

**2001**

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**FINANCIAL MANAGEMENT LEGISLATION AMENDMENT BILL 2001**

**EXPLANATORY MEMORANDUM**

Circulated by the authority of the Treasurer

Gary Humphries MLA

**Summary**

This is a Bill for an Act to amend provisions within the *Financial Management Act 1996* and the *Territory Superannuation Provision Protection Act 2000* to enable the use of financial derivatives for the purposes of investment, subject to the issue of financial management guidelines.

Details of the Bill are attached.



## Details of the Bill

### **PART 1 – PRELIMINARY**

**Clauses 1 and 2** are formal requirements. They refer to the title of the Act and the commencement date of the Act, which is a day fixed by the Treasurer by notice in the Gazette.

### **PART 2 – FINANCIAL MANAGEMENT ACT 1996**

**Clause 3** This clause describes those amendments in Part 2 relating to the *Financial Management Act 1996*.

**Clause 4 Definitions** – This clause provides for the insertion of two additional definitions under section 3 of the *Financial Management Act 1996*.

The first definition defines *interest* to include any financial return received on a deposit, loan or other investment.

The second definition defines *invest* to include transactions or arrangements that can protect or enhance investments i.e. the use of financial derivatives.

**Clause 5 Investment of certain public money** – This clause provides for the substitution of Section 38 (1) (e) of the *Financial Management Act 1996*. The substituted clause has the effect to require that derivatives be used in accordance with financial management guidelines issued under Section 67 of the *Financial Management Act 1996*.

**Clause 6** This clause substitutes the heading of Part 6 of the *Financial Management Act 1996*. It removes the inclusion of financial derivatives from this component of the legislation, as the use of financial derivatives is incorporated into the concept of the term invest.

**Clause 7 Financial Derivatives**– This clause removes the existing Section 48 of the *Financial Management Act 1996*. Removal of this Section removes the current limiting and incomplete definitions of financial derivatives and the limitation of the use of derivatives for borrowing purposes only.

**Clause 8 Investment by Territory Authorities** - This clause replicates the substitution provision of Clause 5, thereby enabling the Treasurer, through the issue of financial management guidelines, to allow the investments of a Territory Authority to utilise financial derivatives.

### **PART 3 – TERRITORY SUPERANNUATION PROVISION PROTECTION ACT 2000**

**Clause 9** This clause describes those amendments in Part 3 relating to the *Territory Superannuation Provision Protection Act 2000*.

**Clause 10 Dictionary** – This clause provides for the insertion of an additional definition within the Dictionary of the *Territory Superannuation Provision Protection Act 2000*.

The definition defines *invest* to include transactions or arrangements that can protect or enhance investments i.e. the use of financial derivatives.

