

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

FINANCE REGULATIONS

1989 No.8

Section 125 of the Audit Ordinance 1989 (the Audit Ordinance) provides that the Minister may make regulations prescribing matters for the purposes of the Audit Ordinance and making provision for procedures and other matters arising from the Audit Ordinance.

The Finance Regulations, which are based on the Commonwealth Finance Regulations, provide a comprehensive and detailed scheme for the effective carrying-out of various powers and functions under the Audit Ordinance. The Finance Regulations also provide for the appointment and authorisation of officers to undertake specific functions under the Regulations.

The Finance Regulations are necessary for the efficient and proper management of Territory finances and public moneys after Self-government.

Full details of the Regulations are set out in the Attachment.

ISSUED BY AUTHORITY OF THE
MINISTER OF STATE FOR THE
ARTS AND TERRITORIES.

ATTACHMENT

Finance Regulations

Part I comprises regulations 1 to 3 and deals with preliminary matters.

Regulation 1 cites the Regulations as the Finance Regulations.

Regulation 2 provides for interpretation.

Regulation 3 provides that a reference to an authorised officer in respect of matters concerning a particular administrative unit, means the authorised officer appointed for that administrative unit.

Regulation 4 provides for the forms that constitute the schedule to the Regulations.

Regulation 5 deems all money paid into or out of the Territory Public Account during any financial year to be the receipts or payments of that financial year.

Part II comprises regulations 6 to 19 and deals with the receipt of public moneys.

Regulation 6 provides for the appointment of receivers of public moneys and collectors of public moneys, and other persons authorised to collect public moneys by the Minister and for the Minister to give directions.

Regulation 7 provides that where a collector makes no payment of collections to a receiver, he or she shall nevertheless furnish a collector's statement (see Form 1) to the receiver with the word "Nil" written on it.

Regulation 8 requires the head of administration to ensure the safe custody of all fixed deposit receipts, bonds, debentures, savings bank deposit books and other securities within his or her possession or control, or in the possession or control of an officer under his or her authority.

Regulation 9 requires a receiver to forward a receiver's statement (Form 2) along with the relevant collector's statement to the designated office on the same day that he or she pays money into the Territory Public Account.

Regulation 10 requires a receiver to deliver to the designated officer on the last working day of each financial year a receiver's statement with respect to all payments made by him or her into the Territory Public Account on that day. If no payments are made on that day, the receiver's statement should be submitted with the word "Nil" written on it.

Regulation 11 requires receivers to prepare an accountable receipt (in accordance with Form 3) for every amount paid into the Territory Public Account. It also requires the receiver to

enter details of the deposit on the accountable receipt and to provide a copy to the bank with the deposit, forward a copy to the designated office with the receiver's statement, and to file a copy in his or her office.

Regulation 12 requires receivers to balance the accountable receipts with the receiver's statements for each day.

Regulation 13 requires a collector or receiver to forward a statement (in accordance with Form 4) in relation to any repayment made to an authorising officer who will record particulars of the repayment in an appropriation ledger.

Regulation 14 requires that particulars of all government property authorised to be sold be forwarded to the Auditor-General unless the administrative head directs otherwise.

Regulation 15 requires receivers and collectors to maintain records of their collections.

Regulation 16 deals with licences. It provides that licences be issued from books of forms provided for that purpose and that full particulars of the licence, including the amount of money received, be entered on the form and counterpart of the form.

Regulation 17 requires an officer who receives any moneys to record such receipt on a printed form provided for that purpose, or if that form is not available, in a manner approved by the head of administration or authorised officer.

Regulation 18 requires that licence forms and receipt forms be numbered consecutively and that each counterpart have the same number as its form, unless the administrative head approves another method of numbering.

Regulation 19 provides for duplicate receipts in relation to receipts provided for in regulation 17.

Part III comprises regulations 20 and 21 and deals with obligations involving expenditure of public moneys.

Regulation 20 deals with the conditions under which an obligation involving the expenditure of public moneys may be incurred.

Subregulation 20(1) provides that an officer shall not incur an obligation involving expenditure of public moneys in respect of the execution of works, supply of services, or the purchase of chattels or other property for or by the Territory unless the payment for such expenditure is the subject of a current or proposed appropriation, or the Minister has approved that obligation.

Subregulation 20(2) provides that subregulation 20(1) does not apply if the obligation is incurred in accordance with an enactment authorising such an obligation.

Subregulation 20(3) permits the Minister to declare, by instrument in writing, a class of obligations within which an obligation involving expenditure of public moneys may be incurred without the approval of the Minister under subparagraph 20(1)(d)(i).

Regulation 21 provides that the rights and liabilities of the parties to an obligation referred to in subregulation 20(1) are not affected by reason of the fact that the obligation was incurred in contravention of that provision.

Part IV comprises four Divisions and deals with the payment of public moneys.

Division 1 comprises regulations 22 to 37 and deals with certifying officers.

Regulation 22 details the responsibilities of certifying officers in relation to claims for payments submitted for certification under subsection 42(2) of the Ordinance. Subregulation 22(1) requires a certifying officer to ensure that such claims (inter alia):

- . are correct as to amount;
- . identify the head of expenditure to which it is chargeable and is for expenditure that has been approved;
- . are supported by relevant documentation (vouchers and certificates);
- . are made out in the name of a person or authority to whom payment is to be made (by cheque); and
- . have not previously been paid.

Subregulation 22(2) provides that a certificate given by the head of administration or an authorised officer and stating that expenditure for a certain claim has been approved, is sufficient approval for the purposes of subregulation (1) except in relation to claims for supplies.

Regulation 23 deals with the provision of certificates for claims for payment under subsection 42(2) of the Ordinance.

Subregulation 23(1) permits a certifying officer to provide such a certificate if he or she has no reason to believe that the payments may not properly be made, and that the subsection (2) requirements (if applicable) and the Minister's directions (if any) have been complied with.

Subregulation 23(2) requires the certifying officer to ensure that a claim for payment within a prescribed class of payments is for expenditure has been approved, and the head of expenditure to which it is chargeable is identifiable.

Subregulation 23(3) prescribes certain classes of payments to which subregulation (1) applies, as follows -

- payments certified by the head of administration or an authorised officer to be based on computer data programmed in relation to accounting procedures approved by the Minister;
- payments made by one administrative unit to another;
- payments which are sample checked in a way approved by the Minister;
- payments under contracts where the Territory can adjust subsequent payments for claims under that contract;
- where the claim does not exceed \$1000 in respect of supplies.

Regulation 24 deals with requests to spend money where supplies are required by an administrative unit.

Subregulation 24(1) requires an officer of the administrative unit that needs supplies to make a request to spend money from the Territory Public Account in accordance with a procedure approved by the Minister from time to time.

Subregulation 24(2) provides that certificates signed by the head of administration must support such requests to spend money and certify as to the adequacy of an appropriation to cover the expenditure or that it was incurred with the Minister's approval or, in respect of payment made after the end of the financial year, that it is an exempt payment.

Subregulation 24(3) provides that subregulation 24(2) does not apply to a request to spend money where the officer has already provided a certificate estimating the cost of a proposed request, and that estimate is an amount which is more than the amount actually requested.

Subregulation 24(4) specifies the circumstances that must exist before the head of administration may certify that sufficient appropriation exists or will be available to meet a payment, or that the payment is an exempt payment.

Subregulation 24(5) specifies the circumstances which must exist before the head of administration may issue a certificate referred to in subregulation 24(3).

Regulation 25 provides that after regulation 24 has been complied with a request to spend money should be submitted for approval to the Minister or to an officer appointed by the Minister for these purposes.

Regulation 26 requires accounts for general expenses to be prepared in accordance with Form 6.

Regulation 27 requires officers to aid claimants in preparing their accounts properly and to obtain prompt payment of them.

Regulation 28 provides that a claim for a periodic or progress payment under a contract shall not be submitted to a certifying officer unless the head of administration or an authorised officer certifies that that claim and the sum of previous claims

under the contract (if any) does not exceed the total amount to be paid under the contract.

Regulation 29 requires each certifying officer to keep a register of accounts in accordance with Form 11 in relation to all accounts except accounts for salaries, wages, allowances and pensions. This register enables duplicate claims to be recognised.

Regulation 30 provides for the preparation of statements (see Forms 13, 14 or 15) by an officer other than the officer responsible for preparing salaries in relation to variations in the pay, allowances and deductions from the pay of officers. These statements should be forwarded to the certifying officer.

Regulation 31 provides for certificates (in accordance with Form 12) to accompany statements prepared under regulation 30.

Regulation 32 provides for various calculations for the preparation of accounts for salaries, wages and allowances in the nature of salaries.

Regulation 33 provides that accounts for travelling or relieving allowances be prepared in accordance with Form 7, and that accounts for meal allowances and extra duty pay specify the rate of salary paid to the officer.

Regulations 34 deals with petty cash expenditure. Such expenditure should be the subject of one account (and prepared in accordance with Form 9), and if the expenditure is less than \$20 or other sum fixed by the administrative head, payment may be made without the signed approval of the head of administration or an authorised person.

Regulation 35 deals with accounts for refunds of revenue or refunds from the Trust Fund. These accounts should be prepared in accordance with Form 10. Such refunds must be matched with a particular collection in the receiver's or collector's records, if possible, and such refund noted on the record, otherwise the claim should be approved by the administrative head or officer appointed for these purposes.

Regulation 36 deals with duplicate accounts and provides that a duplicate should not be issued except when the original has been lost. When paying a duplicate account, the certifying officer must explain on the back of the duplicate the reason for non-production of the original, and certify the payment of the claim. A duplicate should have the words "Duplicate - see endorsement" written on it.

Regulation 37 requires the certifying officer to forward all certified accounts to the authorising officer.

Division 2 comprises regulations 38 to 57 and deals with authorising officers.

Section 38 provides that payment of accounts must be made by cheque unless otherwise directed by the administrative head and details the persons to whom payment must be made.

Regulations 39 provides that any endorsement or addition to a form or other authority in no way alters the effect of the substance of that form or authority.

Regulation 40 prohibits an officer from acting as an agent for the receipt of moneys payable by the Territory to another person except where that person is another officer, or with the approval in writing of the Minister.

Regulation 41 requires, except where the administrative head directs otherwise, an authorised officer to forward accounts, including his or her authorisation of payment, to the paymaster at the designated office.

Regulation 42 prohibits an authorising officer from authorising payment of an account for an advance except in certain circumstances. These circumstances are in relation to advances for petty cash, salaries, allowances and advances of a kind approved by the administrative head.

Regulation 43 provides for the administrative head to impose conditions on advances, and stipulates that an advance only be used for the purpose for which it was made.

Regulation 44 details the heads of expenditure to which an advance should be charged.

Regulation 45 provides for the transfer of certain advances from one person to another so long as that other person could have been the original person to whom the advance was made.

Regulation 46 requires an authorising officer to keep a register of advances and of the payment of accounts authorised by him or her.

Regulation 47 deals with the adjustment of advances and details the periods within which an account of how the advance was used must be furnished along with any part of the advance not used. The authorising officer is then required to record details of such adjustment in his or her register of advances.

Regulation 48 provides that where an advance has not been adjusted because regulation 47 was not complied with by the person to whom the advance was made, and where the authorising officer is of the opinion that the advance was excessive, he or she shall inform an authorised officer who will take reasonable steps to recover the amount of excess.

Regulation 49 requires a person who applies for reimbursement of a standing advance, or part of an advance, to furnish to the authorising officer any relevant vouchers and an account for reimbursement in accordance with Form 6.

Regulation 50 requires an authorising officer to keep an appropriation ledger which records:

- . the heads of expenditure and the payments he or she is empowered to authorise;
- . each payment he or she has authorised under each head of expenditure; and
- . all repayments made to the credit of each head of expenditure (except where a Form 4 statement has not been signed).

Section 50 also provides for the submission of procedures followed in relation to appropriation ledgers to the administrative head who may approve or vary those procedures. The authorising officer must maintain the appropriation ledger in accordance with such approved procedures.

Regulation 51 provides for the Minister to direct the head of administration to prepare a statement under the respective heads of expenditure detailing the amounts that will probably be required to be expended on account of his or her administrative unit.

Regulation 52 requires the authorising officer to inform the administrative head through the head of administration of the need for a transfer under section 49 of the Ordinance, and transfers approved by the Minister shall be submitted for approval by the Executive in accordance with Form 16.

Regulation 53 requires that a warrant authority for expenditure be issued by the administrative head to the head of administration before an authorising officer may authorise expenditure from an appropriation of the Consolidated Revenue Fund (except in relation to appropriations deemed to have been made under section 44 of the Ordinance). A warrant authority for expenditure lapses at the end of each financial year.

Regulation 54 requires officers who incur, authorise or approve expenditure for the Territory to exercise reasonable care in obtaining value for money except where a direction given by the head of administration would prevent such care being taken.

Regulation 55 requires the head of administration to appoint officers to return each claim after its payment to the authorising officer who authorised payment of that claim.

Regulation 56 requires the head of administration to have the accounts of each accounting officer examined to ensure that public moneys collected or received by an accounting officer are held by that accounting officer, and have been properly paid to another person or a bank account.

Regulation 57 requires the head of administration, or an officer appointed for these purposes, to obtain at least once a month a bank statement in respect of each account kept by the administrative unit setting out the particulars of all cheques paid, and, at least once a year, a reconciliation of the balance of each account.

Division 3 comprises regulations 58 to 74 and deals with paymasters.

Regulation 58 provides that the Minister may appoint paymasters, but that a certifying officer or authorising officer shall not be appointed as a paymaster.

Regulation 59 provides that a paymaster shall not pay an account until its payment has been authorised by an authorising officer, or unless the administrative head directs otherwise.

Regulation 60 requires that accounts, receipts, orders for payment, or acquittances not be signed until properly filled out, or the account has been paid.

Regulation 61 requires the paymaster to pay all accounts from the proper drawing account by cheque. Cheques shall be crossed, made payable to order, and marked "Not Negotiable".

Regulation 62 requires a paymaster to record all payments made into and out of each drawing account operated by him or her in accordance with directions given by the administrative head.

Regulation 63 requires the head of administration, or an officer authorised for these purposes, to specify, in accordance with directions given by the Minister, procedures by which salaries, wages and allowances must be paid.

Regulation 64 requires the paymaster to verify the correctness of each cheque he or she draws against the particulars shown on the account.

Regulation 65 requires all cheques drawn by the paymaster to be countersigned by an officer appointed by the administrative head or by an authorised officer for these purposes, unless the Minister directs otherwise.

Regulation 66 deals with the payment of accounts and requires the paymaster to post or deliver each cheque to the payee of the cheque, and where the cheque is to be posted, the envelope should bear a return address in case of non-delivery to the payee. The head of administration or authorised officer may authorise delivery to a person other than the payee of a cheque.

Regulation 67 provides that unclaimed cheques which are returned should be paid into the Territory Public Account.

Regulation 68 provides that a paymaster or accounting officer shall not issue a duplicate cheque except with the approval of the Minister.

Regulation 69 provides that an accounting officer shall obtain receipts with respect to payments made except where the payment is a cash payment of salary, or where the payment is made by a crossed cheque made payable to order and marked "Not Negotiable".

Regulation 70 provides for the payment of advances by a cheque made out for cash where approved by an authorising officer.

Regulation 71 provides circumstances when a paymaster may cash a cheque from a counter cash advance. In the case of a cheque drawn on a drawing account, the cheque must be duly endorsed by the payee, and the payee cannot conveniently cash a crossed cheque elsewhere. In other situations, the Minister's approval is required.

Regulation 72 requires a paymaster to promptly pay to the Territory Public Account all cheques cashed from his or her counter cash advance, and furnish an account (in accordance with Form 6) to the authorising officer for reimbursement of the advance.

Regulation 73 requires each paymaster to pay, on the last working day of each financial year, the unexpended balance of his or her counter cash advance to the Territory Public Account.

Regulation 74 requires each paymaster to keep a Counter Cash Advance Cash Book in accordance with Form 17.

Division 4 comprises regulation 75 and permits the Minister to establish designated offices.

Part V comprises regulations 76 to 79 and deals with losses of, and damage to, public property.

Regulation 76 deals with interpretation for the purposes of Part V.

Regulation 77 provides a procedure for the investigation of incidents involving a loss of public moneys, or the loss of or damage to other property of the Territory for the purposes of determining an officer's liability under section 115 of the Ordinance in respect of such loss or damage.

Subregulations 77(1) and (2) require the prescribed supervisor (the head of administration, or an officer to whom these powers have been delegated) to notify, in writing, the officer of the incident and, whether or not an investigation is to be undertaken into that incident. Subregulation 77(3) requires an investigation to be undertaken as soon as practicable.

Subregulation 77(4) establishes a committee to undertake the investigation consisting of a chairperson, a member appointed by the relevant supervisor under subregulation 77(6), and a member selected under subregulation 77(7).

Subregulation 77(5) relates to the appointment of officers to carry out investigations where the loss or damage does not exceed \$100.

Subregulations 77(6) and (7) relate to the appointment of members to an investigation committee.

Subregulations 77(8) and (9) relate to a notice to be provided to the officer specifying the date, time and place of the investigation; the name and address of each investigator; the incident to be investigated; that written and oral submissions may be made to the committee; and the address to which, and time within which, written submissions should be provided.

Subregulation 77(10) provides for extensions of time within which written submissions must be provided by the officer under investigation.

Subregulation 77(11) deals with the procedure of an investigation such that it be conducted in private, with as little formality and as much speed as is reasonable to ensure proper consideration of the matters, that the committee not be bound by the rules of evidence, and that witnesses may be called.

Subregulation 77(12) deals with submissions from officers and evidence from officers as witnesses and requires the investigator or the committee to provide that person with a notice referring his or her attention to relevant parts of the Ordinance (Part XI) and the Regulations (this part).

Subregulation 77(13) enables other officers or persons to be made available to assist in carrying out the investigation.

Subregulation 77(14) provides that the investigator's or the committee's report be made not later than 3 months from appointment of the investigator or establishment of the committee. It should be submitted to the relevant supervisor, should set out its findings (including any observed deficiencies in relation to public practices and procedures in respect of public money or property); the amount of any ascertainable loss or damage; the names of officers found to be responsible and the extent of that responsibility; particulars of any mitigating circumstances; and any other relevant matters.

Subregulation 77(15) provides for an extension of time within which the investigator or committee may make a report.

Subregulation 77(16) provides other details which must be recorded in the report (including any dissenting opinion).

Subregulation 77(17) provides that where an officer has been found liable under section 115 of the Act to pay an amount to the Territory, he or she shall be requested to provide details concerning his or her assets, liabilities, income and outgoings. Such information shall also be included in the report.

Subregulation 77(18) requires a copy of the report to be provided to the officer under investigation, any other person considered by the investigator or committee to also be liable, and the administrative head.

Regulation 78 provides that where an officer has been found liable under section 115 of the Act, the amount of that liability may be reduced because of mitigating circumstances, or because of the officer's financial inability to settle the liability.

Regulation 79 provides that the prescribed office in relation to a prescribed authority is the office of the person who, in relation to the prescribed authority, has the equivalent powers and functions as a head of administration has in relation to an administrative unit.

Part VI comprises regulations 80 to 88 and deals with miscellaneous matters.

Regulation 80 enables the Minister to direct an officer or an administrative officer to inspect account books and forms used by any accounting officer, and to report any findings.

Regulation 81 enables the Minister or administrative head to give directions to officers in relation to matters relevant to subparagraphs 125(2)(a)(i) to (vii) of the Ordinance (various procedural matters dealt with in the Regulations). A contravention of such a direction is deemed to a contravention of the Regulations.

Regulation 82 provides procedures for the disposal of unclaimed property. Property (other than money) found on Territory premises (including Territory vehicles, vessels and containers) may be disposed of after 3 months of being found, although animals, perishable goods, or dangerous or noxious goods may be disposed of at any time. Disposal of unclaimed property is to be by sale, except where impracticable or undesirable, and the proceeds paid into the Consolidated Revenue Fund. Any claim of property by its owner after disposal shall be met by an amount (if any) equal to the amount the property was sold for, less costs incurred by the Territory.

Regulations 83 provides that the prescribed amount for the purposes of paragraph 51(1)(b) of the Ordinance is \$4,000.

Regulation 84 provides that in all cases (except those submitted by the Auditor-General) in which a legal interpretation of the Act or the Regulations is desired shall be submitted through the administrative head.

Regulation 85 requires all officers appointed under the Ordinance or the Regulations to:

- . keep a copy of;
- . be acquainted with;
- . when requested by the Auditor-General to do so, produce a copy of;

the Ordinance, any directions given under section 24 of the Ordinance, the Regulations, and any directions given under regulation 81 of the Regulations.

Regulation 86 requires the head of administration to ensure that copies of the Ordinance, any directions given under section 24 of the Ordinance, the Regulations, and any directions given under regulation 81 are accessible to all relevant officers, and are available to be produced to the Auditor-General.

Regulation 87 provides that where an accounting officer or other officer commits a breach of the Regulations, the Minister may impose a fine of not more than \$10.

Regulation 88 continues delegations made under regulations 134 and 135 of the Commonwealth Financial Regulations, and appointments made under subregulation 7(1), paragraph 48(c), or regulations 94 or 110 of the Commonwealth Financial Regulations so far as they relate to the Territory, as if they had been made under the Administration Act 1989 (in the case of delegations) or under the corresponding provision of the Regulations (in the case of appointments).

The Schedule comprises 17 Forms which are referred to in the Regulations and used for various procedures under the Regulations.

Form 1 is a collector's statement.

Form 2 is a receiver's statement.

Form 3 is a deposit slip.

Form 4 is a statement of repayments.

Form 5 is used to detail particulars of Territory property to be sold.

Form 6 is used to authorise a claim for payment.

Form 7 is used to claim for a travelling allowance.

Form 8 is a certificate of the payment of salaries.

Form 9 is a petty cash form.

Form 10 is used to record and pay claims for refunds.

Form 11 is used to keep a register of accounts.

Form 12 is used for recording appointments, promotions, transfers, resignations, removals from office and variations in pay.

Forms 13, 14, and 15 are used for pay variation advice.

Form 16 is used for transfers under section 49 of the Audit Ordinance.

Form 17 is used to record details of the Counter Cash Advance Cash Book.