

# NORTHERN TERRITORY OF AUSTRALIA

## FINANCIAL MANAGEMENT ACT

As in force at 2 June 1997

### Table of provisions

#### **Part 1 Preliminary**

1	Short title .....	1
2	Commencement .....	1
3	Interpretation .....	1

#### **Part 2 Accounting framework**

4	Public Account.....	4
5	Consolidated Revenue Account .....	4
6	Operating accounts .....	4
7	Accountable Officer's Trust Account.....	5
8	Treasurer's quarterly financial statements .....	5
9	Treasurer's annual financial statement .....	6
10	Annual financial statements of Government Business Divisions .....	6
11	Other financial statements .....	7
12	Annual reports of agencies .....	7

#### **Part 3 Accountable Officers**

13	Duties of Accountable Officers .....	8
14	Money to be committed by Accountable Officer .....	8
15	Internal audit.....	8
16	Accounting and property manuals .....	8
17	Exemption of accountable officer.....	9

#### **Part 4 Budget management**

18	Use of Treasurer's Advance .....	9
19	Increase or replenishment of Treasurer's Advance .....	9
20	Transfer of allocations between activities .....	10
21	Allocation transferred with transfer of activity .....	11
22	Transfer of allocation between financial years .....	11
23	Varied allocation for certain receipts.....	12
24	Lapse of allocation.....	12
25	Expenditure recouped .....	12
26	Expenditure unclaimed .....	12

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## **Part 5                    Funds management**

27	Official bank accounts .....	12
28	Withdrawal of money .....	13
29	Investment of money .....	13
30	No allocation needed for investment .....	14
31	Lending.....	15
32	Borrowing .....	15
33	Other financial transactions .....	15
34	Guarantees and indemnities.....	16
35	Losses and waivers .....	16
36	Payment of dividend or repayment of equity.....	16
37	Ex gratia payments.....	17

## **Part 6                    Administration**

38	Treasurer's Directions.....	17
39	Delegation .....	17

## **Part 7                    Miscellaneous**

40	Offences .....	18
41	Regulations.....	18

## **Part 8                    Repeal, savings and transitional**

42	Repeal .....	19
43	Previous authorities and procedures to suffice .....	19
44	Money held in trust accounts .....	20
45	Saving of Regulations.....	20

## **Schedule**

### **ENDNOTES**

# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 2 June 1997

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## FINANCIAL MANAGEMENT ACT

**An Act relating to the financial management of the Territory and certain Government business activities, and for related purposes**

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Financial Management Act*.

#### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Interpretation

(1) In this Act, unless the contrary intention appears:

**Accountable Officer**, in relation to an Agency or an Activity, means:

- (a) the chief executive (however described) of the Agency or of the Agency to which the Activity is allotted by or under an Administrative Arrangements Order or an Act; or
- (b) the person who the Treasurer declares in writing to be the Accountable Officer for the purposes of this Act.

**accounts** mean the records, however compiled, recorded or stored (whether in written or printed form or on film or by electronic process or otherwise) of transactions in respect of money or property held by or for the Territory or an Agency, and includes books, documents, writings, money forms, vouchers and other recorded information of any kind from which accounts have been compiled.

**Activity** means an Activity of Government specified in an Appropriation Act, and includes an Activity specified in a direction, determination or approval under section 18, 20 or 21 (whether or not the Activity is specified in, or in a schedule to, an Appropriation

Act) or created since the previous annual Appropriation Act.

**Agency** means a unit of government administration, or office or statutory corporation, nominated in an Administrative Arrangements Order as an Agency for the purposes of this Act, and includes, where the case requires, a part or division (by whatever name called) of an Agency.

**Allocation** means:

- (a) the amount specified in an Appropriation Act as available for expenditure on an Activity, and includes any variation in that amount authorised in accordance with this or any other Act; or
- (b) an amount required by any other Act to be provided from the public moneys of the Territory for expenditure on a particular Activity or for a particular purpose.

**Appropriation Act** includes a *Supply Act*, an annual Appropriation Act or an additional Appropriation Act which authorises an Allocation to an Activity.

**audit** has the same meaning as in the *Audit Act*.

**employee**, in relation to an Agency, means a person employed by or in the business of the Agency, and includes the Accountable Officer.

**expenditure** means the payment of money, and includes an advance, transfer, set off or deduction for either actual or accrued expenses made from an Operating Account.

**forward estimates of expenditure** means the estimates of expenditure in forward years as published by the Treasurer.

**Government Business Division** means an Activity or group of Activities a significant proportion of the operating costs of which is recovered through charges on users and which is determined by the Treasurer to be a Government Business Division.

**internal control** means the methods and procedures adopted within an Agency to:

- (a) promote operational efficiency, effectiveness and economy;
- (b) safeguard its assets and manage its liabilities and contingent liabilities;
- (c) deter and protect against fraud;

- (d) maintain the accuracy and reliability of its accounting information; and
- (e) ensure compliance with legislative provisions.

**loss** includes:

- (a) a loss of or deficiencies in money or property held by or for the Territory or an Agency;
- (b) a loss arising out of the destruction, condemnation, obsolescence, abandonment, deterioration of or damage to property;
- (c) an irrecoverable overpayment and debts;
- (d) expenditure made without lawful authority; and
- (e) a loss of money due to failure to assess and levy revenue and other amounts receivable.

**money** means cash or negotiable instruments collected, received or held by or due to a person for or on behalf of the Territory or an Agency or held in an official bank account.

**official bank account** means the Northern Territory Government Account or another account with a bank, building society or credit union opened by the Treasurer in pursuance of section 27.

**Operating Account** means:

- (a) a Government Business Division Operating Account; or
- (b) an Agency Operating Account,

established under section 6(1).

**securities** include inscribed stock, debentures, bonds, debenture stock, notes and any other document creating, evidencing or acknowledging indebtedness (whether or not constituting a charge on property).

**Treasurer's Advance** means an Allocation of that name.

- (2) A reference in this Act to a Minister in relation to an Agency (whether the relationship is by reference to the Accountable Officer, Operating Account, Activity or otherwise) is a reference to the Minister to whom the administration of the Agency, or the Act by or under which the Agency is established, is allotted under an Administrative Arrangements Order or an Act.

## **Part 2                      Accounting framework**

### **4                      Public Account**

- (1) The Treasurer shall establish and keep a Public Account of the receipts and expenditure of the Territory and Agencies.
- (2) The Public Account shall consist of:
  - (a) the Consolidated Revenue Account; and
  - (b) the Operating Accounts.

### **5                      Consolidated Revenue Account**

- (1) There shall be credited to the Consolidated Revenue Account all money received by or on behalf of the Territory or an Agency except that required or permitted by or under this or any other Act to be credited to an Operating Account or to an Accountable Officer's Trust Account.
- (2) Money shall be withdrawn from the Consolidated Revenue Account only by transfer into an Operating Account.

### **6                      Operating accounts**

- (1) The Treasurer shall establish for each Agency:
  - (a) an Operating Account for each Government Business Division for which the Agency is responsible; and
  - (b) an Agency Operating Account for all other Activities of the Agency;
- (2) There shall be paid into an Operating Account:
  - (a) amounts transferred from the Consolidated Revenue Account in respect of the Activity or Activities to which the Operating Account relates;
  - (b) in the case of an Operating Account for a Government Business Division, all receipts of the Government Business Division; and
  - (c) such other categories of receipts as are from time to time agreed by the Treasurer and the Minister and specified in the Treasurer's Directions issued under section 38.

- (3) An amount of expenditure incurred may be paid from an Operating Account by the Accountable Officer for the Activity or Activities for which the Operating Account exists.
- (4) Subject to this Act and any other law of the Territory, if the Treasurer is satisfied at any time that there is available in an Agency Operating Account a credit balance in excess of the amount reasonably required, the Treasurer may transfer the whole or a part of the excess from the Operating Account to the Consolidated Revenue Account.
- (5) Each Accountable Officer shall keep the prescribed accounts and records relating to his or her Operating Account.

## **7 Accountable Officer's Trust Account**

- (1) The Treasurer shall establish such Accountable Officer's Trust Accounts as are required by or under this Act or any other law in force in the Territory to be established for the receipt of money by the Territory or an Agency to be held in trust.
- (2) There shall be credited to the relevant Accountable Officer's Trust Account all money required or permitted by this Act or any other law in force in the Territory to be held in trust by the Territory or the relevant Agency.
- (3) Money may be withdrawn from an Accountable Officer's Trust Account only for the purpose for which the Account is established or for any other purpose authorised by this Act or any other law in force in the Territory.
- (4) Each Accountable Officer shall keep the prescribed accounts and records relating to his or her Accountable Officer's Trust Account.

## **8 Treasurer's quarterly financial statements**

As soon as practicable after the end of each quarter of a financial year the Treasurer shall prepare and publish in the *Gazette*, in such form as the Treasurer thinks fit, a statement of:

- (a) the receipts, expenditures and balance of the Public Account during the financial year up to the end of the quarter; and
- (b) the cash and investments representing the balances held at the end of the quarter in the Public Account and the Accountable Officers' Trust Accounts.

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**9 Treasurer's annual financial statement**

- (1) The Treasurer shall, within the period of 3 months immediately following the end of each financial year or such other period as the Administrator determines in respect of a particular financial year, prepare, in such form as the Treasurer thinks fit, a statement of:
  - (a) receipts, expenditures and balance of the Public Account for the financial year;
  - (b) cash and investments representing the balances in the Public Account and the Accountable Officers' Trust Accounts at the end of the financial year;
  - (c) material Territory and Agency investments in corporations, trusts, joint ventures or similar entities;
  - (d) material liabilities and contingent liabilities of the Territory and Agencies;
  - (e) other material financial obligations of the Territory or an Agency;
  - (f) waivers, postponements, write-offs and gifts that the Treasurer has approved under section 35; and
  - (g) ex gratia payments that the Treasurer directs under section 37.
- (2) The Treasurer shall table a signed copy of the statement prepared under subsection (1), together with a signed copy of the Auditor-General's report under the Audit Act on the statement, in the Legislative Assembly within 6 sitting days of the Assembly after the receipt of the Auditor-General's report by the Treasurer.

**10 Annual financial statements of Government Business Divisions**

- (1) The Accountable Officer of an Agency responsible for a Government Business Division shall, within the period of 3 months immediately following the end of the financial year or such other period as the Treasurer in a particular case determines, prepare a financial statement in respect of the Government Business Division.
- (2) A financial statement under subsection (1) shall be prepared in such form as the Treasurer directs and, unless the Treasurer directs otherwise, be prepared on commercial accounting principles.



- (3) The Accountable Officer shall forward the financial statement to the Auditor-General who shall audit the statement and, within the period of 2 months after receiving it or such other period as the Administrator in a particular case allows, report on the statement to the Minister and forward a copy of the report to the Accountable Officer.
- (4) The Minister shall table the financial statement and the report of the Auditor-General on the statement in the Legislative Assembly within 6 sitting days of the Assembly after the delivery of the report of the Auditor-General to the Minister.

## **11 Other financial statements**

- (1) Subject to any other law of the Territory, where the Treasurer so directs, an Accountable Officer shall, within the period of 3 months immediately following the end of the financial year or such other period as the Treasurer in a particular case determines, prepare a financial statement in respect of the operations of his or her Agency or specified functions of the Agency or Activity for the financial year.
- (2) A financial statement under subsection (1) shall be prepared in such form as the Treasurer directs.
- (3) The Treasurer may direct the Accountable Officer to submit the financial statement to the Auditor-General who shall audit it and, within the period of 3 months after receiving it or such other period as the Administrator in a particular case allows, report on the statement to the Minister and forward a copy of the report to the Accountable Officer.
- (4) The Minister shall table the financial statement and the report of the Auditor-General on the statement in the Legislative Assembly within 6 sitting days of the Assembly after the delivery of the report of the Auditor-General to the Minister.

## **12 Annual reports of agencies**

All annual reports prepared under section 28 of the *Public Sector Employment and Management Act* shall contain financial statements prepared under section 10 or, where a relevant direction by the Treasurer has been given, under section 11.

## **Part 3 Accountable Officers**

### **13 Duties of Accountable Officers**

- (1) The Accountable Officer is responsible for the financial administration of his or her Agency and all Activities allotted to the Agency.
- (2) An Accountable Officer shall ensure that:
  - (a) proper records of all transactions affecting the Agency are kept and that employees under his or her control observe the requirements of this Act, the Regulations and the Treasurer's Directions; and
  - (b) procedures in the Agency are such as will at all times afford a proper internal control.

### **14 Money to be committed by Accountable Officer**

- (1) Money shall not be committed for expenditure except by an Accountable Officer or by a person acting on the authority of an Accountable Officer.
- (2) An Accountable Officer shall not commit money for expenditure unless satisfied that, when payment in respect of the transaction falls due, there will be an Allocation sufficient for the making of the payment.
- (3) The Minister may, in writing, direct an Accountable Officer to commit money for a purpose incidental to an Activity for which the Accountable Officer is responsible and, subject to subsection (2), the Accountable Officer shall comply with the direction.

### **15 Internal audit**

- (1) An Accountable Officer shall ensure that the Agency has an adequate internal audit capacity to assist the Accountable Officer in the performance of his or her functions under this Act.
- (2) The person in charge of an internal audit of an Agency shall, as soon as practicable after completing the internal audit, report to the Accountable Officer the result of the audit.

### **16 Accounting and property manuals**

- (1) Each Accountable Officer shall issue and maintain an accounting and property manual for the use of the employees of the Agency.

- (2) The accounting and property manual shall not be inconsistent with this Act, any other law of the Territory and the Treasurer's Directions.
- (3) The Accountable Officer shall furnish to the Minister a copy of the accounting and property manual and every amendment to the manual.
- (4) A copy of or, in an appropriate case, an extract from, an accounting and property manual shall be made available by the Accountable Officer to every employee of the Agency.
- (5) Every employee shall, subject to this Act, comply with the accounting and property manual for the Agency.

#### **17 Exemption of accountable officer**

- (1) The Administrator may, by instrument in writing, direct that an Accountable Officer need not comply with this Act or such provisions of or under this Act as are specified in the instrument, or need only to comply with a provision subject to such conditions as the Administrator thinks fit and specifies in the instrument, and while the direction remains in force the Accountable Officer need not comply with the Act or the provision, or shall comply subject to those conditions, as the case may be.
- (2) The Treasurer shall table a copy of an instrument under subsection (1) in the Legislative Assembly within 6 sitting days of the Assembly after the instrument is made.

### **Part 4 Budget management**

#### **18 Use of Treasurer's Advance**

- (1) The Treasurer may supplement an Allocation to an Activity by transferring a portion of the Treasurer's Advance to the Activity.
- (2) The Treasurer may transfer a proportion of the Treasurer's Advance to an Activity to which no Allocation has been made by an Appropriation Act.

#### **19 Increase or replenishment of Treasurer's Advance**

- (1) Where the Administrator is satisfied, because of the reasons provided to him or her by the Treasurer, that the balance in the Consolidated Revenue Account will be in excess of that required, the Administrator may increase the Allocation to the Treasurer's Advance by an amount not exceeding the amount of the excess or 5% of the total of Allocations provided by Appropriation Acts for the

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financial year, whichever is the lesser.

- (2) The Allocation to the Treasurer's Advance may be increased in the course of a financial year by a transfer in accordance with section 20.
- (3) The Allocation to the Treasurer's Advance may be replenished in the course of a financial year by the writing back to the Treasurer's Advance of amounts previously transferred to an Activity and no longer required.
- (4) Where an increase in the Allocation to the Treasurer's Advance has been made under subsection (1), the Treasurer shall table in the Legislative Assembly, within 6 sitting days of the Assembly after the increase is made, a statement setting out:
  - (a) the reasons given to the Administrator and referred to in that subsection; and
  - (b) the amount by which the Treasurer's Advance has been increased.

## **20      Transfer of allocations between activities**

- (1) Where the exigencies of the administration of government require it and there is excess Allocation available to an Activity, the excess Allocation may be transferred to another Activity or Activities:
  - (a) by the Administrator, in writing, so directing;
  - (b) where the excess Allocation is below the prescribed limit, by the Treasurer, in writing, so directing; or
  - (c) where the excess Allocation is below the prescribed limit and the Activity to which the excess is being transferred is the responsibility of the same Agency, by the Minister, in writing, so directing.
- (2) The Treasurer shall table a direction under subsection (1)(a) or (b) in the Legislative Assembly within 6 sitting days of the Assembly after the direction is given.
- (3) The Minister shall, as soon as practicable after giving a direction under subsection (1)(c), forward a copy of the direction to the Treasurer.

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**21 Allocation transferred with transfer of activity**

- (1) Where, after the passing of an Appropriation Act, the Administrator redistributes, in whole or in part, the public business amongst Agencies, the appropriate proportions, as determined by the Treasurer, of any Allocation involved shall be transferred accordingly.
- (2) For the purposes of accounting, on a redistribution referred to in subsection (1), an Allocation or expenditure incurred before the transfer referred to in that subsection, is deemed to have occurred in the Activity to which the Allocation has been transferred.
- (3) The Treasurer shall table in the Legislative Assembly, within 6 sitting days of the Assembly after the transfer in pursuance of subsection (1), a statement of the amounts of Allocation transferred and expenditure deemed under subsection (2) to have occurred.

**22 Transfer of allocation between financial years**

- (1) The Treasurer may, in writing, approve an additional Allocation of an amount not exceeding 5% of the Allocation for the financial year, and on the Treasurer so doing:
  - (a) the Allocation is increased by that amount for the financial year; and
  - (b) the subsequent financial year's forward estimate or Allocation, as the case may be, shall be deemed to be reduced by that amount.
- (2) If part of an Allocation in a financial year is not expended in the financial year, the Treasurer may, in writing, determine that an amount not exceeding 5% of the Allocation shall not lapse and on the Treasurer so doing:
  - (a) the Allocation is decreased by that amount for the financial year; and
  - (b) the subsequent financial year's forward estimate or Allocation, as the case may be, shall be deemed to be increased by that amount.
- (3) The Treasurer shall table an instrument of approval or determination under subsection (1) or (2) in the Legislative Assembly within 6 sitting days of the Assembly after signing it.

**23 Varied allocation for certain receipts**

- (1) Where an amount estimated to be received under section 6(2)(b) or (c) into an Operating Account differs from that estimated in the statement of estimates of receipts for the financial year tabled in the Legislative Assembly with the Bill for the annual Appropriation Act, the Allocation to the appropriate Activity may be varied by so much of that amount, and on such conditions, as is determined by the Treasurer after consultation with the Minister.
- (2) A determination under subsection (1) may be made in respect of more than one financial year.
- (3) The Treasurer shall table an instrument of approval or determination under subsection (1) in the Legislative Assembly within 6 sitting days of the Assembly after signing it.

**24 Lapse of allocation**

An Allocation in respect of a financial year shall be available for the financial year only and, subject to section 22, the balance of the Allocation unexpended at the end of the financial year shall lapse and shall not be available in a subsequent financial year.

**25 Expenditure recouped**

Where expenditure is recouped in the financial year in which it was made from an Allocation, the amount recouped shall be taken in reduction of that expenditure.

**26 Expenditure unclaimed**

Subject to any other law of the Territory, expenditure that is unclaimed by the person entitled to it for such period after it becomes payable as the Treasurer determines shall be paid into the Consolidated Revenue Account.

**Part 5 Funds management****27 Official bank accounts**

- (1) The Treasurer shall open an account at a bank, building society or credit union under the name "Northern Territory Government Account" and may open such other official bank accounts at such bank or banks, building society or building societies or credit union or credit unions as the Treasurer thinks fit.
- (2) A person shall not, except by the authority of the Treasurer, open an official bank account.

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- (3) Except as otherwise provided by or under this or any other Act, all money shall be kept in an official bank account.
  - (4) Overdraft accommodation shall not be granted on an official bank account except by the authority of the Treasurer.
  - (5) All moneys collected or received by an employee of an Agency shall be paid daily, or at such other intervals of time as the Treasurer directs, to the credit of the Northern Territory Government Account or such other official bank account as the Treasurer directs.
  - (6) Money received and paid into an official bank account that is later ascertained to be not so payable may, with the approval of an Accountable Officer, be withdrawn from the official bank account and paid to the person lawfully entitled to it

## **28 Withdrawal of money**

Money shall be withdrawn by an Accountable Officer from an official bank account as prescribed, and not otherwise.

## **29 Investment of money**

- (1) The Treasurer:
  - (a) may determine from time to time whether any, and if so what, amount of money standing at credit in an official bank account is available for investment; and
  - (b) may invest the amount in such investments as are from time to time permitted by or under this Act, and for such periods, as the Treasurer thinks fit.
- (2) The Treasurer shall not make an investment referred to in subsection (1) except:
  - (a) in securities of or guaranteed by the Government of the Territory, the Commonwealth or a State or another Territory of the Commonwealth;
  - (b) in deposits, debentures, promissory notes or other securities of a statutory body the obligations of which are guaranteed by the Government of the Territory, the Commonwealth or a State or another Territory of the Commonwealth;
  - (c) in deposits, debentures, promissory notes or other securities of a body corporate or a bank, building society or credit union that maintains such minimum credit rating specified by the Treasurer as is published from time to time by a credit rating

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agency approved by the Treasurer;

(d) whether secured or unsecured:

(i) in capital market investments issued by a body corporate that maintains such minimum credit rating specified by the Treasurer as is published from time to time by a credit rating agency approved by the Treasurer;

(ii) in debentures, securities or other obligations of governments, government authorities or statutory bodies;

(iii) in promissory notes made by a body corporate referred to in paragraph (c) or a statutory body whether constituted under an Act of the Territory, the Commonwealth or a State or another Territory of the Commonwealth;

(iv) in futures contracts traded on a recognised futures exchange and in forward exchange or interest rate agreements complying with such terms and conditions as the Treasurer determines; or

(v) in notes, certificates, bonds, options, swaps, bills of exchange (specified by an entity specified in subsection (2)(a), (b) or (c)) and currency transactions in accordance with section 33(2);

(e) with a dealer in the short term money market with established lines of credit with the Reserve Bank of Australia or a lender of last resort; or

(f) in such other investments as the Treasurer determines.

(3) The Treasurer shall table a determination under subsection (2)(f) in the Legislative Assembly within 6 sitting days of the Assembly after signing it.

(4) Money received by the Treasurer as a result of an investment made under this section shall be paid to the official bank account from which the money the subject of the investment was drawn.

### **30 No allocation needed for investment**

Payments of money made by the Treasurer in accordance with section 29 may be made without Allocation of money for the payments so made.



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**31 Lending**

- (1) The Treasurer may lend or advance money or otherwise make financial accommodation available to the Territory, an Agency, a local government council or other person.
- (2) The terms and conditions of lending shall be in accordance with the terms and conditions specified in the law authorising or permitting the advance.
- (3) The Accountable Officer of the Agency to which, or the relevant person to whom, the lending is made shall cause a record of the lending to be maintained.
- (4) The Accountable Officer shall review the record of the lending to ensure that lendings are properly repaid by the date on which they are due to be repaid.

**32 Borrowing**

- (1) The Treasurer may raise money or otherwise obtain financial accommodation in Australia or elsewhere for the Territory, an Agency, a local government council or other person.
- (2) No money shall be raised or financial accommodation otherwise obtained on the public credit of the Territory except by the authority of this Act or another law of the Territory.
- (3) Subject to this Act, the Territory may give security for the repayment of money raised or financial accommodation otherwise obtained on the public credit of the Territory and the payment of interest thereon.
- (4) All money raised or financial accommodation otherwise obtained by or on behalf of or received by the Territory pursuant to a financial agreement with the Commonwealth or otherwise on the public credit of the Territory shall be paid into an official bank account for credit to the Public Account.

**33 Other financial transactions**

- (1) The Treasurer may enter into interest rate swaps, currency swaps, hedge agreements, finance options, futures contracts or options, forward exchange rate agreements or analogous transactions, whether or not the transaction is entered into for the purpose of managing or protecting against a financial or currency risk.
- (2) Transactions relating to foreign currencies may be entered into with settlement fixed by reference to any time or circumstance.

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**34 Guarantees and indemnities**

- (1) Where in the opinion of a minister (including the Treasurer) the interests of the Territory would benefit, that Minister may, with the agreement of the Treasurer, make arrangements for the Territory:
  - (a) to give a guarantee, on such terms as the Treasurer thinks fit, for the repayment of a loan by a person; or
  - (b) to indemnify a person for actual or potential liability in relation to the person's financial obligations.
- (2) Notwithstanding any other law of the Territory, an instrument effecting a guarantee or an indemnity referred to in subsection (1) shall be signed by the Treasurer, unless the Treasurer has agreed that it may be signed by the minister or some other person on behalf of the Territory.

**35 Losses and waivers**

- (1) The Treasurer may write off:
  - (a) irrecoverable amounts payable to the Territory or an Agency;
  - (b) losses or deficiencies of money; or
  - (c) the value of lost, deficient, condemned, unserviceable, abandoned or obsolete property.
- (2) The Treasurer may:
  - (a) waive or postpone the right of the Territory or an Agency to:
    - (i) the payment of an amount, or of an amount included in a class of amounts, payable to the Territory; or
    - (ii) the recovery of any property or of property included in a class of property; or
  - (b) dispose of property by way of gift where the Treasurer is satisfied that that course is the most appropriate action to be taken.
- (3) The power conferred by subsection (2) is in addition to, and does not derogate from, any other power conferred on the Treasurer by any other law of the Territory.

**36 Payment of dividend or repayment of equity**

- (1) Where, in respect of a Government Business Division, the Treasurer is satisfied that there are the resources to pay a dividend

or make a repayment of equity, the Treasurer may determine in writing that the dividend be paid or the repayment of equity be made from the Government Business Division Operating Account to the Territory.

- (2) A determination under subsection (1) may be made subject to such terms and conditions in relation to the making of the payment as the Treasurer thinks appropriate.
- (3) The Accountable Officer responsible for the Government Business Division the subject of a determination under subsection (1) shall comply with the determination.

### **37 Ex gratia payments**

- (1) Notwithstanding anything contained in this Act, if the Treasurer is satisfied that, by reason of special circumstances, it is proper to do so, the Treasurer may direct the payment of an amount of money ex gratia.
- (2) Subsection (1) does not authorise a payment of money ex gratia unless the special circumstances arose in the course of the business of the Government of the Territory and unless money is lawfully available to make the payment.

## **Part 6 Administration**

### **38 Treasurer's Directions**

- (1) The Treasurer may, from time to time, issue directions to Accountable Officers concerning the principles, practices and procedures to be observed in the administration of the financial affairs of the Territory and Agencies.
- (2) Every Accountable Officer and every employee of an Agency shall comply with the Treasurer's Directions.

### **39 Delegation**

- (1) A person on whom a function is imposed or power conferred by or under this Act (whether by reference to an office or otherwise) may, by instrument in writing, delegate to a person or a person from time to time holding, acting in or performing the duties of a named office, designation or position any of those powers and functions, other than this power of delegation.

- (2) A power or function delegated under this section, when exercised or performed by the delegate is, for the purposes of this Act, deemed to have been exercised or performed by the person who delegated the power or function.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the person who delegated the power or function.
- (4) This section does not apply to:
  - (a) the power to make regulations;
  - (b) a power related to the investigation or detection of offences or unlawful acts; or
  - (c) a power to delegate a power or function.

## **Part 7                      Miscellaneous**

### **40                      Offences**

A person who contravenes or fails to comply with a provision of this Act that applies to him or her is guilty of an offence.

Penalty:            \$10,000.

### **41                      Regulations**

The Administrator may make regulations, not inconsistent with this Act, prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act,

and in particular for or in relation to:

- (c) the collection, receipt, custody, issue, expenditure, due accounting for and care and management of all moneys by or on behalf of the Territory or an Agency and whether inside or outside of Australia;
- (d) the recording, examination, inspection and checking of all receipts and expenditures and the keeping of all necessary accounts and records;
- (e) the requirements in respect of records and documents;

- (f) the custody, issue, sale or other disposal and writing off of property and the proper accounting for and stocktaking of that property;
- (g) the liability of persons for or in relation to the loss of money or property of the Territory or an Agency and the repair and replacement of property damaged or destroyed;
- (h) the apportionment of such liability between persons;
- (j) the disposal of unclaimed property;
- (k) the inspection and examination by a person other than the Auditor-General and the checking of books, accounts, statements, returns, records and vouchers prepared and kept outside Australia in respect of money and property referred to in paragraph (c) outside of Australia;
- (m) the issue of securities or kinds of securities in relation to borrowings by the Territory, Agencies or other statutory corporations;
- (n) the inscription, transmission and transfer of such securities;
- (p) the payment of interest in respect of such borrowings;
- (q) the redemption of such securities;
- (r) the conduct and management of registries established for the purposes of this Act; and
- (s) imposing penalties, not exceeding \$5,000, for a breach of the Regulations.

## **Part 8                      Repeal, savings and transitional**

### **42                      Repeal**

The Acts specified in the Schedule are repealed.

### **43                      Previous authorities and procedures to suffice**

Where, after the commencement of this Act, a payment is required to be made or an expenditure committed in respect of which this Act, the Regulations or the Treasurer's Directions would have required an authority to be given or a procedure to be followed at a time which, in the ordinary course of events, would have been before that commencement, it shall be sufficient if a like authority was given or a like procedure was followed in relation to that

payment or that commitment before the commencement of this Act.

#### **44 Money held in trust accounts**

- (1) On the commencement of this Act all Trust Accounts under section 6 or 59 of the *Financial Administration and Audit Act* as in force immediately before that commencement shall be deemed to be closed and the funds standing to the credit of those accounts shall, subject to subsection (2), be transferred on the directions of the Treasurer into such Operating Accounts and Accountable Officer's Trust Accounts under this Act as the Treasurer thinks fit, and the Treasurer has the necessary power and authority to give such directions.
- (2) In giving a direction under subsection (1) the Treasurer shall ensure that the Operating Account into which the funds are to be transferred is that in respect of an Agency having a function most closely related to the function or purpose for which the funds were held in the original Trust Account and that they will be held after their transfer subject to such conditions as the Treasurer thinks necessary to ensure their appropriate use for the function or purpose.

#### **45 Saving of Regulations**

The:

- (a) *Treasury Regulation* (other than Part III); and
- (b) *Treasury (Northern Territory Stock) Regulation*,

as in force immediately before the commencement of this Act, shall continue in force, and may be repealed or amended, as if made under this Act.

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**Schedule**

section 42

**Acts Repealed**

<i>Financial Administration and Audit Ordinance 1978</i>	(No. 37 of 1978)
<i>Financial Administration and Audit Act (No. 2) 1978</i>	(No. 89 of 1978)
<i>Financial Administration and Audit Act (No. 3) 1978</i>	(No. 20 of 1979)
<i>Financial Administration and Audit Act 1979</i>	(No. 96 of 1979)
<i>Financial Administration and Audit Act (No. 2) 1979</i>	(No. 147 of 1979)
<i>Financial Administration and Audit Amendment Act 1982</i>	(No. 39 of 1982)
<i>Financial Administration and Audit Amendment Act 1983</i>	(No. 39 of 1983)
<i>Financial Administration and Audit Amendment Act 1984</i>	(No. 18 of 1984)
<i>Financial Administration and Audit Amendment Act 1987</i>	(No. 46 of 1987)
<i>Financial Administration and Audit Amendment Act 1988</i>	(No. 34 of 1988)
<i>Financial Administration and Audit Amendment Act 1989</i>	(No. 15 of 1989)
<i>Financial Administration and Audit Amendment Act 1990</i>	(No. 26 of 1990)
<i>Financial Administration and Audit Amendment Act 1992</i>	(No. 30 of 1992)
<i>Financial Administration and Audit Amendment Act 1993</i>	(No. 16 of 1993)
<i>Financial Administration and Audit Amendment Act (No. 2) 1993</i>	(No. 55 of 1993)
<i>Financial Administration and Audit Amendment Act 1994</i>	(No. 1 of 1994)

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
<b>Gaz</b> = <i>Gazette</i>	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

***Financial Management Act 1995 (Act No. 4, 1995)***

Assent date	21 March 1995
Commenced	1 April 1995 ( <i>Gaz</i> S13, 31 March 1995)

***Statute Law Revision Act 1997 (Act No. 17, 1997)***

Assent date	11 April 1997
Commenced	s 16: 10 December 1997; rem: 1 May 1997 ( <i>Gaz</i> G17, 30 April 1997, p 2)

***Financial Institutions (Miscellaneous Amendments) Act 1997 (Act No. 23, 1997)***

Assent date	2 June 1997
Commenced	2 June 1997

### 3 LIST OF AMENDMENTS

s 3	amd No. 23, 1997, s 6
s 6	amd No. 17, 1997, s 8
s16	amd No. 17, 1997, s 8
s 23	amd No. 17, 1997, s 8
s 27	amd No. 23, 1997, s 6
s 29	amd No. 23, 1997, s 6