

# NORTHERN TERRITORY OF AUSTRALIA

## FINANCIAL MANAGEMENT ACT 1995

As in force at 2 June 2014

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 2 June 2014

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## FINANCIAL MANAGEMENT ACT 1995

**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 1995*.

#### **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:

***Accountable Officer*** means:

- (a) in relation to an Agency – the chief executive officer (however described) of the Agency or a person whom the Treasurer declares in writing to be the Accountable Officer for the Agency for this Act; or
- (b) in relation to the Central Holding Authority – the person whom the Treasurer declares in writing to be the Accountable Officer of the Authority for this Act.

***Accountable Officer's Trust Account*** means an Accountable Officer's Trust Account established under section 7.

***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.

**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.

**appropriation** means:

- (a) an amount authorised to be paid from the Central Holding Authority pursuant to an Appropriation Act and includes any variation of 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.

**Appropriation Act** includes a Supply Act, an annual Appropriation Act or an additional Appropriation Act which authorises an appropriation to a Purpose.

**audit** includes the inspection, investigation, examination and review of accounts and systems.

**Central Holding Authority** means the account by that name that forms part of the Public Account, as mentioned in section 4.

**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 for either actual or accrued expenses and includes an advance or transfer from an Operating Account.

**Government Business Division** means an Agency, or a part of an Agency, that:

- (a) recovers a significant proportion of its operating costs through charges on users; and
- (b) is determined by the Treasurer to be a Government Business Division.

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

- (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;
- (e) ensure compliance with legislative provisions.

**loss** includes the following:

- (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) an expenditure made without lawful authority;
- (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 and includes funds transferred electronically or by any other means.

**National Health Reform Agreement**, see section 3(1) of the NHFP Act.

**NHFP account** means either of the following established under the NHFP Act as an Operating Account for the Agency responsible for administering that Act:

- (a) the State Pool Account of the Territory;
- (b) the State Managed Fund of the Territory.

**NHFP Act** means *National Health Funding Pool and Administration (National Uniform Legislation) Act 2012*.

**official bank account** means an official bank account opened by the Treasurer in pursuance of section 27.

*Note*

*See section 27(7).*

**Operating Account** means:

- (a) a Government Business Division Operating Account, or an Agency Operating Account, established under section 6(1); or
- (b) an NHFP account.

**Public Account** means the account established under section 4.

**Purpose** means a Purpose specified under an Appropriation Act, whether or not it is also designated under that Act as any of the following:

- (a) Output;
- (b) Capital;
- (c) Treasurer's Advance;
- (d) Commonwealth;
- (e) Interest, Taxes and Administration;
- (f) Employee Entitlements.

**receipts** means money received into the Public Account and includes:

- (a) a transfer, advance or other remittance within the Public Account; and
- (b) the amount of the value of units in a unit trust held by or on behalf of the Territory credited to the Public Account; and
- (c) the amount of the value of funds managed on behalf of the Territory credited to the Public Account.

**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 the Purpose to which an appropriation is made, that may be used as mentioned in section 18.

- (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 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 Central Holding Authority; and
  - (b) the Operating Accounts.

### **5                      Central Holding Authority**

- (1) There shall be credited to the Central Holding Authority 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 must not be paid from the Central Holding Authority except as authorised under an Appropriation Act, this Act or another Act.
- (3) Money payable by the Central Holding Authority for liabilities incurred or assumed by the Territory for employee entitlements must be paid out of the public moneys of the Territory and the appropriation for that Purpose is established or increased to the extent necessary.

### **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 functions of the Agency.

*Note for subsection (1)*

*The definition of **Operating Account** in section 3(1) includes each of the NHFP accounts. However, a reference to an Operating Account established under this Act is a reference to an account established under subsection (1).*

- (2) There must be paid into an Operating Account the following to the extent applicable to that Operating Account:
  - (a) payments from the Central Holding Authority in respect of the functions for which the Agency is responsible;
  - (b) for an Operating Account for a Government Business Division – all receipts of the Government Business Division;
  - (c) for an NHFP account – all receipts for the NHFP account including payments from the Commonwealth under the National Health Reform Agreement;
  - (d) 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 as follows:
  - (a) for an Operating Account established under this Act – by the Accountable Officer of the Agency that performs the functions for which the Operating Account exists;
  - (b) for an NHFP account – in accordance with the NHFP Act.
- (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 established under this Act 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 Central Holding Authority.
- (5) The Accountable Officer of an Agency must keep in relation to his or her Operating Account established under this Act the accounts that are specified in the Treasurer's Directions.

## **7 Accountable Officers' Trust Accounts**

- (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 an 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 an Agency.



- (3) Money may be withdrawn from an Accountable Officer's Trust Account only for the purposes of the trust to which the money relates or for any other purpose authorised by this Act or any other law in force in the Territory.
- (4) Each Accountable Officer must keep in relation to his or her Accountable Officer's Trust Account the accounts that are specified in the Treasurer's Directions.

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

- (1) As soon as practicable after the end of each of the first, second and third quarters of a financial year, the Treasurer must prepare in the form the Treasurer considers appropriate, and publish in the *Gazette*, financial statements for the quarter.
- (2) In preparing those financial statements, the Treasurer may have regard to what is required to be included in the final fiscal results report for the financial year under the *Fiscal Integrity and Transparency Act 2001*.

## **9 Treasurer's annual financial statement**

- (1) Within the prescribed period, the Treasurer must prepare, in the form the Treasurer considers appropriate, and table in the Legislative Assembly an annual financial statement for a financial year.
- (2) The annual financial statement may incorporate the final fiscal results report for the financial year under the *Fiscal Integrity and Transparency Act 2001*.
- (3) The annual financial statement is to include reports on the following during the financial year:
  - (a) all write-offs, waivers, postponements and gifts by the Treasurer under section 35;
  - (b) all ex gratia payments directed by the Treasurer under section 37.
- (4) In tabling the annual financial statement, the Treasurer must include:
  - (a) a signed copy of the statement; and
  - (b) a signed copy of the Auditor-General's report on the statement under the *Audit Act 1995*.

- (5) In this section:

***prescribed period***, for a financial year, means:

- (a) 4 months after the end of the financial year; or
- (b) if the Administrator determines another period for the financial year – that other period.

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

- (1) The Accountable Officer of an Agency responsible for a Government Business Division must, within the period of 2 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) must 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 must forward the financial statement to the Auditor-General who must audit the statement and report on the statement to the Minister and forward a copy of the report to the Accountable Officer.
- (4) The Minister must table the financial statement and the Auditor-General's report in the Legislative Assembly within:
  - (a) 4 months after the end of the financial year; or
  - (b) if the Treasurer determines another period – the other period.

## **11 Other financial statements**

- (1) Subject to any other law of the Territory, the Accountable Officer of an Agency must, if the Treasurer directs him or her to do so, prepare a financial statement in respect of the operations of, or specified functions of, the Agency for a financial year or another financial reporting period determined by the Treasurer.
- (2) The financial statement for the financial year or other financial reporting period must be in the form the Treasurer directs and must be prepared within:
  - (a) 2 months after the end of the period to which the statement relates; or

- (b) if the Treasurer determines another period – the other period.
- (3) The Treasurer may direct the Accountable Officer of an Agency to submit the financial statement directed to be prepared under subsection (1) to the Auditor-General who must audit it and report on the statement to the Minister and forward a copy of the report to the Accountable Officer.
- (4) The Minister must table the financial statement and the Auditor-General's report, if any, in the Legislative Assembly within:
  - (a) 4 months after the end of the financial year; or
  - (b) if the Treasurer determines another period – the other period.

## **12 Annual reports of agencies**

All annual reports prepared under section 28 of the *Public Sector Employment and Management Act 1993* 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 of an Agency is responsible for the financial management of the Agency.
- (1A) The Accountable Officer of the Central Holding Authority is responsible for the financial management of the Central Holding Authority.
- (2) The Accountable Officer of an Agency must 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.
- (2A) The Accountable Officer of the Central Holding Authority must ensure that:
  - (a) proper records of all transactions affecting the Central Holding Authority are kept and that the requirements of this Act, the Regulations and the Treasurer's Directions are observed; and

- (b) the Central Holding Authority's procedures are such as will at all times afford a proper internal control of the Central Holding Authority.
- (3) The Treasurer may, after consultation with the relevant Minister, issue a direction to the Accountable Officer of an Agency in relation to the financial management of the Agency.
- (4) An Accountable Officer, and an employee of the Agency, to whom a direction under subsection (3) applies must comply with the direction.
- (5) In complying with subsections (1) and (2), the Accountable Officer of the Agency responsible for administering the NHFP Act may rely on records kept under Part 4 of that Act about the NHFP accounts.

#### **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) The Accountable Officer of an Agency must not commit money for expenditure unless satisfied that, when payment in respect of the transaction falls due, there will be sufficient funds available in the relevant Operating Account to make the payment.
- (2A) The Accountable Officer of the Central Holding Authority must not commit money for expenditure unless satisfied that, when payment in respect of the transaction falls due, there will be sufficient funds available in the Central Holding Authority to make the payment.
- (3) The Minister may, in writing, direct the Accountable Officer of an Agency to commit money for an objective incidental to a function for which the Accountable Officer is responsible and, subject to subsection (2), the Accountable Officer shall comply with the direction.

#### **15 Internal audit**

- (1) The Accountable Officer of an Agency 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 of the Agency the result of the audit.
- (3) In complying with subsections (1) and (2), the records kept under Part 4 of the NHFP Act about the NHFP accounts may be relied on.

**16      Accounting and property manuals**

The Accountable Officer of an Agency must issue and maintain an accounting and property manual for use by the employees of 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 appropriation to a Purpose by transferring a portion of the Treasurer's Advance to that Purpose.
- (2) The Treasurer may transfer a proportion of the Treasurer's Advance to a Purpose to which no appropriation has been made by an Appropriation Act.

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

- (1) If, because of reasons provided by the Treasurer, the Administrator is satisfied funds available in the Central Holding Authority will be in excess of requirements (**excess funds**) for a financial year, the Administrator may increase the appropriation to the Treasurer's Advance for the financial year.
- (1A) The amount of the increase for the financial year must not be more than the lesser of the following:
  - (a) the amount of excess funds;
  - (b) 5% of the total of appropriations provided by Appropriation Acts for the financial year (other than appropriations for a Purpose designated as Commonwealth).

- (2) The appropriation 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 appropriation 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 a Purpose and no longer required.
- (4) Where an increase in the appropriation 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.

#### **19A Increase of funds available from Commonwealth**

- (1) This section applies if the Treasurer is satisfied:
  - (a) funds available in the Central Holding Authority for a financial year have been or will be increased under an Act of the Commonwealth or an arrangement between the Territory and the Commonwealth; and
  - (b) the amount of the increase (**increased funds**) must be used in accordance with the Act or arrangement.
- (2) The Treasurer may, by written notice, authorise the issue of all or part of the amount of the increased funds so the amount to be issued is used in accordance with the Act or arrangement for the following:
  - (a) a Purpose designated as Commonwealth in an existing appropriation for which the amount of appropriation is to be increased;
  - (b) something that is a Purpose designated as Commonwealth in the notice.
- (3) The total of amounts authorised to be issued under subsection (2) in a financial year must not be more than the amount of increased funds for the financial year.
- (4) The appropriation for an amount authorised to be issued under subsection (2) is established or increased to the extent necessary.

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- (5) The Treasurer must table in the Legislative Assembly, within 6 sitting days after the date of a notice under subsection (2), a copy of the notice and a statement about any issue under the notice.

- (6) In this section:

**increased** includes varied.

## **20 Transfer of appropriations**

- (1) An excess appropriation available to a Purpose of an Agency may, in accordance with a written direction of the Treasurer, be transferred to one or more Purposes of another Agency or within the Agency, if the Treasurer is of the opinion that it is necessary to do so for the administration of government.
- (2) The Treasurer must table a direction under subsection (1) in the Legislative Assembly within 6 sitting days of the Assembly after the direction is given.

## **21 Appropriation accompanies transfer of business after redistribution**

- (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 appropriation involved must be transferred accordingly.
- (2) For the purposes of accounting:
- (a) receipts and expenditure relating to the public business redistributed under subsection (1) that are incurred before the redistribution occurred are taken to have occurred in the Agency to which the business is redistributed; and
  - (b) payments in relation to the redistributed business that were made from the Central Holding Authority before the redistribution occurred are taken to have been provided to the Purpose of the Agency to which the business is redistributed that is the same category of Purpose as the Purpose to which the payments were made.
- (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 appropriation transferred under subsection (1).

**24 Lapse of appropriation**

An appropriation in respect of a financial year:

- (a) is available for the financial year only; and
- (b) the balance of appropriation unexpended at the end of the financial year lapses and is not available for a subsequent financial year.

**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 Central Holding Authority.

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

- (1) The Treasurer must open an official bank account under the name "Northern Territory Government Account" and may, as he or she thinks fit, open other official bank accounts.
- (1A) An official bank account may only be opened under subsection (1) with an ADI.
- (2) A person shall not, except by the authority of the Treasurer, open an official bank account.
- (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.



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- (7) This section does not apply to a bank account opened and maintained as required under the NHFP Act.

**28      Withdrawal of money**

Money shall be withdrawn by an Accountable Officer from an official bank account in accordance with the Treasurer's Directions 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 must not make an investment referred to in subsection (1) except as follows:
- (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 an ADI, 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;
  - (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; or
    - (ii) in debentures, securities or other obligations of governments, government authorities or statutory bodies; or

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- (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; or
    - (iv) in futures contracts traded on a prescribed financial market (as defined in section 9 of the Corporations Act 2001) 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;
  - (f) in such other investments as the Treasurer determines.
  - (3) The Treasurer must 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 must be paid to the official bank account from which the money the subject of the investment was drawn.

### **30 No appropriation needed for investment or repayment of debt**

- (1) Payments of money made by the Treasurer in accordance with section 29 may be made without appropriation of money for the payments so made.
- (2) Payments of money from the Central Holding Authority for the repayment of the principal owing on a debt may be made without appropriation of money for the payments.

### **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.
- (1A) Money may be loaned under subsection (1) on the basis that if:
  - (a) certain conditions of the loan are satisfied; and

- (b) the approval of the Treasurer is obtained,  
the money loaned is not required to be repaid to the Territory.
- (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) If in the opinion of a Minister, including the Treasurer, the Territory would benefit, that Minister may with the agreement of the Treasurer make arrangements for the Territory:
  - (a) to give a guarantee, on the terms the Treasurer thinks fit, that a person's specified financial obligations will be fulfilled; or
  - (b) to indemnify a person, on the terms the Treasurer thinks fit, 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 Capital structure and dividends**

- (1) The Treasurer may determine or alter the capital structure of an Agency or a Government Business Division, including by converting debt to equity, converting equity to debt, increasing equity, withdrawing equity, transferring assets and altering the equity base.
- (2) The Treasurer may determine that an Agency or a Government Business Division is to pay a dividend to the Territory, if he or she is satisfied that the Agency or Government Business Division has sufficient resources to do so.
- (3) A determination under subsection (1) or (2) may be made subject to the terms and conditions the Treasurer thinks fit.

**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) The Accountable Officer of an Agency, the Accountable Officer of the Central Holding Authority and each employee of an Agency must 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.

- (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.

Maximum penalty:        100 penalty units.

### **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 50 penalty units, for a breach of the Regulations.

## **Part 8                      Transitional provisions for Financial Management Amendment Act 2009**

### **42                      Definition**

In this Part:

***Allocation*** means an Allocation as defined in this Act immediately before the commencement of this section.

### **43                      Application of this Act**

This Act applies in relation to an Appropriation Act that commences after the commencement of this section, including an Appropriation Act that provides for an appropriation in respect of a period before the commencement of this section.

*Note for section 43*

*The Appropriation (Additional for 2008-2009) Act 2009 provides for an appropriation in respect of a period before the commencement of this Act.*

**44       References to Allocation**

- (1) Subsection (2) applies if:
  - (a) a provision of an Act expressed or expresses an idea by using "Allocation"; and
  - (b) the provision is amended and uses "appropriation".
- (2) The ideas must not be taken to be different merely because a different word is used.
- (3) In a document, a reference to "Allocation" is taken to be a reference to "appropriation" if the context permits.



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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = 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	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

***Financial Management Amendment Act 1999 (Act No. 75, 1999)***

Assent date	23 December 1999
Commenced	26 January 2000 ( <i>Gaz</i> G3, 26 January 2000, p 3)

***Financial Management Amendment Act 2001 (Act No. 7, 2001)***

Assent date	22 June 2001
Commenced	22 June 2001

***Financial Management Amendment Act 2002 (Act No. 49, 2002)***

Assent date	9 October 2002
Commenced	9 October 2002

***Financial Management Amendment Act 2003 (Act No. 27, 2003)***

Assent date	26 June 2003
Commenced	30 June 2003 (s 2)

***Financial Management Amendment Act 2009 (Act No. 15, 2009)***

Assent date	18 June 2009
Commenced	18 June 2009

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***National Health Funding Pool and Administration (National Uniform Legislation) Act 2012 (Act No. 21, 2012)***

Assent date 30 June 2012  
Commenced 19 July 2012 (Gaz S36, 17 July 2012)

***Local Government Amendment Act 2014 (Act No. 19, 2014)***

Assent date 2 June 2014  
Commenced s 16: 1 July 2014; s 18: 1 December 2014; rem: 2 June 2014, (s 2)

### 3 SAVINGS AND TRANSITIONAL PROVISIONS

s 6 *Financial Management Amendment Act 2003* (Act No. 27, 2003)

### 4 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 3, 8, 9 and 12.

### 5 LIST OF AMENDMENTS

- s 3 amd No. 23, 1997, s 6; No. 75, 1999, s 4; No. 7, 2001, s 3; No. 49, 2002, s 3; No. 15, 2009, s 3; No. 21, 2012, s 33; No. 19, 2014, s 26
- s 4 amd No. 49, 2002, s 4
- s 5 amd No. 49, 2002, s 5; No. 27, 2003, s 4; No. 15, 2009, s 4
- s 6 amd No. 17, 1997, s 8; No. 75, 1999, s 5; No. 49, 2002, s 6; No. 21, 2012, s 34
- s 7 amd No. 75, 1999, s 6
- s 8 amd No. 49, 2002, s 7  
sub No. 27, 2003, s 5
- s 9 amd No. 75, 1999, s 7  
sub No. 27, 2003, s 5  
amd No. 15, 2009, s 5
- s 10 amd No. 15, 2009, s 6
- s 11 amd No. 75, 1999, s 8; No. 49, 2002, s 8; No. 15, 2009, s 7
- s 13 amd No. 75, 1999, s 9; No. 49, 2002, s 9; No. 21, 2012, s 35
- s 14 amd No. 49, 2002, s 10
- s 15 amd No. 49, 2002, s 11; No. 21, 2012, s 36
- s 16 amd No. 17, 1997, s 8  
sub No. 75, 1999, s 10  
amd No. 49, 2002, s 12
- s 18 amd No. 49, 2002, s 13; No. 15, 2009, s 15
- s 19 amd No. 49, 2002, s 14; No. 15, 2009, s 8
- s 19A ins No. 15, 2009, s 9
- s 20 amd No. 49, 2002, s 15; No. 15, 2009, s 10
- s 21 amd No. 49, 2002, s 16; No. 15, 2009, s 15
- s 22 rep No. 15, 2009, s 11
- s 23 amd No. 17, 1997, s 8; No. 75, 1999, s 11  
rep No. 49, 2002, s 17
- s 24 sub No. 15, 2009, s 12
- s 25 sub No. 75, 1999, s 12  
rep No. 49, 2002, s 17
- s 26 amd No. 49, 2002, s 18

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s 27	amd No. 23, 1997, s 6; No. 49, 2002, s 19; No. 15, 2009, s 15; No. 21, 2012, s 37
s 28	amd No. 75, 1999, s.13
s 29	amd No. 23, 1997, s 6; No. 49, 2002, s 20; No. 15, 2009, s 15
s 30	amd No. 49, 2002, s 21; No. 15, 2009, s 15
s 31	amd No. 75, 1999, s 14
s 34	amd No. 75, 1999, s 15; No. 15, 2009, s 15
s 36	sub No. 75, 1999, s 16
	amd No. 49, 2002, s 22
s 38	amd No. 49, 2002, s 23
s 39	amd No. 15, 2009, s 15
s 40	amd No. 49, 2002, s 24; No. 15, 2009, s 15
s 41	amd No. 49, 2002, s 25
pt 8 hdg	sub No. 15, 2009, s 13
ss 42 – 44	sub No. 15, 2009, s 13
s 45	rep No. 15, 2009, s 13
s 46	ins No. 49, 2002, s 26
	rep No. 15, 2009, s 13
sch	rep No. 15, 2009, s 14