing board meetings etc

(1) The governing board may conduct its proceedings (including its meetings) as it considers appropriate.

(2) A meeting may be held using a method of communication, or a combination of methods of communication, that allows a board member taking part to hear what each other member taking part says without the members being in each other's presence.

Examples

a phone link, a satellite link, an internet or intranet link

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) A governing board member who takes part in a meeting conducted under subsection (2) is taken, for all purposes, to be present at the meeting.

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(4) A resolution is a valid resolution of the governing board, even if it is not passed at a meeting of the board, if all members agree to the proposed resolution in writing or by electronic communication.

Example of electronic communication

email

(5) The board must keep minutes of its meetings.

Division 9.5 Requirements and obligations for territory authorities

98 Limitations on authorities forming corporations etc

(1) A relevant territory authority must not do any of the following without the Treasurer's prior written approval:

(a) subscribe for, or purchase, shares in or debentures or other securities of, a corporation;

(b) form, or take part in the formation of, a corporation.

(2) An approval under subsection (1)—

(a) must relate only to a particular corporation or proposed corporation; and

(b) may be given subject to the conditions or restrictions stated in the approval.

(3) If a relevant territory authority does something mentioned in subsection (1), the authority must tell the responsible Minister within 2 weeks after the day the authority does the thing.

(4) The responsible Minister must—

(a) prepare a written statement setting out details of, and reasons for, the relevant territory authority's action; and

(b) present the statement to the Legislative Assembly within 6 sitting days after the day the Minister is told about the action.

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(5) A statement need not include any material that is commercially sensitive.

(6) However, if commercially sensitive information is not included in the statement, the responsible Minister must, when presenting the statement to the Legislative Assembly, also present a further statement setting out the general nature of the information and the reason for its non-inclusion in the statement.

99 Limitations on authorities taking part in joint ventures and trusts

(1) A relevant territory authority must not take part in a joint venture or trust without the Treasurer's prior written approval.

(2) An approval under subsection (1)—

(a) may apply generally or may relate to a particular proposed joint venture or trust; and

(b) may be given subject to the conditions or restrictions stated in the approval.

(3) If a relevant territory authority enters into an agreement for a joint venture or trust, the authority must tell the responsible Minister within 2 weeks after the day the authority enters into the agreement.

(4) The responsible Minister must—

(a) prepare a written statement setting out details of, and reasons for, the agreement; and

(b) present the statement to the Legislative Assembly within 6 sitting days after the day the Minister is told about the agreement.

(5) A statement need not include any material that is commercially sensitive.

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(6) However, if commercially sensitive information is not included in the statement, the responsible Minister must, when presenting the statement to the Legislative Assembly, also present a further statement setting out the general nature of the information and the reason for its non-inclusion in the statement.

100 Corporations, joint ventures and trusts in which authority has interest

(1) If a relevant territory authority has a controlling interest in a corporation, joint venture or trust, the authority must ensure that—

(a) the auditor-general is appointed auditor for the corporation, joint venture or trust; and

(b) the corporation or joint venture, or a trustee for the trust, does not do anything that the authority itself could not do.

(2) If a relevant territory authority has an interest, other than a controlling interest, in a corporation, joint venture or trust, the authority must try to ensure that the auditor-general is appointed auditor for the corporation, joint venture or trust.

Note The *Auditor-General Act 1996*, s 14 allows the auditor-general to require a person to give to the auditor-general information and documents.

(3) In this section—

controlling interest—see the *Auditor-General Act 1996*, section 5.

101 Obligation of authorities to tell Minister about significant events

(1) A relevant territory authority must, as soon as practicable, tell the responsible Minister of any significant event that affects, or seems likely to affect—

(a) the value of the authority; or

(b) a significant part of the authority's assets; or

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(c) the performance of the authority as a whole; or

(d) the carrying out of a significant activity of the authority.

(2) For this section, an event, part of assets or activity is ***significant*** for a relevant territory authority if—

(a) it is significant when interpreted in accordance with accounting standards relating to materiality ordinarily used in Australia when the decision about whether it is significant is made; or

(b) a document published by the authority identifies it as significant (however described); or

(c) a memorandum of understanding or other agreement between the responsible Minister or Treasurer and the authority identifies it as significant (however described); or

(d) it is prescribed under the financial management guidelines.

102 Ministerial directions to authorities about financial etc statements

(1) The responsible Minister for a relevant territory authority may, in writing, direct the relevant person for the authority to give the Minister financial or other statements relating to the authority.

(2) Without limiting subsection (1), the direction may state the form in which the statements are to be given and the period to which they must relate.

(3) A relevant person for a relevant territory authority who receives a direction under subsection (1) must prepare the statements required by the direction and give them to the responsible Minister within 1 month after the day the person receives the direction or, if a longer period is allowed by the Minister, within the longer period.

(4) The responsible Minister must not allow a longer period under subsection (3) for complying with a direction unless satisfied that there are special circumstances that justify the longer period.

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(5) In this section:

relevant person, for a relevant territory authority, means—

(a) if the authority has a governing board—the chair of the governing board; or

(b) if the authority does not have a governing board—the chair executive officer.

103 Application of government policies to authorities

(1) The responsible Minister for a relevant territory authority may, after consulting the authority, tell the authority the general government policies (***applicable governmental policies***) that are to apply to the authority.

(2) A relevant territory authority must ensure that the authority complies, as far as practicable, with the applicable governmental policies.

(3) For the *Competition and Consumer Act 2010* (Cwlth), this Act authorises—

(a) the decision to apply applicable governmental policies to an authority; and

(b) the doing of, or the failure to do, anything by or in relation to the authority to comply with applicable governmental policies.

(4) A notice under subsection (1) is a notifiable instrument.

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

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Division 9.6 Restructuring of territory authorities

104 Purpose of div 9.6

The purpose of this division is to facilitate the transfer of assets, rights and liabilities of, or held by, territory authorities to which this division applies.

Note 1 A ***liability*** includes an obligation (see Legislation Act, dict, pt 1).

Note 2 See also the Legislation Act, dict, def ***asset***.

105 What territory authorities does div 9.6 apply to?

(1) This division applies to a territory authority if the authority is prescribed by regulation for this division.

(2) A reference in this division to a ***division 9.6 authority*** is a reference to a territory authority to which this division applies.

(3) To remove any doubt—

(a) nothing in this Act prevents a division 9.6 authority also being a division 9.7 authority; and

(b) a regulation may prescribe a territory authority for this division whether or not this part would otherwise apply to the authority.

106 Responsible Minister may direct div 9.6 authority to sell or transfer assets

(1) The responsible Minister for a division 9.6 authority may direct the authority to sell or transfer a stated asset of, or held by, the authority.

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(2) The direction may also impose on the division 9.6 authority requirements to assist or regulate, or otherwise in relation to, the sale or transfer.

Examples of other requirements

1 that a sale or transfer must be to a stated entity

2 that a sale or transfer must be finished before a stated time

3 that a sale or transfer must be undertaken in a stated way

4 that an asset must be sold for a price within a stated price-range

5 that an asset must be marketed, and the sale undertaken, through a stated agent

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(3) The division 9.6 authority must comply with the direction.

(4) A direction under subsection (1) is a notifiable instrument.

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

(5) To remove any doubt, this section is additional to, and does not limit, any other provision of this division.

107 Transfer of assets by declaration—div 9.6 authorities

(1) The responsible Minister for a division 9.6 authority may make 1 or more of the following declarations (a ***transfer declaration***) in relation to an asset of, or held by, the authority:

(a) a declaration that the stated asset vests in a stated entity at a stated time without a conveyance, transfer or assignment;

(b) a declaration that a stated instrument relating to the asset continues to have effect after the asset vests in a stated entity as if a reference in the instrument to the authority were a reference to the entity;

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(c) a declaration that a stated entity becomes the authority's successor in law in relation to the asset after the asset vests in the entity.

(2) A transfer declaration has effect in accordance with its terms.

(3) A transfer declaration is a notifiable instrument.

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

(4) To remove any doubt, the making of a transfer declaration in relation to an asset of, or held by, a division 9.6 authority does not prevent the authority from transferring assets not dealt with in the declaration otherwise than in accordance with the declaration.

(5) To remove any doubt, this section is additional to, and does not limit, any other provision of this division.

108 Transfer of contractual rights and liabilities by declaration—div 9.6 authorities

(1) The responsible Minister for a division 9.6 authority may declare that the authority's rights and liabilities under a stated contract to which the authority is party—

(a) stop being the rights and liabilities of the authority at a stated time; and

(b) become rights and liabilities of a stated entity at that time.

(2) The responsible Minister for a division 9.6 authority may declare that a stated contract continues to have effect after a stated time as if a reference in the contract were a reference to a stated entity.

(3) The responsible Minister for a division 9.6 authority may declare that a stated instrument relating to a stated contract continues to have effect after the authority's rights and liabilities under the contract become rights and liabilities of a stated entity as if a reference in the instrument to the authority were a reference to the entity.

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(4) The responsible Minister for a division 9.6 authority may declare that a stated person becomes the authority's successor in law, in relation to the authority's rights and liabilities under a stated contract, immediately after the authority's rights and liabilities under the contract become rights and liabilities of the entity.

(5) A declaration under this section has effect according to its terms.

(6) A declaration under this section is a notifiable instrument.

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

(7) To remove any doubt, this section is additional to, and does not limit, any other provision of this division.

109 Transfer of liabilities by declaration—div 9.6 authorities

(1) The responsible Minister for a division 9.6 authority may make 1 or more of the following declarations in relation to a liability of the authority:

(a) a declaration that a stated liability stops being a liability of the authority and becomes a liability of a stated entity at a stated time;

(b) a declaration that a stated instrument relating to a stated liability continues to have effect after the liability becomes a liability of a stated entity as if a reference in the instrument to the authority were a reference to the entity;

(c) a declaration that a stated entity becomes the authority's successor in law in relation to a stated liability immediately after the liability becomes a liability of the entity.

(2) A declaration under subsection (1) has effect in accordance with its terms.

(3) A declaration under subsection (1) is a notifiable instrument.

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

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(4) To remove any doubt, this section is additional to, and does not limit any other provision of this division.

110 Assistance given by authorities for div 9.6

(1) A division 9.6 authority may, on the authority's own initiative, give the Territory assistance in relation to the transfer of the authority's assets.

Examples of forms of assistance

1 giving information
2 giving financial assistance
3 giving a financial benefit to an entity
4 giving facilities, information and other assistance in relation to the conduct of a due diligence procedure or market briefing
5 entering into an agreement with the Territory

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) A division 9.6 authority must, if asked in writing by the responsible Minister for the authority, assist the Territory in relation to the transfer of the authority's assets.

(3) If a division 9.6 authority must give assistance under subsection (2), the assistance must be given within the period, and in the way, stated in the request.

(4) To remove any doubt, a division 9.6 authority that gives assistance under this section does not incur civil liability only because of the giving of assistance.

(5) Any liability that would, apart from this section, attach to the division 9.6 authority attaches instead to the Territory.

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111 Assistance given by governing board members for div 9.6

(1) The governing board, or a member of the governing board, of a division 9.6 authority may, on the board's or member's own initiative, give the Territory assistance in relation to the transfer of the authority's assets.

Examples of forms of assistance

1 giving information

2 giving financial assistance

3 giving a financial benefit to an entity

4 giving facilities, information and other assistance in relation to the conduct of a due diligence procedure or market briefing

5 entering into an agreement with the Territory

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(2) The governing board, or a member of the governing board, of a division 9.6 authority must, if asked in writing by the responsible Minister for the authority, assist the Territory in relation to the transfer of the authority's assets.

(3) If the governing board, or a member of the governing board, of a division 9.6 authority must give assistance under subsection (2), the assistance must be given within the period, and in the way, stated in the request.

(4) To remove any doubt, a governing board or a member of a governing board who gives assistance under this section does not incur civil liability only because of the giving of assistance.

(5) Any liability that would, apart from this section, attach to the members or member of the governing board attaches instead to the Territory.

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112 Use of information by Territory and div 9.6 authorities

(1) This section applies to information provided under section 110 (Assistance given by authorities for div 9.6) or section 111 (Assistance given by governing board members for div 9.6) in relation to a division 9.6 authority.

(2) The Territory, the division 9.6 authority or an associated person may use the information for a purpose related to, or consequent on, the transfer of the authority's assets.

(3) The Territory, the territory authority or an associated person may give the information to someone else for a purpose related to, or consequent on, the transfer of the authority's assets.

(4) If a person gives information or uses information under this section—

(a) the giving of the information is not—

(i) a breach of confidence; or

(ii) a breach of professional etiquette or ethics; or

(iii) a breach of a rule of professional conduct; and

(b) the person does not incur civil liability only because of the giving or using of the information.

(5) In this section:

associated person—each of the following is an ***associated person*** in relation to a division 9.6 authority:

(a) the responsible Minister for the authority;

(b) a public employee;

(c) a person who exercises a function for the Territory in relation to the transfer of the authority's assets;

(d) a member of the governing board of the territory authority;

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(e) an officer or employee of the authority;

(f) a person who exercises a function for the authority in relation to the authority's assets.

113 Contracts relating to the protection of information—responsible Minister for div 9.6 authority

(1) The responsible Minister for a division 9.6 authority may, on behalf of the Territory, enter into a contract with an entity relating to the protection of information if—

(a) the information is provided under section 110 (Assistance given by authorities for div 9.6) or section 111 (Assistance given by governing board members for div 9.6); and

(b) publication of the information might be expected to substantially prejudice the entity's commercial interests.

(2) To remove any doubt, subsection (1) does not limit the power of the Territory to enter into contracts.

114 Contracts relating to the protection of information—div 9.6 authority

(1) A division 9.6 authority may enter into a contract with an entity relating to the protection of information if—

(a) the information is provided under section 110 (Assistance given by authorities for div 9.6) or section 111 (Assistance given by governing board members for div 9.6); and

(b) publication of the information might be expected to substantially prejudice the entity's commercial interests.

(2) To remove any doubt, subsection (1) does not limit the power of the division 9.6 authority to enter into contracts.

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115 Transfer of pending proceedings—div 9.6 authorities

(1) This section applies if—

(a) an entity (the ***successor***) becomes the successor in law of someone else (the ***original entity***) at a particular time (the ***handover time***) in relation to a particular asset, right or liability because of a declaration made by a Minister under this division; and

(b) a proceeding to which the original entity was a party was pending in a court or other entity immediately before the handover time; and

(c) the proceeding related, completely or partly, to the asset, right or liability.

(2) The successor is, by force of this subsection, substituted for the original entity as a party to the proceeding to the extent to which the proceeding relates to the asset, right or liability.

(3) The court or other entity in which, or before which, a proceeding has been continued under this section may give directions about the proceeding.

(4) However, subsection (2) does not apply if the responsible Minister for the original entity determines otherwise.

(5) A determination under subsection (3) is a notifiable instrument.

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

116 Proceedings and evidence—div 9.6 authorities

(1) This section applies if an entity (the ***successor***) becomes the successor in law of someone else (the ***original entity***) at a particular time (the ***handover time***) in relation to a particular asset, right or liability because of a declaration made by a Minister under this division.

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(2) A proceeding for a cause of action may be brought against the successor in relation to the asset, right or liability if, before handover time—

(a) the cause of action had accrued against the original entity in relation to the asset, right or liability; and

(b) a proceeding had not started in relation to the cause of action; and

(c) the limitation period for the cause of action had not ended.

(3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the starting of a proceeding that may be brought by or against the successor under this section as if the cause of action had been accrued by, or had accrued against, the successor.

(4) The court or other entity in which, or before which, a proceeding has been or may be started under this section may give directions about the proceeding.

(5) Any evidence that, before handover time, would have been admissible for or against the original entity in relation to the asset, right or liability is admissible for or against the successor.

(6) An order made in a proceeding by or against the original entity in relation to the asset, right or liability before handover time may be enforced by or against the successor.

(7) In this section:

proceeding includes a proceeding by way of appeal or review (including review under the *Ombudsman Act 1989*).

117 Operation of div 9.6 not breach of contract etc

To remove any doubt, the operation of this division must not be taken to—

(a) place a person in breach of contract or confidence; or

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(b) otherwise make a person guilty of a civil wrong; or

(c) place a person in breach of, or create a default under, any territory law or provision in an agreement, arrangement or understanding, including, for example, a contractual provision prohibiting, restricting or regulating the following:

(i) the assignment or transfer of an asset, right or liability;

(ii) the disclosure of information; or

(d) release a surety from any of surety's liabilities in relation to a liability that is transferred under a declaration made by a Minister under this division; or

(e) fulfil a condition that—

(i) allows an entity to terminate an agreement or liability; or

(ii) alters the operation or effect of an agreement; or

(iii) requires an amount to be paid before its stated maturity.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

118 Transfer of assets etc not otherwise disposed of—div 9.6 authorities

(1) This section applies in relation to an asset, right or liability of a division 9.6 authority if—

(a) the authority ceases to exist; and

(b) apart from this section, division 9.7 would not apply in relation to the authority; and

(c) the asset, right or liability has not been disposed of after the authority ceases to exist.

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(2) Division 9.7 applies in relation to the division 9.6 authority as if it were a division 9.7 authority, but only in relation to the asset, right or liability that has not been disposed of.

119 Annual reports etc for div 9.6 authorities

(1) In this section:

division 9.6 authority means a division 9.6 authority that has ceased to exist and is not also a division 9.7 authority.

financial year—see the *Annual Reports (Government Agencies) Act 2004*, section 6 (3).

handover day, in relation to a division 9.6 authority, means the day the authority ceases to exist.

relevant financial year, for a division 9.6 authority, means a financial year—

(a) beginning before the handover day for the authority; and

(b) for which a report had not been presented by the authority under the *Annual Reports (Government Agencies) Act 2004*, section 6 (Annual report of public authority) before the handover day.

responsible Minister, for a division 9.6 authority, means the Minister who was the responsible Minister for the authority immediately before it ceased to exist.

(2) The responsible Minister for a division 9.6 authority must present an annual report for the authority for each relevant financial year.

(3) An annual report under subsection (2) must include anything that the annual report would have been required to include before handover day for the division 9.6 authority.

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(4) The applied provisions of part 8 (Financial provisions for territory authorities) apply in relation to a division 9.6 authority in relation to any period before the handover day as if—

(a) the authority had not ceased to exist; and

(b) a reference in section 63 and section 68 to the authority included a reference to the responsible Minister for the authority; and

(c) a reference in section 64 and section 69 to the relevant person for the authority included a reference to the responsible Minister for the authority; and

(d) a reference in section 65 and section 70 to the chief executive officer of the authority included a reference to the responsible Minister for the authority; and

(e) all other necessary changes were made; and

(f) any changes prescribed by regulation were made.

(5) For subsection (4), the ***applied provisions of part 8*** are the following:

- section 63 (Annual financial statements of territory authorities)
- section 64 (Responsibility for annual financial statements of territory authorities)
- section 65 (Audit of annual financial statements of territory authorities)
- section 66 (Annual financial statements of territory authorities to be included in annual reports etc)
- section 68 (Statements of performance of territory authorities)

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- section 69 (Responsibility for territory authority statements of performance)
- section 70 (Scrutiny of territory authority statements of performance)
- section 71 (Territory authority statements of performance to be included in annual reports).

Division 9.7 Additional provisions for restructuring of certain territory authorities

120 What territory authorities does div 9.7 apply to?

(1) This division applies to a territory authority if the authority is prescribed by regulation for this division.

Note This division also applies in relation to territory authorities in relation to certain assets, rights and liabilities (see s 118).

(2) A reference in this division to a ***division 9.7 authority*** is a reference to a territory authority to which this division applies.

(3) To remove any doubt, a regulation may prescribe a territory authority for this division whether or not this part would otherwise apply to the authority.

121 Definitions—div 9.7

In this division:

handover day, in relation to a division 9.7 authority, means the day the authority ceases to exist.

territory authority includes a territory authority that has ceased to exist.

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122 Vesting of assets, rights and liabilities—div 9.7 authorities

(1) All assets, rights and liabilities of a division 9.7 authority immediately before handover day vest in the Territory on handover day.

(2) To remove any doubt, all records of the territory authority, including applications made to the authority, become the records of the Territory on handover day.

123 Proceedings and evidence—div 9.7 authorities

(1) For a proceeding started before handover day and to which a division 9.7 authority is a party, the Territory is substituted as a party on the handover day.

(2) A proceeding for a cause of action in relation to a division 9.7 authority may be brought against the Territory if, before handover day—

(a) the cause of action had accrued against the authority; and

(b) a proceeding had not started in relation to the cause of action; and

(c) the limitation period for the cause of action had not ended.

(3) The *Limitation Act 1985*, part 3 (Postponement of bar) applies to the starting of a proceeding that may be brought by or against the Territory under this section as if the cause of action had been accrued by, or had accrued against, the Territory.

(4) The court or other entity in which, or before which, a proceeding may be or has been started or continued under this section may give directions about the proceeding.

(5) Any evidence that would, before a division 9.7 authority ceased to exist, have been admissible for or against the authority is admissible for or against the Territory.

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(6) An order made in a proceeding by or against a division 9.7 authority before the handover day may, after the handover day, be enforced by or against the Territory.

(7) In this section:

proceeding includes a proceeding by way of appeal or review (including review under the *Ombudsman Act 1989*).

124 Annual reports and financial statements for div 9.7 authorities

(1) In this section:

division 9.7 authority means a division 9.7 authority that has ceased to exist.

financial year—see the *Annual Reports (Government Agencies) Act 2004*, section 6 (3).

relevant financial year, for a division 9.7 authority, means a financial year—

(a) beginning before the handover day for the authority; and

(b) for which a report had not been presented by the authority under the *Annual Reports (Government Agencies) Act 2004*, section 6 (Annual report of public authority) before the handover day.

responsible Minister, for a division 9.7 authority, means the Minister who was the responsible Minister for the authority immediately before it ceased to exist.

(2) The responsible Minister for a division 9.7 authority must present an annual report for the authority for each relevant financial year.

(3) An annual report under subsection (2) must include anything that the annual report would have been required to include before handover day for the division 9.7 authority.

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(4) The applied provisions of part 8 (Financial provisions for territory authorities) apply in relation to a division 9.7 authority in relation to any period before the handover day as if—

(a) the authority had not ceased to exist; and

(b) a reference in section 63 and section 68 to the authority included a reference to the responsible Minister for the authority; and

(c) a reference in section 64 and section 69 to the relevant person for the authority included a reference to the responsible Minister for the authority; and

(d) a reference in section 65 and section 70 to the chief executive officer of the authority included a reference to the responsible Minister for the authority; and

(e) all other necessary changes were made; and

(f) any changes prescribed by regulation were made.

(5) For subsection (4), the ***applied provisions of part 8*** are the following:

- section 63 (Annual financial statements of territory authorities)
- section 64 (Responsibility for annual financial statements of territory authorities)
- section 65 (Audit of annual financial statements of territory authorities)
- section 66 (Annual financial statements of territory authorities to be included in annual reports etc)
- section 68 (Statements of performance of territory authorities)

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- section 69 (Responsibility for territory authority statements of performance)
- section 70 (Scrutiny of territory authority statements of performance)
- section 71 (Territory authority statements of performance to be included in annual reports).

125 References to div 9.7 authority

In any contract, agreement or arrangement, a reference to a division 9.7 authority is, for the application of the contract, agreement or arrangement on or after the handover day, a reference to the Territory.

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Part 10 Miscellaneous

130 Act of grace payments

(1) If the Treasurer considers it appropriate to do so because of special circumstances, the Treasurer may authorise the payment by a directorate or territory authority 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) If a condition is contravened, the Treasurer may by written notice 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) If 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) If the payment of an amount by a directorate or territory authority is authorised under this section, the Treasurer must—

(a) direct that the amount be paid from an existing appropriation for the directorate or territory authority stated by the Treasurer; or

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(b) authorise payment of the amount under section 18 (Treasurer's advance); or

(c) authorise payment of the amount by appropriation to the relevant directorate or territory authority.

(7) The public money of the Territory is appropriated for subsection (6) (c).

(8) A payment made by a directorate or territory authority under this section must be reported in notes to the financial statements of the directorate or territory authority that relate to the financial year when the payment was made.

(9) The notes must 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 must not disclose the identity of the payee unless disclosure was agreed to by the payee as a condition of authorising the payment.

131 Waiver of debts etc

(1) The Treasurer may, in writing, 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.

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(3) A waiver relating to an amount payable to the Territory must be reported in the notes to the financial statements of the relevant directorate that relate to the year in which the right to payment was waived.

132 Payments in relation to 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 must have regard to—

(a) the provisions of any will of the deceased person that identify the persons entitled to property under the will; and

(b) the law relating to the disposition of the property of deceased people.

(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 people 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) If a payment is made in relation to an amount owing to a deceased person, the Territory is discharged from any further liability in relation to that amount.

(6) This section does not relieve the recipient of a payment from liability to deal with the money in accordance with law.

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133 Guideline-making power

(1) The Treasurer may make financial management guidelines for this Act.

Note Financial management guidelines may be made in relation to any matter that is required or permitted to be prescribed by the Act, or is necessary or convenient to be prescribed for carrying out or giving effect to the Act (see Legislation Act, s 44).

(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.

134 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

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Part 30 Transitional—Exhibition Park Corporation Repeal Act 2014

300 Disapplication of Legislation Act, s 84

(1) To remove any doubt, the Legislation Act, section 84 (Saving of operation of repealed and amended laws) does not apply in relation to a member of the governing board of the Exhibition Park Corporation.

(2) However, if a member of the board is a public servant, this section does not affect any right, privilege or liability that the person has as a public servant.

(3) This section is a law to which the Legislation Act, section 88 (Repeal does not end effect of transitional laws etc) applies.

301 Third-party rights and interests in corporation land

(1) Any right in relation to corporation land granted by the Exhibition Park Corporation in the exercise of a function under the repealed Act, section 6 (2), that exists immediately before the commencement of the *Exhibition Park Corporation Repeal Act 2014*, continues for the term of the grant as if the interest had been granted by the Territory.

(2) In this section:

corporation land—see the repealed Act, section 6 (1).

repealed Act means the *Exhibition Park Corporation Act 1976*.

302 Registration of changes in ownership of certain assets

(1) This section applies if—

(a) an asset of the Exhibition Park Corporation, including an interest in land, vests in the Territory because of the operation

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of section 122 (Vesting of assets, rights and liabilities—div 9.7 authorities); and

(b) information about ownership of the asset may be entered in a statutory property register.

(2) On application by the director-general, a person responsible for the statutory property register must make the entries in the register and do anything else that is necessary or desirable to reflect the vesting of the asset in the Territory.

(3) The evidentiary value of a statutory property register is not affected by the—

(a) making of an entry under this section; or

(b) failure to make an entry under this section; or

(c) failure by the director-general to make an application under this section.

(4) In this section:

statutory property register means a register kept under a Territory law, or a law of the Commonwealth, a State or another Territory, for recording ownership of property (including interests in property) if—

(a) title to the property is passed by registration in the register of ownership of the property; or

(b) the owner of an interest in the property may lose the interest if the interest is not registered in the register.

Example

the register of land titles kept under the *Land Titles Act 1925*, s 43

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

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303 Operation of pt 30 not breach of contract etc

To remove any doubt, nothing in this part must be taken to—

(a) place a person in breach of contract or confidence; or

(b) otherwise make a person guilty of a civil wrong; or

(c) place a person in breach of, or create a default under, any Territory law or provision in an agreement, arrangement or understanding, including, for example, a contractual provision prohibiting, restricting or regulating the following:

(i) the assignment or transfer of an asset, right or liability;

(ii) the disclosure of information; or

(d) fulfil a condition that—

(i) allows an entity to terminate an agreement or liability; or

(ii) alters the operation or effect of an agreement; or

(iii) requires an amount to be paid before its stated maturity.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

304 Transitional regulations

(1) A regulation may prescribe transitional matters necessary or convenient to be prescribed because of the enactment of the *Exhibition Park Corporation Repeal Act 2014*.

(2) A regulation may modify this part (including in relation to another territory law) to make provision in relation to anything that, in the Executive's opinion, is not, or is not adequately or appropriately, dealt with in this part.

(3) A regulation under subsection (2) has effect despite anything elsewhere in this Act or another territory law.

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305 Expiry—pt 30

This part expires 2 years after the day it commences.

Note Transitional provisions are kept in the Act for a limited time. A transitional provision is repealed on its expiry but continues to have effect after its repeal (see Legislation Act, s 88).

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Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- Act
- administrative unit
- auditor-general
- authorised deposit-taking institution
- bankrupt or personally insolvent
- director-general (see s 163)
- electoral commission
- electoral commissioner
- exercise
- found guilty
- function
- GST
- may (see s 146)
- Minister (see s 162)
- must (see s 146)
- Office of the Legislative Assembly
- officer of the Assembly
- person
- reviewable decision notice
- Self-Government Act
- territory-owned corporation
- Treasurer.

applicable governmental policies, for a territory authority, for part 9 (Governance of territory authorities)—see section 103.

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

Appropriation Act means an Act that makes appropriations in relation to a financial year for purposes mentioned in section 8.

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 section 13 (1).

capital injection—

(a) means an amount provided, or to be provided, to a territory entity for—

(i) the purchase of assets to be held or owned by the territory entity; or

(ii) the development of assets held or owned by the territory entity; or

(iii) augmenting the assets held or owned by the territory entity; or

(iv) reducing the liabilities of the territory entity; but

(b) does not include an amount provided from an appropriation for a purpose mentioned in section 8 (1) (a), (c) or (2) (a).

CEO—see ***chief executive officer***.

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chief executive officer (or ***CEO***), of a territory authority, means the person (however described) who is responsible for managing the affairs of the authority.

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

contract includes an agreement or arrangement, whether or not its term extends for 1 or more years.

directorate 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.

directorate banking account means a banking account mentioned in section 34 (1).

division 9.6 authority means a territory authority to which division 9.6 applies (see s 105).

division 9.7 authority means a territory authority to which division 9.7 applies (see s 120).

establishing Act, for a territory authority, governing board or governing board member, for part 9 (Governance of territory authorities)—see section 72.

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.

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financial year, for a territory authority, for part 9 (Governance of territory authorities)—see section 72.

general government sector means—

(a) those organisations whose primary function is to provide services that 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 principles means accounting principles and procedures that are—

(a) recognised by the accounting profession as appropriate for reporting financial information relating to government, a directorate or a territory authority; and

(b) consistent with this Act and any relevant Appropriation Act.

governing board, for a territory authority, means the governing board established under the Act that establishes the authority.

governing board member, for a territory authority with a governing board for part 9 (Governance of territory authorities)—see section 72.

handover day, for division 9.7 (Additional provisions for restructuring of certain territory authorities)—see section 121.

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

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.

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material interest, for part 9 (Governance of territory authorities)—see section 88 (4).

memorandum of understanding includes a memorandum of understanding whether or not its term extends for 1 or more years.

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

prescribed means prescribed by the financial management guidelines.

public money means all money 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 subsidiary of a territory-owned corporation; or

(c) money received by the Territory from a territory-owned corporation or subsidiary of a territory-owned corporation for investment for the corporation or subsidiary; or

(d) money received by a territory authority; or

(e) money received by the Territory from a territory authority for investment for the authority; or

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

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relevant territory authority, for part 9 (Governance of territory authorities)—see section 72.

responsible director-general, in relation to a directorate, means—

(a) if the directorate is constituted by an administrative unit or a part of an administrative unit—the director-general of that administrative unit; or

(b) if the directorate is constituted by a group of 2 or more administrative units—the person prescribed as the responsible director-general in relation to the directorate.

responsible Minister means—

(a) in relation to a directorate 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 directorate that is constituted by a group of 2 or more administrative units—the Minister prescribed as the responsible Minister in relation to the directorate; and

(c) in relation to a territory authority—the Minister administering the Act under which the authority is established; and

(d) in relation to a territory-owned corporation—the Minister administering the *Territory-owned Corporations Act 1990*.

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

statement of intent, for a territory authority—see section 61 (1).

subsidiary—see the *Territory-owned Corporations Act 1990*, dictionary.

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

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

territory authority—

(a) means a body corporate established by an Act; and

(b) to remove any doubt, includes an entity to which part 8 applies; and

(c) for division 9.7 (Additional provisions for restructuring of certain territory authorities)—includes a territory authority that has ceased to exist; but

(d) does not include a body declared under section 3B not to be a territory authority.

territory banking account means the banking account mentioned in section 33.

territory entity means a directorate, territory authority or territory-owned corporation.

the Territory, for division 3.1 (Financial reports of the Territory)—see section 21.

Treasurer's advance—see section 18.

trust money means—

(a) money deposited with the Territory pending the completion of a transaction or the determination of a dispute and that may become repayable to the depositor or payable to the Territory or anyone else; or

(b) all money that is paid into a territory court for possible repayment to the payee or a third party because of any Act, order, instruction or authority; or

(c) money that belongs to or is owing to any person and is collected by the Territory because of an agreement between the Territory and that person; or

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(d) unclaimed money that is owing to or belongs to anyone 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.

under treasurer means the person performing the duties of the under treasurer in the public service.

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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 are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

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.

2 Abbreviation key

A = Act
AF = Approved form
am = amended
amdt = amendment
AR = Assembly resolution
ch = chapter
CN = Commencement notice
def = definition
DI = Disallowable instrument
dict = dictionary
disallowed = disallowed by the Legislative Assembly
div = division
exp = expires/expired
Gaz = gazette
hdg = heading
IA = Interpretation Act 1967
ins = inserted/added
LA = Legislation Act 2001
LR = legislation register
LRA = Legislation (Republication) Act 1996
mod = modified/modification
NI = Notifiable instrument
o = order
om = omitted/repealed
ord = ordinance
orig = original
par = paragraph/subparagraph
pres = present
prev = previous
(prev...) = previously
pt = part
r = rule/subrule
reloc = relocated
renum = renumbered
R[X] = Republication No
RI = reissue
s = section/subsection
sch = schedule
sdiv = subdivision
SL = Subordinate law
sub = substituted
<u>underlining</u> = whole or part not commenced or to be expired

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3 Legislation history

Financial Management Act 1996 A1996-22
notified 4 June 1996 (Gaz 1996 No 101)
commenced 1 July 1996 (s 2)

as amended by

Financial Management (Amendment) Act 1997 A1997-39
notified 1 September 1997 (Gaz 1997 No S257)
commenced 1 September 1997 (s 2)

Financial Management (Amendment) Act (No 2) 1997 A1997-102
notified 24 December 1997 (Gaz 1997 No S420)
ss 1-3 commenced 24 December 1997 (s 2 (1))
remainder commenced 14 January 1998 (s 2 (2) and Gaz 1998 No S24)

Financial Management (Amendment) Act (No 3) 1997 A1997-124
notified 24 December 1997 (Gaz 1997 No S420)
commenced 24 December 1997 (s 2)

Trustee (Amendment) Act 1999 A1999-28 sch
notified 21 May 1999 (Gaz 1999 No S24)
sch commenced 21 May 1999 (s 2)

Financial Sector Reform (ACT) Act 1999 A1999-33 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 A1999-36 s 9
notified 12 July 1999 (Gaz 1999 No S44)
s 9 commenced 12 July 1999 (s 2)

Financial Management Amendment Act 1999 A1999-58
notified 10 November 1999 (Gaz 1999 No 45)
commenced 10 November 1999 (s 2)

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Territory Superannuation Provision Protection Act 2000 A2000-21 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 A2000-27

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

Financial Management Amendment Act 2001 A2001-4

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 commenced 8 September 2001 (IA s 10E)

Statute Law Amendment Act 2001 A2001-11 sch 3

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

Financial Management Amendment Act 2001 (No 2) A2001-42

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 A2001-43 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 A2001-44 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)

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Financial Management Legislation Amendment Act 2001 A2001-45 pt 2 (as am by 2002 No 30 pt 3.26)

notified 12 July 2001 (Gaz 2001 No 28)
s 1, s 2 commenced 12 July 2001 (IA s 10B)
s 4 commenced 12 January 2002 (s 2 (3) and see A2002-30 amdt 3.370)
pt 2 remainder commenced 12 January 2002 (LA s 79)

Statute Law Amendment Act 2001 A2001-11 pt 3.20

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

Financial Management Amendment Act 2001 (No 3) A2001-95

notified 10 September 2001 (Gaz 2001 No S66)
s 1, s 2 commenced 10 September 2001 (LA s 75)
remainder commenced 1 January 2002 (CN2001-6)

Financial Management Amendment Act 2001 (No 4) A2001-97

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

Appropriation Act 2002-2003 A2002-29 s 12

notified LR 9 September 2002
taken to have commenced 30 June 2002 (s 2)

Statute Law Amendment Act 2002 A2002-30 pt 3.25

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 (2))
pt 3.25 remainder commenced 17 September 2002 (s 2 (1))

Financial Management Amendment Act 2002 A2002-38

notified LR 8 October 2002
s 1, s 2 commenced 8 October 2002 (LA s 75 (1))
remainder commenced 1 November 2002 (s 2 and CN2002-12)

Appropriation Act 2002-2003 (No 2) A2003-9 s 9

notified LR 7 March 2003
s 1, s 2 commenced 7 March 2003 (LA s 75 (1))
s 9 commenced 8 March 2003 (s 2)

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Financial Management Amendment Act 2003 A2003-21
notified LR 19 May 2003
s 1, s 2 commenced 19 May 2003 (LA s 75 (1))
remainder commenced 20 May 2003 (s 2)

Appropriation Act 2003-2004 A2003-27
notified LR 30 June 2003
commenced 30 June 2003 (s 2)

Financial Management Amendment Act 2003 (No 2) A2003-46
notified LR 31 October 2003
s 1, s 2 commenced 31 October 2003 (LA s 75 (1))
remainder commenced 1 November 2003 (s 2)

Statute Law Amendment Act 2003 (No 2) A2003-56 sch 3 pt 3.9
notified LR 5 December 2003
s 1, s 2 commenced 5 December 2003 (LA s 75 (1))
sch 3 pt 3.9 commenced 19 December 2003 (s 2)

Financial Management Amendment Act 2004 A2004-19
notified LR 6 April 2004
s 1, s 2 commenced 6 April 2004 (LA s 75 (1))
remainder commenced 7 April 2004 (s 2)

Financial Management Amendment Act 2004 (No 2) A2004-33
notified LR 30 June 2004
s 1, s 2 commenced 30 June 2004 (LA s 75 (1))
remainder commenced 1 July 2004 (s 2)

Appropriation Act 2004-2005 A2004-35 s 12
notified LR 30 June 2004
commenced 30 June 2004 (s 2)

Territory Owned Corporations Amendment Act 2004 A2004-53 sch 1
notified LR 16 August 2004
s 1, s 2 commenced 16 August 2004 (LA s 75 (1))
sch 1 commenced 17 August 2004 (s 2)

Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.22
notified LR 12 May 2005
s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))
sch 3 pt 3.22 commenced 2 June 2005 (s 2 (1))

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Appropriation Act 2005-2006 A2005-32 s 12, s 13

notified LR 1 July 2005

s 1, s 2 taken to have commenced 30 June 2005 (LA s 75 (2))

s 12, s 13 taken to have commenced 30 June 2005 (s 2)

Public Sector Management Amendment Act 2005 A2005-42 sch 1 pt 1.1

notified LR 31 August 2005

s 1, s 2 commenced 31 August 2005 (LA s 75 (1))

sch 1 pt 1.1 commenced 1 September 2005 (s 2)

Financial Management Legislation Amendment Act 2005 A2005-52

notified LR 26 October 2005

s 1, s 2 commenced 26 October 2005 (LA s 75 (1))

s 7, s 9, s 10, s 14, s 15, ss 17-32, s 38 (in part), s 39, s 40, s 42 (in part), s 49 commenced 27 October 2005 (s 2 (1))

remainder commenced 1 January 2006 (s 2 (2))

as modified by

Financial Management Regulation 2005 SL2005-42 sch 1 (as am by A2006-30 amdt 1.61, amdt 1.62)

notified LR 21 December 2005

s 1, s 2 commenced 21 December 2005 (LA s 75 (1))

sch 1 commenced 1 January 2006 (s 2)

as amended by

Administrative (Miscellaneous Amendments) Act 2006 A2006-30 sch 1 pt 1.3, amdt 1.61, amdt 1.62

notified LR 16 June 2006

s 1, s 2 commenced 16 June 2006 (LA s 75 (1))

amdt 1.45, amdt 1.52 so far as it inserts s 220, amdt 1.56 commenced 19 June 2006 (s 2 (2))

amdt 1.39, amdt 1.40, amdt 1.43, amdt 1.44 commenced 1 July 2006 (s 2 (2) and CN2006-15)

sch 1 pt 1.3 remainder, amdt 1.61, amdt 1.62 commenced 1 July 2006 (s 2 (1))

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Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.45
notified LR 22 March 2007
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))
sch 3 pt 3.45 commenced 12 April 2007 (s 2 (1))

Financial Management Amendment Act 2007 A2007-10
notified LR 11 May 2007
s 1, s 2 commenced 11 May 2007 (LA s 75 (1))
remainder commenced 12 May 2007 (s 2)

Statute Law Amendment Act 2008 A2008-28 sch 3 pt 3.26
notified LR 12 August 2008
s 1, s 2 commenced 12 August 2008 (LA s 75 (1))
sch 3 pt 3.26 commenced 26 August 2008 (s 2)

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.41
notified LR 4 September 2008
s 1, s 2 commenced 4 September 2008 (LA s 75 (1))
sch 1 pt 1.41 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

Financial Management Amendment Act 2009 A2009-12
notified LR 8 April 2009
s 1, s 2 commenced 8 April 2009 (LA s 75 (1))
remainder commenced 1 July 2009 (s 2)

Long Service Leave (Portable Schemes) Act 2009 A2009-25 sch 4 pt 4.1
notified LR 8 September 2009
s 1, s 2 commenced 8 September 2009 (LA s 75 (1))
sch 4 pt 4.1 commenced 1 January 2010 (s 2)

Financial Management (Board Composition) Amendment Act 2009 A2009-48
notified LR 25 November 2009
s 1, s 2 commenced 25 November 2009 (LA s 75 (1))
remainder commenced 1 January 2010 (s 2)

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Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.29
notified LR 26 November 2009
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))
sch 3 pt 3.29 commenced 17 December 2009 (s 2)

Statute Law Amendment Act 2010 A2010-18 sch 1 pt 1.7
notified LR 13 May 2010
s 1, s 2 commenced 13 May 2010 (LA s 75 (1))
sch 1 pt 1.7 commenced 3 June 2010 (s 2)

Road Transport (Third-Party Insurance) (Governance) Amendment Act 2010 A2010-36 s 8
notified LR 29 September 2010
s 1, s 2 commenced 29 September 2010 (LA s 75 (1))
s 8 commenced 30 September 2010 (s 2)

Fair Trading (Australian Consumer Law) Amendment Act 2010 A2010-54 sch 3 pt 3.9
notified LR 16 December 2010
s 1, s 2 commenced 16 December 2010 (LA s 75 (1))
sch 3 pt 3.9 commenced 1 January 2011 (s 2 (1))

ACT Teacher Quality Institute Act 2010 A2010-55 sch 2 pt 2.1
notified LR 20 December 2010
s 1, s 2 commenced 20 December 2010 (LA s 75 (1))
sch 2 pt 2.1 commenced 1 January 2011 (s 2 and CN2010-18)

Financial Management (One ACT Public Service) Amendment Act 2011 A2011-17
notified LR 30 June 2011
s 1, s 2 commenced 30 June 2011 (LA s 75 (1))
remainder commenced 1 July 2011 (s 2)

Financial Management (Cost of Living) Amendment Act 2012 A2012-15
notified LR 15 May 2012
s 1, s 2 commenced 15 May 2012 (LA s 75 (1))
remainder commenced 16 May 2012 (s 2)

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Legislative Assembly (Office of the Legislative Assembly) Act 2012 A2012-26 sch 1 pt 1.3

notified LR 24 May 2012
s 1, s 2 commenced 24 May 2012 (LA s 75 (1))
sch 1 pt 1.3 commenced 1 July 2012 (s 2)

Financial Management Amendment Act 2013 A2013-5

notified LR 21 February 2013
s 1, s 2 commenced 21 February 2013 (LA s 75 (1))
remainder commenced 22 February 2013 (s 2)

Statute Law Amendment Act 2013 A2013-19 sch 3 pt 3.21

notified LR 24 May 2013
s 1, s 2 commenced 24 May 2013 (LA s 75 (1))
sch 3 pt 3.21 commenced 14 June 2013 (s 2)

Officers of the Assembly Legislation Amendment Act 2013 A2013-41 sch 1 pt 1.2

notified LR 7 November 2013
s 1, s 2 commenced 7 November 2013 (LA s 75 (1))
sch 1 pt 1.2 commenced 1 July 2014 (s 2)

Officers of the Assembly Legislation Amendment Act 2014 A2014-22 pt 3

notified LR 26 May 2014
s 1, s 2 commenced 26 May 2014 (LA s 75 (1))
pt 3 commenced 1 July 2014 (s 2 and see Officers of the Assembly Legislation Amendment Act 2013 A2013-41 s 2)

Exhibition Park Corporation Repeal Act 2014 A2014-54 sch 1 pt 1.1

notified LR 3 December 2014
s 1, s 2 commenced 3 December 2014 (LA s 75 (1))
sch 1 pt 1.1 commenced 1 January 2015 (s 2 (3))

Red Tape Reduction Legislation Amendment Act 2015 A2015-33 sch 1 pt 1.26

notified LR 30 September 2015
s 1, s 2 commenced 30 September 2015 (LA s 75 (1))
sch 1 pt 1.26 commenced 14 October 2015 (s 2)

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Financial Management Amendment Act 2015 A2015-34

notified LR 30 September 2015

s 1, s 2 commenced 30 September 2015 (LA s 75 (1))

ss 4-8, ss 11-20, s 28, s 29, s 49, s 50, s 54, ss 58-60, s 62, s 76, ss 96-99, ss 102-104, s 113, s 115 (def ***controlled recurrent payment***) and sch 1 pt 1.2 commence 1 July 2016 (s 2 (1))

remainder commenced 1 October 2015 (s 2 (2))

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4 Amendment history

Name of Act

s 1	sub A2001-56 amdt 3.255

Act subject to Territory Superannuation Provision Protection Act

s 2	sub A2000-21 sch

Dictionary

s 3 hdg	sub A2000-21 sch
s 3	am A2000-21 sch remaining defs reloc to dict A2001-95 amdt 1.4 sub A2001-95 amdt 1.5 def ***bank*** om A1999-33 sch def ***banking institution*** ins A1997-102 s 4 om A1999-33 sch def ***Territory activities*** ins A1997-124 s 4 om A2001-95 amdt 1.3 def ***Treasurer*** om A2001-95 amdt 1.2

Notes

s 3A	**orig s 3A** renum as s 3B **pres s 3A** ins A2001-95 amdt 1.5

Declaration that certain bodies are not territory authorities for Act

s 3B	(prev s 3A) ins A2000-21 sch am A2001-44 amdt 1.1631, amdt 1.1632 renum as s 3B A2001-95 amdt 1.6 sub A2005-52 s 4; A2011-17 s 4

Application of pts 2 to 5—Office of the Legislative Assembly and officers of the Assembly

s 4	am A2011-17 s 13, s 16 sub A2012-26 amdt 1.11; A2013-41 amdt 1.10 am A2014-22 s 8, s 9; ss renum R47 LA

Budget management

pt 2 hdg	sub A2003-46 s 4

Appropriations and budgets

div 2.1 hdg	ins A2003-46 s 4

Form of appropriations

s 8	sub A2005-52 s 5 am A2011-17 s 16; A2012-26 amdt 1.12; A2013-41 amdt 1.11

Net appropriations for outputs

s 9	am A2000-27 s 5; A2011-17 s 16

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Net appropriations for capital injections

s 9A ins A2000-27 s 6
am A2011-17 s 16; A2015-34 s 9

Appropriations for payments on behalf of Territory to be net appropriations

s 9B ins A2001-95 s 5
am A2011-17 s 16; A2015-34 s 10

Budget papers

s 10 am A1997-124 s 5; A2001-56 amdt 3.257; A2005-52 s 6; A2011-17 s 16

Territory budgets

s 11 am A1997-124 s 6; A2001-4 s 4; A2001-56 amdt 3.258; A2001-95 s 6
sub A2003-46 s 5
am A2005-32 s 12; A2012-15 s 4; A2013-19 amdt 3.157

Financial policy objectives and strategies statement

s 11A ins A2003-46 s 5

Directorate budgets

s 12 hdg am A2011-17 s 17
s 12 am A1997-102 s 5; A1997-124 s 7; A1999-58 s 3; A2001-56 amdt 3.258; A2001-95 s 7; ss renum R6 LA (see A2001-95 amdt 1.7); A2002-38 s 4, s 5
sub A2005-52 s 7
am A2011-17 s 16; A2012-26 amdt 1.13; A2013-41 amdt 1.12

Territory authority and territory-owned corporation budgets

s 12A ins A1997-124 s 8
am A2001-56 amdt 3.258; A2001-95 s 8
sub A2005-52 s 8

Supplementary budget papers

s 13 am A2001-56 amdt 3.259, amdt 3.260
sub A2001-97 s 4
am A2005-52 s 9; A2011-17 s 16; A2012-26 amdt 1.14; ss renum R44 LA; A2015-34 ss 21-23

Amendment of budgets for supplementary appropriation

s 13A ins A2003-9 s 9
sub A2005-52 s 10
am A2011-17 s 16; A2012-26 amdt 1.15; A2015-34 s 24, s 25

Transfer of funds between appropriations

s 14 am A1997-102 s 6; A2000-21 sch; A2001-56 amdt 3.261
sub A2015-34 s 26

Transfer of funds from capital injection appropriation to other appropriations

s 14A ins A2015-34 s 27

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Transfer of funds from other appropriations to capital injection appropriation

s 14B	ins A2015-34 s 27

Transfer of funds within appropriations

s 15	am A1997-102 s 7; A2001-56 amdt 3.262

Reclassification of certain appropriations

s 15A	ins A1997-102 s 8; A2001-56 amdt 3.263 am A2011-17 s 16; A2015-34 s 30

Transfer of functions to another entity

s 16 hdg	sub A2015-34 s 31
s 16	am A2000-21 sch; A2001-56 amdt 3.263 sub A2005-52 s 11 am A2011-17 s 16; A2015-34 ss 32-35

Appropriation for accrued employee entitlements

s 16A	ins A2003-21 s 4 om A2004-19 s 4 ins A2007-10 s 4 am A2011-17 s 16; A2015-34 ss 36-38

Rollover of undisbursed appropriation

s 16B hdg	sub A2015-34 s 39
s 16B	ins A2007-10 s 4 am A2015-34 ss 40-44

Variation of appropriations for Commonwealth grants

s 17	am A1997-102 s 9; A2001-56 amdt 3.264, amdt 3.265; A2002-38 s 6; A2015-34 s 45

Variations of appropriations for certain payments to Commonwealth

s 17A	ins A1999-36 s 9 am A2000-27 s 7; A2001-43 s 12; A2001-56 amdt 3.266, amdt 3.267; A2003-27 s 12; A2004-35 s 12; A2005-32 s 13; A2015-34 s 46

Treasurer's advance

s 18	am A2001-56 amdt 3.268; A2001-97 s 5, s 6; ss renum R4 LA sub A2004-33 s 4 am A2005-20 amdt 3.153; A2012-26 amdt 1.16; A2014-22 s 10, s 11; ss renum R47 LA sub A2015-34 s47

Treasurer's advance—payment pending supplementary appropriation

s 18A	ins A1997-102 s 10 am A2001-56 amdt 3.269 om A2002-38 s 7 ins A2004-33 s 4 sub A2015-34 s 47

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Treasurer's advance—reduction of amounts
s 18B ins A2015-34 s 47

Assembly to be told about Treasurer's advance
s 18C ins A2015-34 s 47

Payments for Territory GST liabilities
s 19A ins A1997-39 s 4
sub A2000-27 s 8

Payments for Territory GST administration costs
s 19AA ins A2009-12 s 4

Authorisation of expenditure of certain Commonwealth grants
s 19B ins A1997-102 s 11
am A2001-56 amdt 3.269
sub A2015-34 s 48

Amendment of capital injection conditions
s 19C ins A2002-38 s 8
sub A2005-52 s 12
am A2011-17 s 16; A2013-19 amdt 3.162

Amendment of performance criteria
s 19D ins A2002-38 s 8
sub A2005-52 s 13
am A2011-17 s 16; A2013-5 ss 4-6; A2015-34 ss 51-53, ss 55-57, s 61

Amendment of financial targets
s 19E ins A2002-38 s 8
om A2005-52 s 14

Amendment of budgets
s 19F ins A2004-19 s 5
am A2004-33 s 5
om A2005-52 s 15

Recommended appropriation for Office of the Legislative Assembly
s 20 am A2003-21 s 5
sub A2012-26 amdt 1.17

Appropriation for Office of the Legislative Assembly
s 20AA ins A2012-26 amdt 1.17

Recommended appropriation for officers of the Assembly
s 20AB ins A2013-41 amdt 1.13

Appropriation for officers of the Assembly
s 20AC ins A2013-41 amdt 1.13

Budget reviews and pre-election updates
div 2.2 hdg ins A2003-46 s 6

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Budget review
s 20A ins A2003-46 s 6

Purpose and contents of budget review
s 20B ins A2003-46 s 6

Pre-election budget update
s 20C ins A2003-46 s 6
am A2011-17 s 13; A2015-34 s 63

Purpose and contents of pre-election budget update
s 20D ins A2003-46 s 6
am A2005-52 s 16

Financial reports of the Territory
div 3.1 hdg (prev pt 3 div 1 hdg) renum R3 LA (see A2001-95 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 A2001-95 s 9; A2005-52 s 17; A2015-34 s 64

Responsibility for annual financial statements
s 23 am A2005-52 s 18; A2011-17 s 13
sub A2015-34 s 65

Audit of annual financial statements
s 24 am A2002-38 s 9, amdt 1.1; A2003-46 s 7; A2005-52 ss 19-21; A2015-34 s 66, s 67

Presentation of annual financial statements to Legislative Assembly
s 25 hdg sub A2002-38 amdt 1.2
s 25 am A2001-56 amdt 3.270; A2003-46 s 8, s 9

Quarterly departmental performance reports
s 25A reloc to s 30A

Periodic financial statements
s 26 am A1997-124 s 10; A2001-42 s 4
(6), (7) exp 30 June 2001 (s 26 (7))
sub A2001-42 s 5; A2001-95 s 11
am A2015-34 s 68

Financial reports and performance statements of directorates
div 3.2 hdg (prev pt 3 div 2 hdg) renum R3 LA (see A2001-95 amdt 1.11)
sub A2005-52 s 22
am A2011-17 s 18

Annual financial statements of directorates
s 27 hdg am A2011-17 s 18

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s 27	am A2001-56 amdt 3.272; A2001-95 s 12; A2002-38 ss 10-13; pars renum R10 LA (see A2002-38 amdt 1.5); A2005-52 ss 23-26; A2011-17 s 16, s 17

Responsibility for annual financial statements of directorates

s 28 hdg	sub A2002-38 amdt 1.6 am A2011-17 s 18
s 28	sub A2005-52 s 27 am A2011-17 s 13, s 15, s 16 sub A2015-34 s 69

Audit of financial statements of directorates

s 29 hdg	am A2011-17 s 18
s 29	sub A2002-38 s 14 am A2005-52 s 28, s 29; A2011-17 s 13, s 16; A2015-34 s 70; ss renum R49 LA

Audit of financial statements for departments for 2000-2001

s 29A	ins A2001-42 s 6 exp 31 December 2001 (s 29A (2))

Directorate annual financial statements to be included in annual reports etc

s 30 hdg	sub A2002-38 amdt 1.7 am A2011-17 s 17
s 30	am A2001-56 amdt 3.273 sub A2005-52 s 30 am A2011-17 s 16, s 19

Statements of performance of directorates

s 30A hdg	am A2011-17 s 18
s 30A	(prev s 25A) ins A1997-124 s 9 am A2001-56 amdt 3.271; A2001-95 s 10; A2002-38 amdt 1.3 reloc from s 25A A2002-38 amdt 1.4 sub A2005-52 s 31 am A2011-17 s 16, s 19; A2012-26 amdt 1.18; ss renum R44 LA; A2013-41 amdt 1.14; A2015-34 s 71

Responsibility for directorate statements of performance

s 30B hdg	am A2011-17 s 17
s 30B	ins A2005-52 s 31 am A2011-17 s 13, s 15, s 16 sub A2015-34 s 72

Scrutiny of directorate statements of performance

s 30C hdg	am A2011-17 s 17
s 30C	ins A2005-52 s 31 am A2011-17 s 13, s 16, s 19; A2015-34 s 73; ss renum R49 LA

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Directorate statements of performance to be included in annual reports etc

s 30D hdg	am A2011-17 s 17
s 30D	ins A2005-52 s 31
	am A2011-17 s 16, s 19

Half-yearly directorate performance reports

s 30E hdg	am A2011-17 s 17
s 30E	ins A2005-52 s 31
	am A2011-17 s 16; A2012-26 amdt 1.19; A2013-41 amdt 1.14; A2015-34 s 74, s 75; ss renum R49 LA

Financial management responsibilities of directors-general of directorates

pt 4 hdg	am A2011-17 s 14, s 18

Responsibilities of directors-general of directorates

s 31 hdg	am A2011-17 s 14, s 18
s 31	am A2002-38 s 15; A2005-20 amdt 3.154
	sub A2005-52 s 32
	am A2011-17 s 13, s 16; A2015-34 ss 77-80; ss renum R49 LA

Directors-general may enter into contracts etc

s 31A	ins A2015-34 s 81

Agreement for the conduct of banking for Territory

s 32	am A1997-102 sch; A1999-33 sch

Territory banking account

s 33	am A1997-102 sch

Directorate banking accounts

s 34 hdg	am A2011-17 s 17
s 34	am A1997-102 sch; A1999-33 sch; A2001-95 s 13; A2001-95 s 7; ss renum R6 LA (see A2001-95 amdt 1.8); A2002-38 s 16; A2011-17 s 13, s 16, s 17

Transfer of directorate banking account

s 34A hdg	am A2011-17 s 17
s 34A	prev s 34A renum as s 34B
	ins A2001-95 s 14
	am A2011-17 s 13, s 16, s 17

End of year balances of directorate banking accounts

s 34B hdg	am A2011-17 s 17
s 34B	(prev s 34A) ins A1997-102 s 12
	renum A2001-95 s 15
	am A2011-17 s 13, s 16, s 17

Payments into banking accounts

s 35	am A1997-102 sch; A1999-33 sch; A2011-17 s 16, s 17

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Transfer following change in directorate responsibilities

s 36 hdg	am A2011-17 s 17
s 36	am A1997-102 sch; A2011-17 s 17; A2015-34 s 82

Transfers from directorate banking accounts to territory banking account

s 36A hdg	am A2011-17 s 17
s 36A	ins A2002-38 s 17 am A2011-17 s 17; A2015-34 s 83, s 84

Payments from territory banking account

s 37 hdg	sub A2002-38 s 18
s 37	am A1997-102 sch; A2000-21 sch; A2001-95 s 16; A2002-38 s 19; ss renum R10 LA (see A2002-38 amdt 1.8); A2005-52 ss 33-35; A2011-17 s 17; A2015-34 s 85, s 86

Payments into territory banking account

s 37A	ins A2015-34 s 87

Investment of certain public money

s 38 hdg	sub A2000-21 sch
s 38	am A1997-102 sch; A1999-33 sch; A2000-21 sch; A2001-45 s 5; A2001-95 s 17; A2003-21 s 6, s 7; ss renum R12 LA (see A2003-21 s 8); A2011-17 s 16, s 17; A2013-19 amdt 3.158, amdt 3.159

Borrowing and guarantees

pt 6 hdg	sub A2001-45 s 6

Borrowings by territory authorities to be approved

s 42	am A2001-95 s 18, amdt 1.9; A2007-10 s 5

Territory authorities may give security

s 43	am A2007-10 s 6

Power to approve borrowings not delegable

s 44	am A2007-10 s 7

Loans to be paid into territory banking account

s 45	am A1997-102 sch; A2001-95 s 19

Payments by Treasurer

s 46	sub A2002-38 s 20

Guarantees by Territory

s 47	am A2001-56 amdt 3.274

Financial derivatives

s 48	om A2001-45 s 7

Administration of trust money

s 50	am A2011-17 s 16

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Directorate trust banking accounts

s 51 hdg	am A2011-17 s 17
s 51	am A1997-102 sch; A1999-33 sch; A2002-38 s 21; A2011-17 s 13, s 16

Transfer of directorate trust banking accounts

s 51A hdg	am A2011-17 s 17
s 51A	ins A2005-52 s 36 am A2011-17 s 13, s 16, s 17

Transfers between trust banking accounts—changes in directorate responsibilities

s 51B hdg	am A2011-17 s 17
s 51B	ins A2005-52 s 36 am A2011-17 s 13, s 16, s 17

Transfers between trust banking accounts—investment

s 51C	ins A2005-52 s 36

Transfers between trust banking account and territory banking account

s 52	am A1997-102 sch sub A2001-95 s 20; A2005-52 s 37

Investment of trust money

s 53	am A1999-28 sch

Unclaimed trust money

s 53A	ins A1997-102 s 13 am A1999-33 sch; A2001-44 amdts 1.1633-1.1635; ss renum R3 LA (see A2001-44 amdt 1.1636); A2001-95 s 21; ss renum R6 LA; A2002-30 amdt 3.367; A2011-17 s 13; A2015-33 amdt 1.82

Reviewable decision notices

s 53B	ins A1997-102 s 13 am A2002-30 amdt 3.368 sub A2008-37 amdt 1.175

Applications for review

s 53C	ins A1997-102 s 13 sub A2008-37 amdt 1.175

Financial provisions for territory authorities

pt 8 hdg	sub A2005-52 s 38

Application—pt 8

s 54	am A2005-20 amdt 3.155 sub A2005-52 s 38 am A2006-30 amdts 1.37-1.40; A2009-25 amdt 4.1; A2010-36 s 8; A2010-55 amdt 2.1 sub A2011-17 s 5

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Responsibilities of chief executive officers of territory authorities

s 55 am A1997-102 sch; A1999-33 sch; A2002-38 s 22
sub A2005-52 s 38
am A2011-17 s 6; A2015-34 ss 88-91; ss renum R49 LA

Responsibilities of governing boards of territory authorities

s 56 am A1997-102 sch; A1999-33 sch; A2001-45 s 8; A2001-95 s 22; A2002-38 s 23, s 24; A2003-21 ss 9-12; ss renum R12 LA (see A2003-21 s 13)
sub A2005-52 s 38
am A2011-17 s 7; A2015-34 ss 92-95; ss renum R49 LA

Banking accounts of territory authorities

s 57 am A2001-95 s 23
sub A2005-52 s 38

Investment by territory authorities

s 58 am A2001-95 s 24
sub A2005-52 s 38
am A2011-17 s 16

Borrowing by territory authorities

s 59 am A2001-95 s 25
om A2005-52 s 38 (see s 2 (1))
ins A2005-52 s 38 (see s 2 (2))
am A2013-19 amdt 3.162

Guarantees by territory authorities

s 60 om A2005-52 s 38 (see s 2 (1))
ins A2005-52 s 38 (see s 2 (2))

Territory authority statements of intent

s 61 sub A2002-38 s 25
om A2005-52 s 38 (see s 2 (1))
ins A2005-52 s 38 (see s 2 (2))

Audit of annual financial statements for 2000-2001

s 61A ins A2001-42 s 7
exp 31 December 2001 (s 61A (2))

Presentation of statements of intent of territory authorities

s 62 am A2001-56 amdt 3.275; R8 LA (see also A2002-38 amdt 1.9)
om A2005-52 s 38 (see s 2 (1))
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s 150	(prev s 109) ins A2005-52 s 42 renum as s 150 A2006-30 amdt 1.48 exp 27 October 2006 (s 150 (4))

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Dictionary

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am A2005-52 s 43; A2008-37 amdt 1.176; A2010-18 amdt 1.23; A2011-17 s 9; A2012-26 amdt 1.20; A2013-19 amdt 3.160; A2013-41 amdt 1.16; A2015-34 s 111
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def ***governing board*** ins A2005-52 s 50
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def ***public trading enterprise*** ins A1997-124 s 4
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def ***superannuation banking account*** ins A2000-21 sch
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5 Earlier republications

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

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1	A1997-124	31 January 1998
2	A1999-58	10 November 1999
3	A2001-56	12 September 2001
4	A2001-97	20 December 2001
5	A2001-97	31 December 2001
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6	A2001-97	4 January 2002
6 (RI)	A2001-97 ‡	19 September 2002
7*	A2001-97	14 January 2002
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7A	A2001-97 ‡‡	19 September 2002
8	A2001-97	1 July 2002
8 (RI)	A2001-97 ‡‡	19 September 2002
9*	A2002-30	19 September 2002
10	A2002-38	1 November 2002
11	A2003-9	8 March 2003
12	A2003-21	20 May 2003
13	A2003-27	30 June 2003
14	A2003-46	1 November 2003
15	A2003-56	19 December 2003
16	A2004-19	7 April 2004
17	A2004-35	30 June 2004

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18	A2004-35	1 July 2004
19	A2004-53	17 August 2004
20	A2005-20	2 June 2005
21	A2005-32	1 July 2005
22	A2005-42	1 September 2005
23	A2005-52	27 October 2005
24	A2005-52	1 January 2006
25	A2006-30	19 June 2006
26	A2006-30	1 July 2006
27	A2006-30	20 July 2006
28	A2006-30	2 August 2006
29	A2006-30	28 October 2006
30	A2007-3	12 April 2007
31	A2007-10	12 May 2007
32	A2007-10	28 October 2007
33	A2007-10	2 July 2008
34	A2008-28	26 August 2008
35	A2008-37	2 February 2009
36	A2009-12	1 July 2009
37	A2009-49	17 December 2009
38*	A2009-49	1 January 2010
39	A2010-18	3 June 2010
40	A2010-36	30 September 2010
41	A2010-55	1 January 2011
42	A2011-17	1 July 2011
43	A2012-15	16 May 2012
44	A2012-26	1 July 2012

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45	A2013-5	22 February 2013
46	A2013-19	14 June 2013
47	A2014-22	1 July 2014
48	A2014-54	1 January 2015
49	A2015-34	1 October 2015

‡ includes retrospective amendments by A2002-30

‡‡ includes retrospective amendments by A2002-29 and A2002-30

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