

2001

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Treasurer)

## Financial Management Amendment Bill 2001 (No 3)

### Contents

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	Page
1 Name of Act	2
2 Commencement	2
3 Act amended	2
4 Definitions	
Section 3, definition of public money, paragraph (c)	2
5 New section 9B	3
6 Territory budgets	
Section 11 (1)	3
7 Departmental budgets	
Section 12 (1) to (3)	3
8 Public trading enterprise budgets	
Section 12A (1)	4
9 Annual financial statements of the Territory	
Section 22 (2)	4

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2001 093B

## Contents

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	Page
10 Quarterly departmental performance reports	
New section 25A (5)	4
11 Section 26	5
12 Annual financial statements of departments	
Section 27 (3)	5
13 Departmental banking accounts	
New section 34 (3A) and (3B)	6
14 New section 34A	6
15 End of year balances of departmental banking accounts	
Section 34A	7
16 Authority to issue public money	
Section 37 (3)	7
17 Investment of certain public money	
Section 38 (2)	8
18 Borrowings by Territory authorities to be approved	
New section 42 (2)	8
19 Loans to be paid into Territory banking account	
Section 45	8
20 Section 52	8
21 Unclaimed trust moneys	
New section 53A (8)	9
22 Investment	
Section 56 (3)	9
23 Borrowing	
New section 57 (4)	9
24 Statements of intent	
Section 58 (3)	10
25 Annual financial statements	
Section 59 (3) and (4)	10
 <b>Schedule 1      Minor and Technical amendments</b>	 11

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(As presented)

(Treasurer)

## **Financial Management Amendment Bill 2001 (No 3)**

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### **A Bill for**

An Act to amend the *Financial Management Act 1996*

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

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**1 Name of Act**

This Act is the *Financial Management Amendment Act 2001 (No 3)*.

**2 Commencement**

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

- 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 schedule 1.

**4 Definitions**  
**Section 3, definition of *public money*, paragraph (c)**

- substitute*
- (c) money received by a Territory authority; or
  - (d) money received by the Territory from a Territory authority for investment for the authority; or
  - (e) money received by the Territory—
    - (i) in repayment of an investment made by the Territory for a Territory authority; or
    - (ii) as interest on such an investment.

1 **5 New section 9B**

2 *insert*

3 **9B Appropriations for payments on behalf of Territory to be**  
4 **net appropriations**

5 Despite section 6 (Necessity for appropriations), if an appropriation  
6 for a department is made for payments to be made on behalf of the  
7 Territory, the department may apply input tax credits to which the  
8 Territory is entitled for taxable supplies for which the payments are  
9 made towards the payments under the appropriation.

10 **6 Territory budgets**  
11 **Section 11 (1)**

12 *substitute*

- 13 (1) A proposed budget for the Territory for a financial year presented to  
14 the Legislative Assembly under section 10 (a) must include the  
15 financial statements required under the financial management  
16 guidelines.

17 **7 Departmental budgets**  
18 **Section 12 (1) to (3)**

19 *substitute*

- 20 (1) A proposed budget for a department for a financial year presented to  
21 the Legislative Assembly under section 10 (b) must include—  
22 (a) the financial statements required under the financial  
23 management guidelines; and  
24 (b) a statement of the classes of outputs it is proposed the  
25 department should provide during the year and the  
26 performance criteria to be met by the department in providing  
27 the outputs; and  
28 (c) if, during the year, the department is to be given a capital  
29 injection that must be repaid—a statement that—

- 1 (i) states that the capital injection is such an injection; and  
2 (ii) sets out the conditions under which the injection is to be  
3 given, including the requirements about the time within  
4 which it must be repaid.

- 5 (2) Subsection (1) (b) does not apply to the Legislative Assembly  
6 secretariat.

7 **8 Public trading enterprise budgets**  
8 **Section 12A (1)**

9 *substitute*

- 10 (1) A proposed budget presented to the Legislative Assembly under  
11 section 10 (c) must include the financial statements required under  
12 the financial management guidelines.

13 **9 Annual financial statements of the Territory**  
14 **Section 22 (2)**

15 *substitute*

- 16 (2) The statements must be prepared in accordance with generally  
17 accepted accounting practice and include—

- 18 (a) the financial statements required under the financial  
19 management guidelines; and  
20 (b) a statement of the accounting policies adopted by the Territory;  
21 and  
22 (c) such other statements as are necessary to fairly reflect the  
23 financial operations of the Territory during the year and its  
24 financial position at the end of the year.

25 **10 Quarterly departmental performance reports**  
26 **New section 25A (5)**

27 *insert*

- 28 (5) This section does not apply in relation to the Legislative Assembly  
29 secretariat.

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**11 Section 26***substitute***26 Periodic financial statements**

(1) Within 45 days after the end of each quarter of a financial year, the Treasurer must prepare financial statements for—

(a) the quarter; and

(b) the period from the beginning of the financial year until the end of the quarter.

(2) The statements must be prepared in accordance with the financial management guidelines.

(3) The Treasurer must present copies of the statements prepared under subsection (1) to the Legislative Assembly on the first sitting day after they are prepared.

(4) If the first sitting day mentioned in subsection (3) does not fall within 45 days after the end of the relevant quarter, the Treasurer must give copies of the statements prepared under subsection (1) to each member of the Legislative Assembly within the 45 days.

**12 Annual financial statements of departments**  
**Section 27 (3)***substitute*

(3) The annual financial statements must include—

(a) the financial statements required under the financial management guidelines; and

(b) a statement of the performance of the department in providing each class of outputs provided by it during the year; and

(c) a statement of the accounting policies adopted by the department; and

- 1 (d) such other statements as are necessary to fairly reflect the  
2 financial operations of the department during the year and its  
3 financial position at the end of the year.
- 4 (4) A statement of a department under subsection (3) (b) must—
- 5 (a) compare the performance of the department in providing each  
6 class of outputs provided by it during the financial year with  
7 the forecast of the performance in the budget for the  
8 department for the year presented to the Legislative Assembly  
9 under section 10 (b); and
- 10 (b) give particulars of the extent to which the performance criteria  
11 included in the budget for the provision of the outputs were  
12 met.

13 **13 Departmental banking accounts**  
14 **New section 34 (3A) and (3B)**

15 *insert*

- 16 (3A) The responsible Minister or the responsible chief executive of a  
17 department may close a departmental banking account of the  
18 department.
- 19 (3B) If the responsible Minister or the responsible chief executive of a  
20 department closes a departmental banking account under subsection  
21 (3A), he or she must transfer any money standing to the credit of the  
22 account to another departmental banking account of the department  
23 or to the Territory banking account.

24 **14 New section 34A**

25 *insert*

26 **34A Transfer of departmental banking account**

- 27 (1) If, in the Treasurer's opinion, it is desirable, because of changes in  
28 departmental responsibilities, to transfer a departmental banking  
29 account from a department to another department, the Treasurer  
30 may, in writing, direct the responsible chief executive of the



department that holds the account to arrange for it to be transferred to another department nominated in the direction.

(2) A chief executive who receives a direction under subsection (1) must comply with the direction.

(3) A departmental banking account transferred in accordance with a direction under subsection (1) becomes a departmental banking account of the department to which it is transferred.

## **15 End of year balances of departmental banking accounts Section 34A**

*renumber as section 34B*

## **16 Authority to issue public money Section 37 (3)**

*substitute*

(3) This section is subject to—

(a) the *Territory Superannuation Provision Protection Act 2000*, section 11 (2) (which is about transfers between the Territory banking account and departmental banking accounts to facilitate investment of superannuation funds); and

(b) section 38 (2) of this Act (which is about transfers of public money to facilitate investment); and

(c) section 38 (5) of this Act (which is about the payment of interest on certain investments of public money); and

(d) section 56 (6) of this Act (which is about transfers between the Territory banking account and Territory authorities of interest earned on certain investments for Territory authorities).

1 **17 Investment of certain public money**

2 **Section 38 (2)**

3 *substitute*

- 4 (2) Transfers of money for investment, including transfers between the  
5 Territory banking account and departmental banking accounts to  
6 facilitate investment, may be made without appropriation.

7 **18 Borrowings by Territory authorities to be approved**

8 **New section 42 (2)**

9 *insert*

- 10 (2) However, subsection (1) (a) and (b) does not apply to a loan made to  
11 a Territory authority under section 57 (1) (b).

12 **19 Loans to be paid into Territory banking account**

13 **Section 45**

14 *omit*

15 *or by a Territory authority shall*

16 *substitute*

17 *must*

18 **20 Section 52**

19 *substitute*

20 **52 Transfers between banking accounts**

- 21 (1) Money may only be transferred between a trust banking account and  
22 the Territory banking account—  
23 (a) to facilitate investment of the trust money; or  
24 (b) to make a payment required by section 53A (4).  
25 (2) Money may be transferred between trust banking accounts to  
26 facilitate investment of trust money.

**21 Unclaimed trust moneys****New section 53A (8)***insert*

- (8) A payment approved by the Treasurer under subsection (6) may be made whether or not an appropriation is available for the purpose.

**22 Investment****Section 56 (3)***substitute*

- (3) Interest received by the Territory for the investment of funds of a Territory authority must be paid to the Territory authority.
- (4) However, if an investment of funds of a Territory authority is made or managed by a department, the department may deduct from the interest received by the department for the investment a fee charged by the department for making or managing the investment.
- (5) Interest that is to be paid to a Territory authority under subsection (3) may be paid direct to the Territory authority or through the Territory banking account.
- (6) If interest to be paid to a Territory authority is paid into the Territory banking account under subsection (5), the interest may be paid to the authority from that account without further appropriation.

**23 Borrowing****New section 57 (4)***insert*

- (4) A loan under subsection (1) (b) may be made only from—
- (a) money appropriated for the purpose of making the loan; or
- (b) money appropriated for purposes that include the making of the loan.

**24 Statements of intent**

**Section 58 (3)**

*substitute*

(3) A statement of intent must include—

- (a) the financial statements required under the financial management guidelines; and
- (b) a statement of the objectives of the authority for the year; and
- (c) a statement of the nature and scope of the activities to be carried out by the authority during the year; and
- (d) the performance criteria and other measures by which the performance of the authority may be assessed against its objectives for the year; and
- (e) any other information the Treasurer directs.

**25 Annual financial statements**

**Section 59 (3) and (4)**

*substitute*

(3) The annual financial statements must include—

- (a) the financial statements required under the financial management guidelines; and
- (b) a statement of the performance of the authority in meeting the objectives set out in the statement of intent for the year provided by the authority under section 58; and
- (c) such other statements as are necessary to fairly reflect the financial operations of the authority during the year and its financial position at the end of the year.

(4) The statement of performance under subsection (3) (b) must assess the performance of the authority in meeting the objectives included in the statement of intent by reference to the performance criteria and other measures included in that statement in accordance with section 58 (3) (d).

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## Schedule 1 Minor and Technical amendments

(see s 3)

5

### [1.1] Section 3, definition of *Legislative Assembly secretariat*

6

*substitute*

7

*Legislative Assembly secretariat* means the clerk of the Legislative Assembly and the officers and employees of the public service who assist the clerk in the exercise of the clerk's functions.

8

9

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### [1.2] Section 3, definitions of *Territory activities* and *Treasurer*

11

*omit*

12

### [1.3] Section 3, definition of *Territory authority*

13

*omit*

14

section 3A

15

*substitute*

16

section 3B

17

### [1.4] Section 3 (as amended by this Act)

18

*relocate definitions to dictionary*

19

### [1.5] Section 3, remainder

20

*substitute*

21

## 3 Dictionary

22

The dictionary at the end of this Act is part of this Act.

23

*Note 1* The dictionary at the end of this Act defines certain words and expressions used in the Act, and includes references (*signpost definitions*) to other words and expressions defined elsewhere in this Act or in other legislation.

24

25

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1 For example, the signpost definition '*superannuation appropriation*—  
2 see the *Territory Superannuation Provision Protection Act 2000*,  
3 dictionary.' means that the expression 'superannuation appropriation' is  
4 defined in the dictionary to that Act and the definition applies to this  
5 Act.

6 *Note 2* A definition in the dictionary (including a signpost definition) applies to  
7 the entire Act unless the definition, or another provision of the Act,  
8 provides otherwise or the contrary intention otherwise appears (see  
9 *Legislation Act 2001*, s 155 and s 156).

### 10 3A Notes

11 A note included in this Act is explanatory and is not part of the Act.

12 *Note* See *Legislation Act 2001*, s 127 (1), (4) and (5) for the legal status of  
13 notes.

#### 14 [1.6] Section 3A

15 *renumber as section 3B*

#### 16 [1.7] Section 12

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

#### 19 [1.8] Section 34

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

#### 22 [1.9] Section 42

23 *omit*

24 A Territory authority

25 *substitute*

26 (1) A Territory authority

- 
- 1 **[1.10] Section 64 (6) (b)**
- 2 *omit*
- 3 *section 19*
- 4 *substitute*
- 5 *section 18*
- 6 **[1.11] Renumbering**
- 7 *renumber divisions when Act next republished under Legislation Act*
- 8 *2001*
- 

## Endnote

### Act amended

Republished as in force on 10 November 1999 (Republication No 2). See also Acts 2000 Nos 21 and 27; 2001 Nos 4, 11, 42, 43, 44 and 45.