



Australian Capital Territory

Financial Management Amendment Act 2015

A2015-34

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Australian Capital Territory

Financial Management Amendment Act 2015

A2015-34

An Act to amend the *Financial Management Act 1996*, and for other purposes

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

1 Name of Act

This Act is the *Financial Management Amendment Act 2015*.

2 Commencement

- (1) The following sections commence on 1 July 2016:
 - (a) sections 4 to 8;
 - (b) sections 11 to 20;
 - (c) sections 28 and 29;
 - (d) sections 49 and 50;
 - (e) section 54;
 - (f) sections 58 to 60;
 - (g) section 62;
 - (h) section 76;
 - (i) sections 96 to 99;
 - (j) sections 102 to 104;
 - (k) section 113;
 - (l) section 115, definition of *controlled recurrent payment*;
 - (m) schedule 1, part 1.1, amendment 1.2;
 - (n) schedule 1, part 1.2.

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

- (2) The remaining provisions commence on the first day of the next quarter after this Act's notification day.

Note **Quarter** means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October in any year (see [Legislation Act](#), dict, pt 1).

3 Legislation amended

This Act amends the *Financial Management Act 1996*.

Note 1 This Act also amends other legislation (see sch 1).

Note 2 This Act also repeals the *Financial Management (Treasurer's Advance) Guidelines 2005* (see s 116).

4 Payments authorised on lapse of appropriation New section 7 (2)

insert

- (2) In this section:

purpose means a purpose that could reasonably be considered to be within the usual responsibilities and ordinary business of an entity.

5 New section 7A

insert

7A Temporary advance for new purpose or new entity

- (1) This section applies if—
- (a) an amount is proposed to be appropriated by a bill for the first Appropriation Act for a financial year for a new purpose or a new entity; and
 - (b) the bill has not yet been passed by the Legislative Assembly.
- (2) The Treasurer may, in writing, authorise an amount (a ***temporary advance***) for expenditure for the new purpose or new entity if the Treasurer is satisfied that there is an immediate requirement for the expenditure.
- (3) A temporary advance must be authorised from the amount paid by the Treasurer under section 7 for section 18 (Treasurer's advance).

- (4) The total amount of temporary advances authorised must not exceed 50% of the amount paid by the Treasurer under section 7 for section 18.
- (5) On the commencement of the first Appropriation Act for the financial year—
 - (a) the temporary advance ceases; and
 - (b) the temporary advance is taken to have been paid out of money appropriated by that Act; and
 - (c) the amount appropriated for section 18 for the financial year is taken to be restored by the amount of the temporary advance; and
 - (d) if the amount proposed to be appropriated under subsection (1) (a) is not passed in that Act—the temporary advance is taken to have been authorised from the appropriation for section 18 for the financial year.
- (6) If the Treasurer authorises a temporary advance, the Treasurer must attach the authorisation to the next financial statement presented to the Legislative Assembly.

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

- (7) In this section:

new entity means an entity that has a purpose not previously included, or not reasonably considered to be, within the usual responsibilities and ordinary business of another entity.

new purpose means a purpose other than a purpose that could reasonably be considered to be within the usual responsibilities and ordinary business of an entity.

**6 Form of appropriations
Section 8 (1) (a)**

substitute

- (a) any controlled recurrent payments to be provided to the directorate; and

7 Section 8 (2) (a)

substitute

- (a) any controlled recurrent payments to be provided to the authority or corporation; and

8 Section 9

substitute

9 Net controlled recurrent payments

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

**9 Net appropriations for capital injections
Section 9A (3), definition of *relevant entity***

omit

directorate, authority or corporation

substitute

territory entity

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

omit

(Necessity for appropriations)

substitute

(Necessity for appropriation)

**11 Territory budgets
New section 11 (1) (g)**

insert

(g) a statement about the government's spending intentions for the financial year, including any significant change in spending intentions from the previous financial year.

12 New section 11 (1A)

insert

(1A) The proposed budget may include anything else the Treasurer considers relevant.

13 Section 11 (2) and (3)

omit

, for each appropriation unit,

14 Section 11 (6), definition of *appropriation unit*

omit

**15 Directorate budgets
Section 12 (1) (b)**

substitute

(b) a statement that sets out—

- (i) the outputs and classes of outputs it is proposed the directorate should provide during the year; and
- (ii) the performance criteria to be met by the directorate in providing the outputs; and
- (iii) for each output and class of output mentioned in subparagraph (i)—
 - (A) the proposed budget expense and proposed appropriation for the financial year; and
 - (B) the estimated expense and appropriation for the previous financial year; and

16 New section 12AA

before section 12A, insert

12AA Territory authority budgets

A proposed budget presented to the Legislative Assembly under section 10 (c) for a territory authority for a financial year is the statement of intent under section 61 (Territory authority statements of intent) for the authority for the financial year.

17 Section 12A heading

substitute

12A Territory-owned corporation budgets

18 Section 12A (1)

omit

territory authority or

19 Section 12A (1) (b)

substitute

- (b) for a prescribed territory-owned corporation—a statement that sets out—
 - (i) the outputs and classes of outputs it is proposed that the territory-owned corporation should provide during the year; and
 - (ii) the performance criteria to be met by the territory-owned corporation in providing the outputs; and
 - (iii) for each output and class of output mentioned in subparagraph (i)—
 - (A) the proposed budget expense and proposed appropriation for the financial year; and
 - (B) the estimated expense and appropriation for the previous financial year; and

20 Section 12A (2)

omit

authority or

substitute

territory-owned

**21 Supplementary budget papers
Section 13 (3)**

omit

directorate, territory authority and territory-owned corporation

substitute

territory entity

22 Section 13 (3) (b)

substitute

- (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

- (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).

23 Section 13 (4) to (6) and example and note

omit

**24 Amendment of budgets for supplementary appropriation
Section 13A (1)**

omit

directorate, territory authority or territory-owned corporation by an Appropriation Act other than the first Appropriation Act for it for a financial year, the budget for the directorate, authority or corporation

substitute

territory entity by an Appropriation Act other than the first Appropriation Act for it for a financial year, the budget for the territory entity

25 Section 13A (2), definition of *budget*

omit

directorate, territory authority or territory-owned corporation, means the budget for the directorate, authority or corporation

substitute

territory entity, means the budget for the territory entity

26 Section 14

substitute

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%.
- (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.

27 New sections 14A and 14B

insert

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:

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.

28 **Transfer of funds within appropriations**
Section 15

omit

29 **Reclassification of certain appropriations**
Section 15A (1) and (2)

omit

the provision of outputs by

substitute

controlled recurrent payments to be provided to

30 **Section 15A (3)**

substitute

- (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.

31 Section 16 heading

substitute

16 Transfer of functions to another entity

32 Section 16 (1)

substitute

- (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.

33 Section 16 (2)

before

entity

insert

territory

34 Section 16 (3)

substitute

- (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.

35 Section 16 (5)

omit

**36 Appropriation for accrued employee entitlements
Section 16A (1) (a)**

omit

an entity

substitute

a territory entity

37 Section 16A (1) (b) and (2)

before

entity

insert

territory

38 Section 16A (3) and (4)

substitute

- (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.

39 Section 16B heading

substitute

16B Rollover of undisbursed appropriation

40 Section 16B

omit

dispersed

substitute

disbursed

41 Section 16B (1)

before

entity

insert

territory

42 Section 16B (2)

substitute

- (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.

43 Section 16B (4) and (5)

before

entity

insert

territory

44 Section 16B (6) and (7)

substitute

- (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.

**45 Variation of appropriations for Commonwealth grants
Section 17 (3)**

substitute

- (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 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.

**46 Variations of appropriations for certain payments to Commonwealth
Section 17A (3)**

substitute

- (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.

47 Sections 18 and 18A

substitute

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.
- (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
 - (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).
- (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.

48 Section 19B

substitute

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.
- (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.

49 Amendment of capital injection conditions Section 19C (1)

substitute

- (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 financial year for—
- (a) a directorate under section 12 (1) (c) (ii); or
 - (b) a territory-owned corporation under section 12A (1) (c) (ii); or
 - (c) a territory authority in accordance with section 61 (5) (e).

50 Amendment of performance criteria Section 19D (1)

substitute

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

- (c) a prescribed territory authority in accordance with section 61 (5A) (b).

51 Section 19D (2) (a)

omit

directorate, territory authority or territory-owned corporation

substitute

territory entity

52 Section 19D (3)

omit

directorate, authority or corporation

substitute

territory entity

53 Section 19D (3) (a)

substitute

- (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

54 Section 19D (3) (b)

omit

55 Section 19D (3) (c)

omit

after Appropriation Act passed

substitute

to another entity

56 Section 19D (3) (d)

substitute

(d) funds are—

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

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

57 Section 19D (3) (e)

omit

expenditure of

substitute

appropriation for

58 Section 19D (3) (g)

omit

the provision of outputs by

substitute

controlled recurrent payments to be provided to

59 Section 19D (4) (b)

omit

territory authority or

substitute

prescribed

60 New section 19D (4) (c)

insert

(c) for a prescribed territory authority—the budget as amended will comply with section 61 (4).

61 Section 19D (6), definition of *budget*

omit

directorate, territory authority or territory-owned corporation, means the budget for the directorate, authority or corporation

substitute

territory entity, means the budget for the territory entity

62 Section 19D (6), definition of *prescribed territory authority*

omit

section 12A (1) (b)

substitute

section 61 (5A)

**63 Pre-election budget update
Section 20C**

omit

director-general

substitute

under treasurer

**64 Annual financial statements of the Territory
Section 22 (1)**

omit

Treasurer

substitute

under treasurer

65 Section 23

substitute

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—
 - (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.

66 **Audit of annual financial statements**
Section 24 (1) and (2)

substitute

- (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.

67 **Section 24 (3) (a)**

omit

Treasurer

substitute

under treasurer

68 **Periodic financial statements**
Section 26 (2)

substitute

- (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.

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.

69 **Section 28**

substitute

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.

**70 Audit of financial statements of directorates
Section 29 (2)**

omit

**71 Statements of performance of directorates
Section 30A (1)**

substitute

- (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.

72 Section 30B

substitute

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.

**73 Scrutiny of directorate statements of performance
Section 30C (2)**

omit

**74 Half-yearly directorate performance reports
Section 30E (1)**

substitute

- (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.

75 Section 30E (3) and (4)

substitute

- (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.

76 **New division 3.3**

insert

Division 3.3 **Capital works reports**

30F **Capital works report of Territory**

- (1) The Treasurer must, at least once every 6 months, prepare a report about capital works for the Territory (a *capital works report*).
- (2) A capital works report must—
 - (a) include a progress report on the delivery of the capital works program for the Territory during the period since the previous capital works report; and
 - (b) include a statement of the expenditure on capital works for each directorate and territory authority for the financial year; and
 - (c) for each major capital works project—include—
 - (i) a statement of the expenditure on the project to date; and
 - (ii) a statement of the expenditure on the project for the financial year to date; and
 - (iii) a total budget for the project; and
 - (iv) an annual budget for the project.
- (3) The Treasurer must—
 - (a) present a copy of each capital works report to the Legislative Assembly on the first sitting day after the report is prepared; and

- (b) if the first sitting day is more than 60 days after the end of the period for which the report is prepared—give a copy of the report to each member of the Legislative Assembly within 60 days after the end of the period for which the report is prepared.
- (4) A regulation may prescribe a major capital works project.
- (5) In this section:
- capital works* includes works prescribed by regulation.
- expenditure* includes expenditure funded by capital injection or feasibility expenditure funded by controlled recurrent payments.

**77 Responsibilities of directors-general of directorates
Section 31 (1)**

omit

financial management of the directorate

substitute

financial management of the public resources for which the directorate is responsible

78 New section 31 (1A) and (1B)

insert

- (1A) 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.

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

79 Section 31 (2)

omit

subsection (1)

substitute

subsections (1), (1A) and (1B)

80 Section 31 (4), new definitions

insert

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.

81 New section 31A

in part 4, insert

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
 - (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.

**82 Transfer following change in directorate responsibilities
Section 36 (2)**

omit

**83 Transfers from directorate banking accounts to territory
banking account
Section 36A**

omit

Executive's

substitute

Treasurer's

84 Section 36A

omit

Executive

substitute

Treasurer

**85 Payments from territory banking account
Section 37 (1)**

substitute

- (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.

86 New section 37 (4)

insert

- (4) Also, an amount paid into the territory banking account by a territory entity that is paid in excess, may be transferred from the territory banking account to the banking account of the territory entity without appropriation.

87 New section 37A

insert

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.

88 **Responsibilities of chief executive officers of territory authorities**
Section 55 (2)

omit

financial management of the authority

substitute

financial management of the resources for which the authority is responsible

89 **New section 55 (2A)**

insert

- (2A) 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.

90 **Section 55 (3)**

omit

subsection (2)

substitute

subsections (2) and (2A)

91 New section 55 (5)

insert

(5) 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.

**92 Responsibilities of governing boards of territory authorities
Section 56 (2)**

omit

financial management of the authority

substitute

financial management of the resources for which the authority is responsible

93 New section 56 (2A)

insert

(2A) 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.

94 Section 56 (3)

omit

subsection (2)

substitute

subsections (2) and (2A)

95 New section 56 (5)

insert

(5) 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.

**96 Territory authority statements of intent
New section 61 (4) (aa)**

insert

(aa) in a form that facilitates a comparison between—

- (i) the proposed statement of intent for the authority; and
- (ii) the statement of intent for the authority for the previous financial year; and
- (iii) the estimated results for the authority for the previous financial year; and

97 Section 61 (5)

substitute

- (5) A statement of intent for a financial year must include the following:
- (a) the financial statements required under the financial management guidelines;
 - (b) for a financial statement mentioned in paragraph (a)—budget estimates for each of the next 3 financial years;
 - (c) a statement of the objectives of the authority for the year and each of the next 3 financial years;
 - (d) 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;
 - (e) for a territory authority 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;
 - (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.
- (5A) Also, a statement of intent for a prescribed territory authority for a financial year must include a statement that sets out—
- (a) the outputs and classes of outputs it is proposed that the authority should provide during the year; and

- (b) the performance criteria to be met by the authority in providing the outputs; and
 - (c) for each output and class of output mentioned in paragraph (a)—
 - (i) the proposed budget expense and proposed appropriation for the financial year; and
 - (ii) the estimated expense and appropriation for the previous financial year.
- (5B) In addition, the statement of intent for a territory authority that is not a prescribed territory authority for a financial year must include the following:
- (a) 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;
 - (b) an assessment of the performance (or estimated performance) of the authority in the previous financial year against its objectives for that year.

98 **Presentation of statements of intent of territory authorities**
New section 62 (1A)

before section 62 (1), insert

- (1A) This section does not apply if a territory authority presents a proposed budget to the Legislative Assembly under section 10 (c).

**99 Annual financial statements of territory authorities
Section 63 (3) (b)**

omit

section 12A (1) (c) (ii) (Territory authority and territory-owned corporation budgets)

substitute

section 61 (5) (e) (Territory authority statements of intent)

**100 Responsibility for annual financial statements of territory authorities
Section 64 (1) and (2)**

substitute

- (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.
- (2A) 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.

**101 Audit of annual financial statements of territory authorities
Section 65 (2)**

omit

**102 Statements of performance of territory authorities
Section 68 (2)**

substitute

- (2) For a territory authority that is not a prescribed territory authority, 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 (5B).

103 Section 68 (3)

omit everything before paragraph (a), substitute

- (3) For a prescribed territory authority, the statement must include a statement of the performance of the authority in providing each class of outputs set out in the authority's budget for the year and provided by it during the year and, in particular—

104 Section 68 (4), definition of *prescribed territory authority*

omit

section 12A (1) (b) (Territory authority and territory-owned corporation budgets)

substitute

section 61 (5A) (Territory authority statements of intent)

**105 Responsibility for territory authority statements of performance
Section 69 (1) and (2)**

substitute

- (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.
- (2A) 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 (3).

**106 Scrutiny of territory authority statements of performance
Section 70 (2)**

omit

**107 Act of grace payments
Section 130 (1)**

after

directorate

insert

or territory authority

108 Section 130 (6)

substitute

- (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
 - (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.

109 Section 130 (8)

after

directorate

insert

or territory authority

**110 Guideline-making power
Section 133 (1), new note**

insert

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).

111 Dictionary, note 2

insert

- Treasurer

112 Dictionary, definition of *capital injection*

substitute

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).

113 Dictionary, definition of *class of outputs*

substitute

class of outputs means a group of related outputs.

114 Dictionary, definition of *contract*

substitute

contract includes an agreement or arrangement, whether or not its term extends for 1 or more years.

115 Dictionary, new definitions

insert

controlled recurrent payment means an amount provided, or to be provided to a territory entity for the delivery of goods and services provided by the territory entity or a person providing goods and services on behalf of the territory entity.

memorandum of understanding includes a memorandum of understanding whether or not its term extends for 1 or more years.

territory entity means a directorate, territory authority or territory-owned corporation.

Treasurer's advance—see section 18.

under treasurer means the person performing the duties of the under treasurer in the public service.

116 Legislation repealed

The *Financial Management (Treasurer's Advance) Guidelines 2005* (DI2005-274) are repealed.

Schedule 1 Consequential amendments

(see s 3)

Part 1.1 Administrative Decisions (Judicial Review) Act 1989

[1.1] Schedule 2, section 2.3 (b)

substitute

- (b) a decision of the Treasurer under the *Financial Management Act 1996*—
- (i) section 18 (Treasurer’s advance); or
 - (ii) section 18B (Treasurer’s advance—reduction of amounts);

[1.2] Schedule 2, new section 2.3 (b) (ia)

before section 2.3 (b) (i), insert

- (ia) section 7A (Temporary advance for new purpose or new entity); or

Part 1.2 Financial Management Act 1996

[1.3] Section 14A (1) (a)

substitute

(a) controlled recurrent payments for the entity; or

[1.4] Section 14B (1)

omit

provision of outputs

substitute

controlled recurrent payments

[1.5] Section 14B (3), new definition of *appropriation for controlled recurrent payments*

insert

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

[1.6] Section 14B (3), definition of *appropriation for provision of outputs*

omit

[1.7] New section 18C (2) (b) (iia)

insert

- (iia) the total payments for temporary advances taken to have been authorised previously in the financial year under section 7A (5) (d) (Temporary advance for new purpose or new entity);

[1.8] New section 19D (3) (d) (ia)

before section 19D (3) (d) (i), insert

- (ia) taken to be authorised from section 18 (Treasurer's advance) under section 7A (5) (d) (Temporary advance for a new purpose or new entity) for a temporary advance to the territory entity; or

[1.9] Section 26 (2), note

after

under

insert

s 7A,

Part 1.3 University of Canberra Act 1989

[1.10] Section 35 heading

substitute

35 Application of Financial Management Act 1996, pt 6, pt 8 and pt 10

[1.11] New section 35 (3)

insert

- (3) The *Financial Management Act 1996*, part 10 (Miscellaneous) applies in relation to the university as if section 130 (Act of grace payments) were omitted.

[1.12] Schedule 1, modification 1.1, section 56 (2)

omit

financial management of the authority

substitute

financial management of the resources for which the authority is responsible

[1.13] Schedule 1, modification 1.1, new section 56 (2A)

insert

- (2A) 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.

[1.14] Schedule 1, modification 1.1, section 56 (3)

omit

subsection (2)

substitute

subsections (2) and (2A)

[1.15] Schedule 1, modification 1.1, new section 56 (4)

insert

(4) 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.

[1.16] Schedule 1, modification 1.7, section 65 (2)

omit

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 4 June 2015.

2 Notification

Notified under the [Legislation Act](#) on 30 September 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Financial Management Amendment Bill 2015, which was passed by the Legislative Assembly on 15 September 2015.

Acting Clerk of the Legislative Assembly

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