



Australian Capital Territory

# Financial Management Amendment Act 2002

Act 2002 No 38

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Australian Capital Territory

# Financial Management Amendment Act 2002

Act 2002 No 38

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An Act to amend the *Financial Management Act 1996*

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*Notified under the Legislation Act 2001 on 8 October 2002  
(see [www.legislation.act.gov.au](http://www.legislation.act.gov.au))*

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

## **1 Name of Act**

This Act is the *Financial Management Amendment Act 2002*.

## **2 Commencement**

This Act commences on a day fixed by the Minister by written notice.

*Note 1* The naming and commencement provisions automatically commence on the notification day (see *Legislation Act 2001*, s 75).

*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see *Legislation Act 2001*, s 77 (1)).

*Note 3* If a provision has not commenced within 6 months beginning on the notification day, it automatically commences on the first day after that period (see *Legislation Act 2001*, s 79).

## **3 Act amended**

This Act amends the *Financial Management Act 1996*.

*Note* This Act is amended in the body of this Act and in sch 1.

## **4 Departmental budgets Section 12 (1) (c) (ii)**

*omit*

repaid.

*substitute*

repaid; and

## **5 New section 12 (1) (d)**

*insert*

(d) a statement of the financial targets of the department's operations during the year for which the chief executive of the department will be responsible.

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**6 Variation of appropriations for Commonwealth grants  
Section 17 (2) (a)**

*substitute*

- (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

**7 Payments in anticipation of appropriation or supply  
Section 18A**

*omit*

**8 New sections 19C to 19E**

*insert*

**19C Amendment of conditions of capital injection**

- (1) If a capital injection is given under conditions set out under section 12 (1) (c) (ii) (Departmental budgets) in a statement included in a proposed budget for a department for a financial year, the Treasurer may, in writing, amend the conditions.
- (2) An amendment of the conditions of the capital injection must state the Treasurer's reasons for the amendment.
- (3) An amendment of conditions of a capital injection is a notifiable instrument.

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

**19D Amendment of performance criteria**

- (1) The responsible Minister of a department may, in writing, amend the performance criteria set out under section 12 (1) (b) in a statement included in a proposed budget for the department for a financial year.

- (2) Without limiting subsection (1), the responsible minister may amend the performance criteria if—
- (a) the appropriations for the department for the financial year are varied under section 14 or 17; or
  - (b) the Executive gives a direction under section 15 (1) in relation to an appropriation made for the department; or
  - (c) funds are transferred to or from the department under section 16; or
  - (d) funds are given to the department under section 18 (Treasurer's advance); or
  - (e) funds mentioned in section 19B (Authorisation of expenditure of certain Commonwealth grants) are given to the department; or
  - (f) changes happen in the priorities of the department; or
  - (g) the Minister is satisfied that performance criteria (other than those stated in the budget) should be adopted for the provision of outputs by the department.
- (3) An amendment of performance criteria must be made in such a way that the department's budget as amended will comply with section 12 (3).
- (4) An amendment of performance criteria is a notifiable instrument.
- (5) In this section:

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

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

## **19E Amendment of financial targets**

- (1) The Treasurer may, in writing, amend the financial targets set out in a statement under section 12 (1) (d) (Departmental budgets) included in a proposed budget for a department for a financial year.
- (2) An amendment of the financial targets must state the Treasurer's reasons for making the amendment.
- (3) An amendment of financial targets is a notifiable instrument.

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

## **9 Audit of annual financial statements Section 24 (1)**

*substitute*

- (1) The Treasurer must give the auditor-general a copy of the annual financial statements of the Territory for a financial year within 3 months after the end of the year.

## **10 Annual financial statements of departments Section 27 (2)**

*omit*

that was presented to the Legislative Assembly under section 10 (b)

## **11 New section 27 (3) (ba)**

*insert*

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

**12 Section 27 (4) (a)**

*omit*

presented to the Legislative Assembly under section 10 (b)

**13 New section 27 (5)**

*insert*

- (5) In subsections (2) and (4):

***budget***, for a department for a financial year, means the budget for the department 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.

**14 Section 29**

*substitute*

**29 Audit of financial statements of departments**

- (1) The responsible chief executive of a department must give the auditor-general a copy of the financial statements of the department for a financial year as soon as practicable after the statements are prepared.
- (2) The copy of the financial statements given to the auditor-general under subsection (1) must have endorsed on them, or attached to them, a signed copy of the statement of responsibility made for the financial statements under section 28.
- (3) The auditor-general must give the responsible chief executive an audit opinion about the financial statements as soon as practicable after the auditor-general receives them.



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**15 Responsibilities of chief executives of departments  
Section 31 (2) (a) and (b)**

*substitute*

- (a) that money spent by the department is spent in accordance with appropriations made for the department (including appropriations available under section 34B); and
- (b) that the operations of the department in a financial year give the financial targets at the end of the year set out in the statement of financial targets in the proposed budget for the department for the year (or, if the statement has been amended by the Treasurer, in the amended statement) to be targets for which the chief executive is responsible; and

**16 Departmental banking accounts  
Section 34 (3)**

*substitute*

- (3) A departmental 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.

**17 New section 36A**

*insert*

**36A Transfers from departmental banking accounts to  
Territory banking account**

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

**18 Section 37, heading**

*substitute*

**37 Payments from Territory banking account**

**19 Section 37 (1) and (2)**

*substitute*

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

**20 Section 46**

*substitute*

**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.

**21 Departmental trust banking accounts  
Section 51 (3)**

*substitute*

- (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).

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**22 Banking accounts**  
**Section 55 (3)**

*substitute*

- (3) A banking account of a Territory authority 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).

**23 Investment**  
**Section 56 (3)**

*omit 1st mention of*

Territory

*substitute*

Treasurer

**24 Section 56 (4)**

*substitute*

- (4) However, if an investment of funds of a Territory authority is made or managed with the assistance of a department, a fee charged by the department for giving the assistance may be deducted from interest received for the investment and paid to the department.

**25 Section 61**

*substitute*

**61 Audit of annual financial statements**

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

- (2) The copy of the financial statements given to the auditor-general under subsection (1) must have endorsed on them, or attached to them, a signed copy of the statement of responsibility made for the financial statements under section 60.
- (3) 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.

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## Schedule 1      Minor amendments of Financial Management Act 1996

(see s 3)

### [1.1] Section 24 (2)

*omit*

provide the Treasurer with an audit opinion concerning the statements

*substitute*

give the Treasurer an audit opinion about the statements

### [1.2] Section 25 heading

*substitute*

## 25 Presentation of annual financial statements to Legislative Assembly

### [1.3] Section 25A (4) (b)

*omit*

targets

*substitute*

criteria

### [1.4] Section 25A

*relocate as section 30A*

### [1.5] Section 27 (3)

*renumber paragraphs when Act next republished under Legislation Act 2001*

**[1.6] Section 28 heading**

*substitute*

**28 Responsibility for annual financial statements**

**[1.7] Section 30 heading**

*substitute*

**30 Presentation of annual financial statements**

**[1.8] Section 37**

*renumber subsections when Act next republished under Legislation Act 2001*

**[1.9] Section 62 (1)**

*omit*

forward

*substitute*

give

**[1.10] Dictionary, definition of *warrant***

*omit*

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**Endnote**

**Republications of amended laws**

For the latest republications of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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*[Presentation speech made in Assembly on 22 August 2002]*

I certify that the above is a true copy of the Financial Management Amendment Bill 2002 which was passed by the Legislative Assembly on 26 September 2002.

Clerk of the Legislative Assembly

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