

2003

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

FINANCIAL MANAGEMENT AMENDMENT BILL 2003

EXPLANATORY STATEMENT

Circulated by the authority of the Treasurer

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Financial Management Amendment Bill 2003

Outline

The *Financial Management Act 1996* (the Act) provides the regulatory framework for the Territory's fiscal operations. It is therefore important to ensure that the Act helps to provide a fundamentally sound financial management framework within which the Territory can operate and that the obligations imposed by the Act are clear and unambiguous.

The object of this Bill is to propose a number of amendments to the Act designed to ensure that it remains strong and effective in regulating the conduct of the Territory's fiscal operations.

The changes proposed in this Bill are a mixture of technical and policy changes, and reflects the continuing need to pursue optimal procedural and legislative standards.

The Bill provides for changes to be made in the following three areas:

1. Amended Budgets

The changes allow for the amendment of departmental budgets when an administrative arrangement order (AAO) occurs. The amendment permits the Treasurer to sign off on a summary-level amended budget for any affected departments. The amendment formalises a mechanism for amending budgets, while not overburdening the Treasurer with administrative paperwork.

2. Investments

The amendments clarify the types of permissible investments for public moneys by inserting a purpose clause. The amendment requires all investments to be made for the purpose of increasing or protecting the financial wealth of the Territory. A similar clause has also been inserted for Territory authority investments.

Amendments have also been made to allow for the ability to deduct management fees from interest received from investments. This amendment has been made for both public and Territory authority investments.

3. Technical

Three minor amendments are also included relating to presentation, cross-referencing and definitions. These amendments are required to ensure the accuracy and consistency of the Act.

Details of the Financial Management Amendment Bill 2003

Formal Clauses

Clauses 1, 2 and 3 are formal requirements. They refer to the name of the Act, the commencement date of the Act and declare that it is the *Financial Management Act 1996* which is being amended by this Act

Amended Budgets

Clause 4 proposes insertion of section 16A.

To ensure the usefulness and comparability of the financial statements when a change occurs in Administrative Arrangement Orders during a financial year, this clause provides for the insertion into the Act of a new section 16A to permit the Treasurer to amend departments' budgets if there is a transfer of responsibility for a service or function between departments in a financial year in accordance with section 16 (1) of the Act.

The section formalises the mechanism for amending budgets, while not overburdening the Treasurer with administrative paperwork, by permitting the Treasurer to approve in writing departments' summary-level amended budgets for the financial year. The summary-level budgets consist of the significant total lines that appear in financial statements. As well as permitting the amendment of departments' budgets, the section also permits the amendment of departments' affected output classes

Given the complexity of many AAO changes and the time taken to finalise amendments to budgeted financial statements, there may be a delay between signature of the section 16 (1) instrument varying appropriations and the amended budgeted financial statements. The Act therefore permits the budgets to be amended by the Treasurer after the section 16 (1) instrument.

The Act requires the Treasurer to present to the Legislative Assembly a statement of the amendments made to department budgets. This is to ensure there is accountability to the Legislative Assembly.

Technical Amendment

Clause 5 proposes amendment to section 20 (b)

This provision has been inserted to update cross-references in section 20 (b) of the *Financial Management Act 1996*.

Investments

Clause 6 proposes insertion of section 38 (1A)

To clarify the types of permissible investments for public moneys, a purpose clause has been inserted requiring any investment made under section 38 to be for the purpose of increasing or protecting the financial wealth of the Territory.

Clause 7 proposes insertion of section 38 (3A)

This clause clarifies that for outsourced investment management the Territory can direct the ‘master custodian’ to pay some expenses, such as management fees, from the interest proceeds of investments. This clause removes any question regarding the validity of fund management arrangements currently in place.

Clause 8 proposes renumbering the subsections of section 38 when the Act is next republished.

Clause 9 proposes amendment to section 56 (1) (c)

The Act currently allows the Treasurer to make investments on behalf of a Territory Authority but does not provide guidance or limitation on the type of allowable investments. This amendment requires such investments to be in accordance with the same investment list for public money contained in section 38 (1) of the *Financial Management Act 1996* and prescribed under the Financial Management Guidelines.

Clause 10 and 11 proposes insertion of section 56 (1A) and amendment of section 56 (4)

The Act amends the public money investment provisions to include a purpose clause and to allow for the ability to deduct management fees from interest received. To ensure consistency with the investment provisions for public moneys and funds for Territory authorities, those same amendments have been included for Territory authorities.

Clause 12 proposes insertion of subsection 56 (7)

This amendment proposes to exclude money held on trust by Territory authorities from the operation of the authority investment provisions. This exclusion ensures there is no conflict with section 53 of the *Financial Management Act 1996* that requires trust money to be invested in accordance with the *Trustee Act 1925*.

Clause 13 proposes renumbering the subsections of section 56 when the Act is next republished.

Technical Amendment

Clause 14 proposes amending the dictionary

This clause amends the definition of public trading enterprise to make it consistent with the definition of public trading enterprise sector.