



AUSTRALIAN CAPITAL TERRITORY

## **Financial Management (Amendment) Act (No. 2) 1997**

**No. 102 of 1997**

---

---

### **An Act to amend the *Financial Management Act 1996* and for related purposes**

*[Notified in ACT Gazette S420: 24 December 1997]*

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

#### **Short title**

**1.** This Act may be cited as the *Financial Management (Amendment) Act (No. 2) 1997*.

#### **Commencement**

**2. (1)** Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

**(2)** The remaining provisions commence on a day, or respective days, fixed by the Minister by notice in the *Gazette*.

**(3)** If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

### **Principal Act**

3. In this Act, “Principal Act” means the *Financial Management Act 1996*.<sup>1</sup>

### **Interpretation**

4. Section 3 of the Principal Act is amended by inserting in subsection (1) the following definitions:

“ ‘banking account’ means an account with a banking institution that is, or is substantially the same as, a bank account;

‘banking institution’ means—

- (a) a bank; or
- (b) a body that is a building society or credit union within the meaning of the Financial Institutions (ACT) Code;”.

### **Departmental budgets**

5. Section 12 of the Principal Act is amended—

- (a) by omitting from paragraph (1) (d) “and”;
- (b) by adding at the end of paragraph (1) (e) “and”; and
- (c) by adding at the end of subsection (1) the following paragraph:
  - “(f) if the department is to be provided during the year with a capital injection that is to be repaid, a statement that—
    - (i) identifies the capital injection as such an injection; and
    - (ii) specifies the conditions subject to which the injection is to be provided, including the requirements relating to the period within which it is to be repaid.”.

### **Transfer of funds between appropriations**

6. Section 14 of the Principal Act is amended—

- (a) by omitting subsection (2); and
- (b) by omitting from subsection (3) “any of the appropriations affected to be varied” and substituting “an appropriation from which funds are transferred to be reduced”.

### **Transfer of funds within appropriations**

7. Section 15 of the Principal Act is amended by omitting from paragraph (2) (b) “\$50,000” and substituting “\$150,000”.

### **Insertion**

**8.** After section 15 of the Principal Act the following section is inserted:

#### **Reclassification of certain appropriations**

“15A. (1) Where an appropriation has been classified by the Act by which it was made as an appropriation for payments to be made by a department on behalf of the Territory, the Treasurer may, if he or she is satisfied that the appropriation should be classified as an appropriation for the provision of outputs by the department, by instrument direct that the classification of the appropriation be changed accordingly.

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

“(3) Where the Treasurer gives a direction under subsection (1) or (2), he or she shall cause a copy of the direction to be laid before the Legislative Assembly within 3 sitting days after the direction is given.”.

#### **Variation of appropriations for Commonwealth grants**

**9.** Section 17 of the Principal Act is amended by adding at the end the following subsection:

“(3) Where the Treasurer gives a direction under subsection (2), he or she shall cause a copy of the direction to be laid before the Legislative Assembly within 3 sitting days after it is given.”.

### **Insertion**

**10.** After section 18 of the Principal Act the following section is inserted:

#### **Payments in anticipation of appropriation or supply**

“18A. (1) Where, after 1 June in a financial year—

- (a) a department has an obligation to discharge a liability that is not provided for by an appropriation or for which the money available from an appropriation is insufficient to enable the liability to be discharged in full;
- (b) in the interests of prudent financial management, the liability should be discharged before the end of the financial year;

- (c) money will become available to discharge the liability during the next financial year from an appropriation made by an Appropriation Act that has already been passed or from money to be provided under section 7; and
- (d) the Treasurer has, by instrument, authorised the discharge of the liability before the end of the financial year;

the department may discharge the liability before the end of the financial year from the money referred to in paragraph (c).

“(2) The Treasurer shall not authorise a payment under paragraph (1) (d) if the amount of the payment would exceed—

- (a) if the payment is to be made from an appropriation made by an Appropriation Act that has already been passed—3% of the amount of that appropriation; or
- (b) if the payment is to be made from money to be provided under section 7—3% of the money to be provided under that section for the purpose for which the liability was incurred.

“(3) Where the Treasurer has given an authorisation under paragraph (1) (d) during a financial year, he or she shall cause a copy of the authorisation to be laid before the Legislative Assembly as soon as practicable after the end of the year.”.

### **Insertion**

**11.** After section 19A of the Principal Act the following section is inserted:

#### **Authorisation of expenditure of certain Commonwealth grants**

“19B. (1) Notwithstanding section 6, where—

- (a) funds have been provided to the Territory by the Commonwealth under an agreement that specifies how the funds may be applied; and
- (b) no appropriation has been made in respect of the funds;

the Treasurer may, by instrument, authorise the expenditure of the funds in accordance with the agreement.

“(2) Where the Treasurer gives an authorisation under subsection (1), he or she shall cause a copy of the authorisation to be laid before the Legislative Assembly within 3 sitting days after it is given.”.

**Insertion**

**12.** After section 34 of the Principal Act the following section is inserted:

**End of year balances of departmental banking accounts**

“34A. (1) Where at the end of a financial year amounts appropriated for a department for that financial year are held in a departmental banking account, the amounts may be applied after the end of that financial year for the purposes for which they were appropriated.

“(2) Where at the end of a financial year a departmental banking account has a debit balance, the Chief Executive of the department shall devise and implement a scheme to recoup the amount of the deficit.”.

**Insertion**

**13.** After section 53 of the Principal Act the following sections are inserted in Part VII:

**Unclaimed trust moneys**

“53A. (1) For the purposes of this section, money held in a trust banking account is unclaimed trust money if—

- (a) a period not less than 6 years has elapsed since the date on which the money became payable; and
- (b) during that period, no person entitled to the money has requested that the money be paid to him or her or according to his or her direction.

“(2) Where on 1 January in any year a trust banking account contains unclaimed trust money, the Chief Executive responsible for maintaining the account shall, on or before 31 January next following, deliver to the Treasurer a statement of all unclaimed trust money held in the account.

“(3) The statement shall set out—

- (a) the name, and last known address, of each person entitled to unclaimed trust money held in the account;
- (b) the amount of the trust money to which each of those persons is entitled;
- (c) the banking institution, and the branch of the institution, with which the trust money is held; and

- (d) the Chief Executive shall cause the particulars set out in the statement in relation to each amount of unclaimed monies to be published in a daily newspaper published in the Territory and in the *Gazette*.

“(4) The total amount shown in the statement shall be paid into the Territory banking account at the time of the delivery of the statement and, upon being paid into that account, shall become public money of the Territory.

“(5) A person who claims to be entitled to any money paid into the Territory banking account in accordance with subsection (4) may apply to the Treasurer for a payment of an amount equal to the money to which he or she is entitled.

“(6) The Treasurer shall consider each application and either refuse it or grant it wholly or partly.

“(7) The Treasurer shall give the applicant written notice of his or her decision.

#### **Review of decisions**

“53B. Application may be made to the Administrative Appeals Tribunal for a review of a decision of the Treasurer under subsection 53A (6) refusing an application wholly or partly.

#### **Notification of decisions**

“53C. A notice given under subsection 53A (7) shall be in accordance with the requirements of the Code of Practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.”

#### **Further amendments**

14. The Principal Act is further amended as set out in the Schedule.

#### **Consequential amendment—*Canberra Institute of Technology Act 1987***

15. Section 52 of the *Canberra Institute of Technology Act 1987* is repealed.

#### **Transitional and saving—application of certain appropriated monies**

16. (1) Where—

- (a) an amount was appropriated by an Act for services of the government for the financial year that ended on 30 June 1996 or 30 June 1997; and

- (b) the amount is held in a departmental banking account;
- the amount may be applied for the purpose for which it was appropriated.
- (2) An amount that was, before the commencement of this section—
    - (a) appropriated by an Act for services of the government for the financial year that ended on 30 June 1996 or 30 June 1997; and
    - (b) applied for the purpose for which it was appropriated after the end of that financial year;
- shall be taken to have been properly applied.

## **SCHEDULE**

Section 14

### **FURTHER AMENDMENTS**

1. The following provisions of the Principal Act are amended by omitting “bank account” and substituting “banking account” (wherever occurring):

Subsection 3 (1) (definitions of “departmental bank account”, “Territory bank account” and “warrant”), section 33, subsections 34 (2), (3), (4) and (5), 35 (2), (3) and (4), 36 (1) and (2), 37 (1) and 38 (1), (2), (3) and (4), section 45, subsections 51 (1), (2), (3), (4) and (5), section 52 and subsections 55 (2) and (3) and 56 (2).

2. The following provisions of the Principal Act are amended by omitting “bank” and substituting “banking institution”:

Subsections 32 (1) and 34 (3) (second and third occurring), paragraphs 38 (1) (a) and (b), subsections 51 (3) (second and third occurring) and 55 (3) (second and third occurring) and paragraph 56 (1) (a).

3. The following provisions of the Principal Act are amended by omitting “bank accounts” and substituting “banking accounts”:

Subsections 34 (1), 37 (2) and 38 (1), (2) and (4), section 52 and subsection 55 (1).



## NOTES

### Principal Act

1. Act No. 22, 1996. See also Act No. 39, 1997.

### Section headings

On the day on which the *Financial Management Act 1996* is amended by this Act, headings to sections of the Principal Act are altered as set out in the following table:

Section	Alteration
33	Omit from the heading “bank” and substitute “banking”.
34	Omit from the heading “bank” and substitute “banking”.
35	Omit from the heading “bank” and substitute “banking”.
45	Omit from the heading “bank” and substitute “banking”.
51	Omit from the heading “bank” and substitute “banking”.
52	Omit from the heading “bank” and substitute “banking”.
55	Omit from the heading “Bank” and substitute “Banking”.

*[Presentation speech made in Assembly on 26 June 1997]*