

2020

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

FINANCIAL MANAGEMENT AMENDMENT BILL 2020

**EXPLANATORY STATEMENT
and
HUMAN RIGHTS COMPATIBILITY STATEMENT
(*Human Rights Act 2004*, s 37)**

**Presented by
Andrew Barr
Treasurer**

FINANCIAL MANAGEMENT AMENDMENT BILL 2020

The Bill is not a Significant Bill. Significant Bills are bills that have been assessed as likely to have significant engagement of human rights and require more detailed reasoning in relation to compatibility with the *Human Rights Act 2004*.

This explanatory statement relates to *the Financial Management Amendment Bill 2020* (the bill) as presented to the ACT Legislative Assembly.

It has been prepared to assist the reader of the bill. It does not form part of the bill and has not been endorsed by the Assembly and is to be read in conjunction with the bill.

BACKGROUND

In December 2019, China reported cases of a viral pneumonia caused by a previously unknown pathogen in Wuhan City, in the Hubei Province of China. The pathogen was identified as a novel coronavirus genetically related to the virus that caused the outbreak of Severe Acute Respiratory Syndrome in 2003. The new strain of coronavirus is called SARS-CoV-2 and the disease it causes is called COVID-19. COVID-19 is presently understood to most likely spread from person-to-person contact. The current estimates of the time it takes for symptoms to develop after being exposed to the virus that causes COVID-19 is a range of 2 to 14 days. At this stage, there is no known vaccine or antiviral against COVID-19.

On 30 January 2020, the Director-General of the World Health Organisation (WHO) declared the outbreak of COVID-19 a Public Health Emergency of International Concern. On 11 March 2020, the Director-General of the WHO declared COVID-19 a global pandemic. The WHO requested that every country urgently take necessary measures to ready emergency response systems.

On 16 March 2020, the Minister for Health declared a public health emergency under section 119 of the *Public Health Act 1997* (the Act) due to the public health risk to the ACT community posed by COVID-19.

As at 20 May 2020, the WHO has reported that there are 4,801,202 confirmed cases of COVID-19 worldwide, and the Australian Government has reported 7,079 confirmed cases in Australia and 100 deaths as a result of COVID-19. As of 20 May 2020, the ACT had 107 confirmed cases and 3 people had died from COVID-19.

OVERVIEW OF THE BILL

The impact of COVID-19, including the decision made by the Commonwealth to delay the 2020-21 Budget, has impacted on the ACT Government's ability to prepare the 2020-21 Budget and Appropriation Bill as previously planned. In the absence of a Commonwealth Budget, all States and Territories have implemented supply funding arrangements for 2020-21 to ensure funding is available for the ongoing operations of their governments until such time that a Budget can be presented to their respective Parliaments.

The Government will shortly bring forward a motion for the Legislative Assembly to agree to delay the introduction of the 2020-21 Budget and Appropriation Bill until after election has been held and the formation of a new government. While the exact 2020-21 Budget date will be a matter for the Government of the day, it is likely that this will not occur until December 2020 at the earliest.

In light of the delay to the 2020-21 Budget, it is critical to ensure the ongoing operations of Government. The *Financial Management Act 1996* currently limits the amount of funding available during the supply period to 50 per cent of the amount appropriated by Appropriation Acts for the immediately previous financial year.

This amount is sufficient in normal years where the supply period is two to three months. Given the delay of the 2020-21 Budget and Appropriation Bill, the supply period is anticipated to be six to nine months, and the normal supply amount is therefore insufficient to ensure the ongoing operations of Government in 2020-21. As a result, the *Financial Management Amendment Bill 2020* proposes the following amendment:

- For the 2020-21 financial year, the payments made under [section 7(1)(c)] for any purpose must not exceed, in total, the amount appropriated by Appropriation Acts for the 2019-20 financial year for that purpose.

The amendment is a one-off expansion to the amount of funding available during the supply period and will not apply to years other than 2020-21. Other requirements relating to payments during the supply period remain in place. This includes that on the commencement of the first Appropriation Act for 2020-21, the authority for the Treasurer to make payments under section 7(1)(c) ceases and all payments made under 7(1)(c) are taken for all purposes to have been paid out of money appropriated by that Act.

CONSULTATION ON THE PROPOSED APPROACH

The Bill arises following consultation and on advice from the Government Solicitor's Office. All other States and Territories were consulted to understand their proposed approach in response to the National Cabinet agreement to delay 2020-21 Budgets. All Chief Financial Officers and agencies have been consulted regarding identifying

significant cost pressures and non-ongoing and critical functions that require funding from July 2020.

CONSISTENCY WITH HUMAN RIGHTS

Rights engaged

The amendment seeks to increase the payments that can be made during the 2020-21 supply period to ensure the ongoing operations of Government.

This Bill engages neither the rights in the *Human Rights Act 2004* nor the rights under the *Financial Management Act 1996*.

Financial Management Amendment Bill 2020

Human Rights Act 2004 - Compatibility Statement

In accordance with section 37 of the *Human Rights Act 2004* I have examined the **Financial Management Amendment Bill 2020**. In my opinion, having regard to the Bill and the outline of the policy considerations and justification of any limitations on rights outlined in this explanatory statement, the Bill as presented to the Legislative Assembly is consistent with the *Human Rights Act 2004*.

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Gordon Ramsay MLA
Attorney-General

CLAUSE NOTES

Clause 1 Name of Act

This clause names the Act as the *Financial Management Amendment Act 2020*.

Clause 2 Commencement

This clause provides for the commencement of the Act. The Act commences on the day after its notification day.

Clause 3 Legislation amended

This clause provides that the Act amends the *Financial Management Act 1996*.

Clause 4 Payments authorised on lapse of appropriation

Section 7(1)(c)

This clause introduces an amendment to section 7(1)(c) to increase the payments that can be made during the 2020-21 supply period:

(c) for the 2020-21 financial year—the payments made under this section for any purpose must not exceed, in total, the amount appropriated by Appropriation Acts for the 2019-20 financial year for that purpose;

The continuation of the original text is from section 7(1)(d):

(d) for any other financial year—the payments made under this section for any purpose must not exceed, in total, 1/2 of the amount appropriated by Appropriation Acts for the immediately previous financial year for that purpose.