



# **Financial Management and Accountability Act 1997**

**Act No. 154 of 1997 as amended**

This compilation was prepared on 2 March 2005  
taking into account amendments up to Act No. 8 of 2005

The text of any of those amendments not in force  
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be  
affected by application provisions that are set out in the Notes section

Prepared by the Office of Legislative Drafting and Publishing,  
Attorney-General's Department, Canberra



## Reader's guide

This Guide aims to give you a general overview of the matters covered by this Act. It also gives you some information about the way this Act is organised.

## Overview of this Act

The main purpose of this Act is to provide a framework for the proper management of public money and public property. **Public money** and **public property** are defined in section 5. Broadly, those terms refer to money or property that is owned or held by the Commonwealth, including money or property held on trust.

This Act contains rules about how public money and property are to be dealt with. Many of the detailed rules are in Finance Minister's Orders made under section 63 and regulations made under section 65.

Many of the rules in this Act apply to officials of Agencies and to Chief Executives of Agencies. **Agency**, **official** and **Chief Executive** are defined in section 5.

## Summary of this Act

- Part 1 **Preliminary**: This Part deals with the commencement of this Act, its application to things outside Australia and its application to the Crown.
- Part 2 **General provisions about definitions and offences**: This Part contains definitions of terms that are frequently used throughout this Act and general provisions about offences.
- Part 3 **Collection, custody etc. of public money**: This Part deals with the collection and custody of public money. It deals with matters such as banking and liability for loss of public money.
- Part 4 **Accounting, appropriations and payments**: This Part establishes an accounting framework for public money that involves the Consolidated Revenue Fund and a system of accounts called

Special Accounts. This Part has a number of rules that apply to Parliamentary appropriations. It also deals with miscellaneous matters such as act of grace payments by the Commonwealth and waiver of debts owing to the Commonwealth.

Part 5 ***Borrowing and investment***: This Part gives the Finance Minister limited powers to borrow money on behalf of the Commonwealth. It also deals with the investment of public money.

Part 6 ***Control and management of public property***: This Part has rules about the control and management of public property. It deals with matters such as misapplication of public property and liability for loss of public property.

Part 7 ***Special responsibilities of Chief Executives***: The rules in this Part apply to Chief Executives of Agencies. The rules deal generally with the control and management of public money and public property for which Chief Executives have a management responsibility.

Part 8 ***Reporting and audit***: This Part deals with the preparation and audit of financial statements. It also deals with the audit of annual financial statements of Agencies.

Part 9 ***Miscellaneous***: This Part deals with miscellaneous matters such as Finance Minister's Orders, regulations and delegations.

## Related legislation

The following Acts are directly relevant to the operation or interpretation of this Act:

The *Auditor-General Act 1997* establishes the office of Auditor-General and sets out the functions of the Auditor-General. It also provides for the appointment of an Independent Auditor to audit the Australian National Audit Office.

The *Acts Interpretation Act 1901* contains many general rules about the meaning or effect of many terms and provisions that are commonly used in Commonwealth Acts.

This list is not exhaustive. Acts other than those listed above might also affect the operation or interpretation of this Act.

Another related Act is the *Commonwealth Authorities and Companies Act 1997*. It contains reporting rules, accountability rules and other rules that apply to Commonwealth authorities and Commonwealth companies.



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# Contents

<b>Part 1—Preliminary</b>	1
1 Short title [see Note 1] .....	1
2 Commencement [see Note 1].....	1
3 This Act binds the Crown.....	1
4 This Act extends to things outside Australia.....	1
<b>Part 2—General provisions about definitions and offences</b>	2
5 Definitions.....	2
6 Notional payments and receipts by Agencies.....	4
7 Offences .....	4
<b>Part 3—Collection, custody etc. of public money</b>	6
8 Agreements with banks about receipt, transmission etc. of public money .....	6
9 Official bank accounts.....	6
10 Public money must be promptly banked etc.....	7
11 Public money not to be paid into non-official account .....	7
12 Finance Minister’s authority needed for arrangements for receipt etc. of public money by outsiders.....	7
13 Money not to be withdrawn from official account without authority .....	8
14 Misapplication or improper use of public money .....	8
15 Liability for loss of public money .....	8
16 Special Instructions by Finance Minister about handling etc. of special public money.....	9
<b>Part 4—Accounting, appropriations and payments</b>	11
<b>Division 1—Accounts and records in relation to public money</b>	11
19 Accounts and records in relation to public money.....	11
<b>Division 1A—Special Accounts</b>	12
20 Establishment of Special Accounts by Finance Minister .....	12
21 Special Accounts established by other Acts.....	13
22 Disallowance of determinations relating to Special Accounts.....	13
<b>Division 2—Drawing rights</b>	15
26 Drawing rights required for payment etc. of public money.....	15
27 Issue of drawing rights .....	15
<b>Division 3—Appropriations</b>	17
28 Appropriation for repayments required or permitted by law .....	17
30 Appropriation to be reinstated for amounts repaid .....	17
30A Appropriations to take account of recoverable GST.....	17
31 Agreements for “net appropriations”.....	19

---

32	Adjustment of appropriations on change of Agency functions.....	20
<b>Division 4—Miscellaneous</b>		<b>21</b>
33	Finance Minister may approve act of grace payments.....	21
34	Finance Minister may waive debts etc.....	21
35	Finance Minister may approve payments pending probate etc. ....	22
36	Presiding Officers may approve expenditure .....	23
<b>Part 5—Borrowing and investment</b>		<b>24</b>
37	Unauthorised borrowing agreements are invalid.....	24
38	Finance Minister may borrow for short periods .....	24
39	Investment of public money .....	24
<b>Part 6—Control and management of public property</b>		<b>27</b>
40	Custody etc. of securities.....	27
41	Misapplication or improper use of public property .....	27
42	Liability for loss etc. of public property .....	27
43	Gifts of public property .....	28
<b>Part 7—Special responsibilities of Chief Executives</b>		<b>30</b>
44	Promoting efficient, effective and ethical use of Commonwealth resources.....	30
45	Fraud control plan.....	30
46	Audit committee .....	30
47	Recovery of debts .....	30
48	Accounts and records .....	31
49	Annual financial statements.....	31
50	Additional financial statements and information.....	32
51	Reporting requirements on change of Agency functions .....	32
52	Chief Executive’s instructions .....	32
53	Chief Executive may delegate powers.....	33
<b>Part 8—Reporting and audit</b>		<b>34</b>
54	Finance Minister must publish monthly financial statements.....	34
55	Preparation of annual statements by Finance Minister .....	34
56	Audit of Finance Minister’s annual financial statements .....	34
57	Audit of annual financial statements of Agency.....	35
<b>Part 9—Miscellaneous</b>		<b>37</b>
58	Modifications of Act for intelligence or security agency.....	37
59	Advisory Committees for reporting on large waivers etc.....	37
60	Misuse of Commonwealth credit card.....	38
62	Finance Minister may delegate powers.....	38
62A	Treasurer may delegate powers.....	38



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63	Finance Minister's Orders .....	39
64	Guidelines by Ministers.....	39
65	Regulations.....	39
<b>Notes</b>		41



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# **An Act to provide for the proper use and management of public money, public property and other Commonwealth resources, and for related purposes**

## **Part 1—Preliminary**

### **1 Short title** *[see Note 1]*

This Act may be cited as the *Financial Management and Accountability Act 1997*.

### **2 Commencement** *[see Note 1]*

- (1) Subject to subsection (2), this Act commences on a day to be fixed by Proclamation.
- (2) If this Act does not commence under subsection (1) by 1 July in the next calendar year after the calendar year in which this Act receives the Royal Assent, it commences on that 1 July.

### **3 This Act binds the Crown**

This Act binds the Crown in right of the Commonwealth, but does not make the Crown liable to be prosecuted for an offence.

### **4 This Act extends to things outside Australia**

This Act extends to acts, omissions, matters and things outside Australia (unless the contrary intention appears).

## Part 2—General provisions about definitions and offences

### 5 Definitions

In this Act, unless the contrary intention appears:

**Agency** means:

- (a) a Department of State:
  - (i) including persons who are allocated to the Department (for the purposes of this Act) by regulations made for the purposes of this paragraph; but
  - (ii) not including any part of the Department that is a prescribed Agency;
- (b) a Department of the Parliament, including persons who are allocated to the Department (for the purposes of this Act) by regulations made for the purposes of this paragraph;
- (c) a prescribed Agency.

**appropriation** means an authority under this Act or any other law to draw money from the Consolidated Revenue Fund, whether or not the law concerned uses the word “appropriation” or “appropriated”.

**bank** means:

- (a) a person who carries on the business of banking, either in Australia or outside Australia; or
- (b) any other institution:
  - (i) that carries on a business in Australia that consists of or includes taking money on deposit; and
  - (ii) the operations of which are subject to prudential supervision or regulation under a law of the Commonwealth, a State or a Territory.

**Chief Executive** means:

- (a) for a prescribed Agency—the person identified by the regulations as the Chief Executive of the Agency; or

- (b) for any other Agency—the person who is the Secretary of the Agency for the purposes of the *Public Service Act 1999* or the *Parliamentary Service Act 1999*.

**CRF** or **Consolidated Revenue Fund** means the Consolidated Revenue Fund referred to in section 81 of the Constitution.

**Finance Minister** means the Minister who administers this Act.

**Finance Minister's Orders** means Orders made under section 63.

**Minister** includes a Presiding Officer.

**official** means a person who is in an Agency or is part of an Agency.

**official account** means a bank account referred to in section 9.

**prescribed Agency** means a body, organisation or group of persons prescribed by the regulations for the purposes of this definition.

**Presiding Officer** means the President of the Senate or the Speaker of the House of Representatives.

**public money** means:

- (a) money in the custody or under the control of the Commonwealth; or
- (b) money in the custody or under the control of any person acting for or on behalf of the Commonwealth in respect of the custody or control of the money;

including such money that is held on trust for, or otherwise for the benefit of, a person other than the Commonwealth.

**public property** means:

- (a) property in the custody or under the control of the Commonwealth; or
- (b) property in the custody or under the control of any person acting for or on behalf of the Commonwealth in respect of the custody or control of the property;

including such property that is held on trust for, or otherwise for the benefit of, a person other than the Commonwealth.

Section 6

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**Special Account** means:

- (a) a Special Account that is established by the Finance Minister under section 20; or
- (b) a Special Account that is established by an Act other than this Act.

Note: See also the *Financial Management Legislation Amendment Act 1999*, which converted components of previously existing funds into Special Accounts.

**Special Instruction** means an instruction by the Finance Minister under section 16.

**special public money** has the meaning given by section 16.

## 6 Notional payments and receipts by Agencies

- (1) This Act applies to a notional payment by an Agency (or part of an Agency) as if it were a real payment by the Commonwealth.
- (2) This Act applies to a notional receipt by an Agency (or part of an Agency) of such a notional payment as if it were a real receipt by the Commonwealth.

Note: This section applies to transactions that do not actually involve payments or receipts, because the parties to the transaction are merely parts of the Commonwealth, or acting as agents for the Commonwealth. For example, Agency 1 “pays” Agency 2 for services provided by Agency 2. One of the effects of this section is that a drawing right under section 27 will be required for the transaction.

## 7 Offences

- (1) Chapter 2 of the *Criminal Code* applies to all offences against this Act.
- (2) A maximum penalty that is specified:
  - (a) at the foot of a section of this Act (other than a section that is divided into subsections); or
  - (b) at the foot of a subsection of this Act;

indicates that a person who contravenes the section or subsection is guilty of an offence against the section or subsection that is punishable, on conviction, by a penalty up to that maximum.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: If the specified penalty is imprisonment only, section 4B of the *Crimes Act 1914* allows the court to impose a fine instead of imprisonment or in addition to imprisonment.

## Part 3—Collection, custody etc. of public money

### 8 Agreements with banks about receipt, transmission etc. of public money

- (1) The Finance Minister may, on behalf of the Commonwealth, enter into an agreement with any bank:
  - (a) for the receipt, custody, payment or transmission of public money, either inside or outside Australia; or
  - (b) for any other matter relating to the conduct of the banking business of the Commonwealth.
- (2) An agreement under this section may provide for the payment of interest and other charges by the Commonwealth.
- (3) An agreement under this section may not provide for overdraft drawings by the Commonwealth unless it provides for each drawing to be repaid within 30 days.

Note: An overdraft drawing consists of the bank meeting the payment of a cheque, or making an “electronic payment” to another account, and in each case debiting the payment against an account that has an insufficient balance. Section 38 deals with overdrafts that arise in respect of *advances* that are paid to the Commonwealth.

- (4) An agreement for an overdraft on an official account must not be made except under this section.
- (5) An agreement under this section may not be made for a period of more than one year unless the agreement can be terminated by the Commonwealth at any time after giving notice of not more than 6 months.

### 9 Official bank accounts

- (1) The Finance Minister may open and maintain bank accounts in accordance with agreements under section 8, and must open and maintain at least one such bank account.
- (2) A bank account must have a name that includes the word “Official”.



- (3) An account for the receipt, custody, payment or transmission of public money must not be opened except in accordance with this section.

### **10 Public money must be promptly banked etc.**

An official or Minister who receives public money (including money that becomes public money upon receipt) must bank it as required by the Finance Minister's Orders or otherwise deal with it as required by the Finance Minister's Orders. For this purpose, *money* includes cheques and similar instruments.

Maximum penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **11 Public money not to be paid into non-official account**

An official or Minister must not deposit public money in any account other than an official account. For this purpose, *money* includes cheques and similar instruments.

Maximum penalty: Imprisonment for 7 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **12 Finance Minister's authority needed for arrangements for receipt etc. of public money by outsiders**

An official or Minister must not enter into an agreement or arrangement for the receipt or custody of public money by an outsider unless:

- (a) the Finance Minister has first given a written authorisation for the arrangement; or
- (b) the arrangement is expressly authorised by this Act or by another Act.

## Section 13

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For this purpose, *outsider* means any person other than the Commonwealth, an official or a Minister.

Maximum penalty: Imprisonment for 7 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **13 Money not to be withdrawn from official account without authority**

An official must not withdraw money from an official account except as authorised by the Finance Minister's Orders.

Maximum penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **14 Misapplication or improper use of public money**

An official or Minister must not misapply public money or improperly dispose of, or improperly use, public money.

Maximum penalty: Imprisonment for 7 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **15 Liability for loss of public money**

- (1) If:
  - (a) a loss of public money occurs; and
  - (b) at the time of the loss, an official or Minister had nominal custody of the money as described in subsection (2);the official or Minister is liable to pay to the Commonwealth an amount equal to the loss. However, it is a defence if the person proves that he or she took reasonable steps in all the circumstances to prevent the loss.
- (2) A person has nominal custody of public money if:
  - (a) the person holds the money by way of a petty cash advance, "change float" or other advance; or

- (b) the person has received the money, but has not yet dealt with it as required by section 10.
- (3) If:
  - (a) a loss of public money occurs; and
  - (b) an official or Minister caused or contributed to the loss by misconduct, or by a deliberate or serious disregard of reasonable standards of care;the official or Minister is liable to pay to the Commonwealth an amount equal to the loss. However, if the person's misconduct or disregard was not the sole cause of the loss, the person is liable to pay only so much of the loss as is just and equitable having regard to the person's share of the responsibility for the loss.
- (4) A person's liability under this section that arises when the person is an official or Minister is not avoided merely because the person ceases to be an official or Minister.
- (5) An amount payable to the Commonwealth under this section is recoverable as a debt in a court of competent jurisdiction.
- (6) The Commonwealth is not entitled to recover amounts from the same person under both subsections (1) and (3) for the same loss.
- (7) In this section:  
*loss* includes a deficiency.

### **16 Special Instructions by Finance Minister about handling etc. of special public money**

- (1) The Finance Minister may issue Special Instructions in writing about special public money, including instructions about:
  - (a) the custody of special public money;
  - (b) the investment of special public money;
  - (c) the application of interest or other amounts derived from the investment of special public money;
  - (d) the application of special public money in paying the expenses involved in dealing with special public money.
- (2) In case of inconsistency, Special Instructions override this Act, the regulations and the Finance Minister's Orders. However, Special

**Section 16**

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Instructions cannot be inconsistent with the terms of any trust that applies to the money concerned.

- (3) An official or Minister must not contravene any Special Instruction.

Maximum penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (4) In this section:

***special public money*** means public money that is not held on account of the Commonwealth or for the use or benefit of the Commonwealth.

Note: Money held by the Commonwealth on trust for another person is an example of special public money.

## **Part 4—Accounting, appropriations and payments**

### **Division 1—Accounts and records in relation to public money**

#### **19 Accounts and records in relation to public money**

The Finance Minister must cause proper accounts and records to be kept in relation to the receipt and expenditure of public money.

Note: Section 48 requires Chief Executives of Agencies to keep accounts and records in accordance with the Finance Minister's Orders.

## Division 1A—Special Accounts

### 20 Establishment of Special Accounts by Finance Minister

- (1) The Finance Minister may make a written determination that does all of the following:
  - (a) establishes a Special Account;
  - (b) allows or requires amounts to be credited to the Special Account;
  - (c) specifies the purposes for which amounts are allowed or required to be debited from the Special Account.
- (1A) A determination under subsection (1) may specify that an amount may or must be debited from a Special Account established under subsection (1) otherwise than in relation to the making of a real or notional payment.
- (2) The Finance Minister may make a determination that revokes or varies a determination made under subsection (1).
- (3) The Finance Minister may make a determination that abolishes a Special Account established under subsection (1).
- (4) The CRF is hereby appropriated for expenditure for the purposes of a Special Account established under subsection (1), up to the balance for the time being of the Special Account.

Note: An Appropriation Act provides for amounts to be credited to a Special Account if any of the purposes of the Account is a purpose that is covered by an item in the Appropriation Act.

- (4A) If the Finance Minister makes a determination that allows an amount standing to the credit of a Special Account to be expended in making payments for a particular purpose, then, unless the contrary intention appears, the amount may also be applied in making notional payments for that purpose.

Note: This subsection applies to transactions that do not actually involve payments because the parties to the transaction are merely parts of the Commonwealth or acting as agents for the Commonwealth. For example, Agency 1 “pays” Agency 2 for services provided by Agency 2.

- (5) Whenever an amount is debited against the appropriation in subsection (4), the amount is taken to be also debited from the Special Account.

## **21 Special Accounts established by other Acts**

- (1) If another Act establishes a Special Account and identifies the purposes of the Special Account, then the CRF is hereby appropriated for expenditure for those purposes, up to the balance for the time being of the Special Account.

Note 1: An Act that establishes a Special Account will identify the amounts that are to be credited to the Special Account.

Note 2: An Appropriation Act provides for amounts to be credited to a Special Account if any of the purposes of the Account is a purpose that is covered by an item in the Appropriation Act.

- (1A) If an Act allows an amount standing to the credit of a Special Account to be applied, debited, paid or otherwise used for a particular purpose, then, unless the contrary intention appears, the amount may also be applied, paid or otherwise used in making a notional payment for that purpose.

Note: This subsection applies to transactions that do not actually involve payments because the parties to the transaction are merely parts of the Commonwealth or acting as agents for the Commonwealth. For example, Agency 1 “pays” Agency 2 for services provided by Agency 2.

- (2) Whenever an amount is debited against the appropriation in subsection (1), the amount is taken to be also debited from the Special Account.

## **22 Disallowance of determinations relating to Special Accounts**

- (1) This section applies to a determination made by the Finance Minister under subsection 20(1) or (2).
- (2) The Finance Minister must cause a copy of the determination to be tabled in each House of the Parliament.
- (3) Either House may, following a motion upon notice, pass a resolution disallowing the determination. To be effective, the resolution must be passed within 5 sitting days of the House after the copy of the determination was tabled in the House.

**Part 4** Accounting, appropriations and payments

**Division 1A** Special Accounts

Section 22

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- (4) If neither House passes such a resolution, the determination takes effect on the day immediately after the last day upon which such a resolution could have been passed.



## **Division 2—Drawing rights**

### **26 Drawing rights required for payment etc. of public money**

An official or Minister must not do any of the following except as authorised by a valid drawing right:

- (a) make a payment of public money;
- (b) request that an amount be debited against an appropriation;
- (c) debit an amount against an appropriation.

Maximum penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **27 Issue of drawing rights**

- (1) The Finance Minister may issue a drawing right to an official or Minister that authorises the official or Minister to do one or more of the following:
  - (a) make a payment of public money for a specified purpose;
  - (b) request the debiting of an amount against a particular appropriation;
  - (c) debit an amount against a particular appropriation.
- (2) If a law requires the payment of an amount of public money and there is an available appropriation for that payment:
  - (a) the Finance Minister must issue sufficient drawing rights to allow the amount to be paid in full; and
  - (b) the recipient of any of those drawing rights must exercise the rights in full.
- (3) If a law permits the payment of an amount of public money, but does not require the payment of that amount, there is no obligation to issue or exercise drawing rights for that amount.
- (4) The Finance Minister may at any time revoke or amend a drawing right.

**Part 4** Accounting, appropriations and payments

**Division 2** Drawing rights

Section 27

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- (5) A drawing right has no effect to the extent that it claims to authorise the application of public money in a way that is not authorised by an appropriation.

## **Division 3—Appropriations**

### **28 Appropriation for repayments required or permitted by law**

- (1) This section applies if:
  - (a) an Act or other law requires or permits the repayment of an amount received by the Commonwealth; and
  - (b) apart from this section there is no appropriation for the repayment.

Note: For example, this section would apply to a law that requires an application fee to be refunded to an unsuccessful applicant. It would also apply to a contractual obligation to repay a loan.

- (2) The CRF is appropriated for the repayment.
- (3) If the amount received by the Commonwealth was credited to a Special Account, then the repayment must be debited from that Special Account.

### **30 Appropriation to be reinstated for amounts repaid**

If an amount is repaid to the Commonwealth after having been paid out of the CRF under the authority of an appropriation, then the appropriation has effect as if the amount had not been paid out.

Note: The amount repaid will be available to be paid out again, subject to any time limits that apply to the appropriation.

### **30A Appropriations to take account of recoverable GST**

#### *Appropriation for recoverable GST on acquisitions*

- (1) If:
  - (a) a payment in respect of an acquisition is to be made in reliance on a limited appropriation; and
  - (b) a GST qualifying amount has arisen, or will arise, for that acquisition;then the appropriation is increased by the amount of the GST qualifying amount. The increase in the appropriation takes effect immediately before the payment is made.

Section 30A

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- (2) If:
- (a) a payment in respect of an acquisition has been made (either before or after the commencement of this section) in reliance on a limited appropriation; and
  - (b) a GST qualifying amount later arises for that acquisition;
- then the appropriation is increased by the amount of the GST qualifying amount. The increase in the appropriation takes effect when the GST qualifying amount arises.
- (3) The total of the increases under subsections (1) and (2) for an acquisition cannot be more than the total of the GST qualifying amounts for that acquisition.

*Appropriation for recoverable GST on importations*

- (4) If:
- (a) a payment of GST on an importation is to be made in reliance on a limited appropriation; and
  - (b) a GST qualifying amount has arisen, or will arise, for that importation;
- then the appropriation is increased by the amount of the GST qualifying amount. The increase in the appropriation takes effect immediately before the payment is made.
- (5) If:
- (a) a payment of GST on an importation has been made in reliance on a limited appropriation; and
  - (b) a GST qualifying amount later arises for that importation;
- then the appropriation is increased by the amount of the GST qualifying amount. The increase in the appropriation takes effect when the GST qualifying amount arises.
- (6) The total of the increases under subsections (4) and (5) for an importation cannot be more than the total of the GST qualifying amounts for that importation.

*Definitions*

- (7) In this section:
- acquisition*** has the same meaning as in the GST Act.

**GST** has the same meaning as in the GST Act.

**GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999*, as it applies because of Division 177 of that Act.

Note: Under Division 177 of the GST Act, that Act applies notionally to the Commonwealth and Commonwealth entities. They are therefore notionally liable to pay GST, are notionally entitled to input tax credits and notionally have adjustments.

**GST qualifying amount** means:

- (a) an input tax credit (within the meaning of the GST Act); or
- (b) a decreasing adjustment (within the meaning of the GST Act).

**importation** has the same meaning as in the GST Act.

**limited appropriation** means an appropriation that is limited as to amount.

### **31 Agreements for “net appropriations”**

- (1) The Finance Minister may enter into agreements for the purposes of items in Appropriation Acts that are marked “net appropriation”.
- (2) In the case of items for which the Finance Minister is responsible, the agreement is to be made with the Chief Executive of the Agency for which the appropriation is made. In all other cases, the agreement is to be made with the Minister who is responsible for the item.
- (3) An agreement need not relate to a particular Appropriation Act or Acts and may be made for any period, including a period longer than a financial year.
- (4) The Finance Minister may at any time cancel or vary an agreement, without the consent of the other party.
- (5) In this section:

**Appropriation Act** includes a Supply Act.

**32 Adjustment of appropriations on change of Agency functions**

- (1) This section applies if a function of an Agency (the *old Agency*) becomes a function of another Agency (the *new Agency*), either because the old Agency is abolished or for any other reason.
- (2) The Finance Minister may:
  - (a) issue one or more directions to transfer from the old Agency to the new Agency some or all of an amount that has been appropriated for the performance of that function by the old Agency; and
  - (b) issue one or more directions to transfer from the new Agency back to the old Agency the whole or a part of an amount that was transferred to the new Agency by a direction under paragraph (a).
- (3) The Finance Minister may not issue a direction that transfers an amount between Departments of the Parliament except in accordance with a written recommendation of the Presiding Officers.
- (4) A direction has effect from the time it is issued.
- (5) A direction does not have the effect of extending any time limit that applies to the appropriation concerned.

## **Division 4—Miscellaneous**

### **33 Finance Minister may approve act of grace payments**

- (1) If the Finance Minister considers it appropriate to do so because of special circumstances, he or she may authorise the making of any of the following payments to a person (even though the payment or payments would not otherwise be authorised by law or required to meet a legal liability):
  - (a) one or more payments of an amount or amounts specified in the authorisation (or worked out in accordance with the authorisation);
  - (b) periodical payments of an amount specified in the authorisation (or worked out in accordance with the authorisation), during a period specified in the authorisation (or worked out in accordance with the authorisation).
- (2) If a proposed authorisation would involve, or be likely to involve, a total amount of more than \$100,000, the Finance Minister must first consider a report of an Advisory Committee set up under section 59.
- (3) Conditions may be attached to payments under this section. If a condition is breached, the payment may be recovered by the Commonwealth as a debt in a court of competent jurisdiction.
- (4) Payments under this section are to be made out of money appropriated by the Parliament for the purposes of this section.

### **34 Finance Minister may waive debts etc.**

- (1) The Finance Minister may, on behalf of the Commonwealth:
  - (a) waive the Commonwealth's right to payment of an amount owing to the Commonwealth;
  - (b) postpone any right of the Commonwealth to be paid a debt in priority to another debt or debts;
  - (c) allow the payment by instalments of an amount owing to the Commonwealth;

Section 35

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- (d) defer the time for payment of an amount owing to the Commonwealth.
- (2) If a proposed waiver under paragraph (1)(a) involves, or is likely to involve, a total amount of more than \$100,000, the Finance Minister must consider a report of an Advisory Committee set up under section 59 before taking action on the waiver.
- (3) A waiver may be made either unconditionally or on the condition that a person agrees to pay an amount to the Commonwealth in specified circumstances.
- (4) In this section:  
*amount owing to the Commonwealth* includes an amount that is owing but not yet due for payment.

**35 Finance Minister may approve payments pending probate etc.**

- (1) If, at the time of a person's death, the Commonwealth owed an amount to the person, the Finance Minister may authorise payment of that amount to the person who the Minister considers should receive the payment.
- (2) The Minister may authorise the payment without requiring production of probate of the will of the deceased person or letters of administration of the estate of the deceased person.
- (3) In deciding who should be paid, the Finance Minister must have regard to the persons who are entitled to the property of the deceased person under the deceased person's will or under the law relating to the disposition of the property of deceased persons.
- (4) After the payment is made, the Commonwealth has no further liability in respect of the payment. However, this section does not relieve the recipient from a liability to deal with the money in accordance with law.
- (5) This section does not have the effect of appropriating the CRF for the purposes of payments under this section.
- (6) This section extends to cases where the deceased person died before the commencement of this section.



### **36 Presiding Officers may approve expenditure**

- (1) The following persons have authority to approve a proposal to spend public money under an appropriation for a Department of the Parliament:
  - (a) a Presiding Officer, for expenditure under an appropriation for which he or she alone is responsible;
  - (b) the Presiding Officers jointly, for expenditure under an appropriation for which they are jointly responsible.
- (2) A Presiding Officer may by written instrument delegate his or her powers under this section to an official. In exercising powers under the delegation, the official must comply with any directions of the Presiding Officer.

## Part 5—Borrowing and investment

### 37 Unauthorised borrowing agreements are invalid

An agreement for the borrowing of money by the Commonwealth is of no effect unless the borrowing is authorised by an Act. For this purpose, *borrowing* includes obtaining an advance on overdraft.

### 38 Finance Minister may borrow for short periods

- (1) The Finance Minister, on behalf of the Commonwealth, may enter into an agreement with any bank for borrowing money from the bank by way of advances (including advances on overdraft) that are to be paid to the Commonwealth and repaid by the Commonwealth within 90 days.
- (2) The Finance Minister, on behalf of the Commonwealth, may enter into agreements in accordance with the regulations for borrowing money from banks or other persons. Such an agreement must require the money to be repaid within 60 days after the Commonwealth is notified by the lender of the amount borrowed.

### 39 Investment of public money

- (1) The Finance Minister may invest public money in any authorised investment.
- (2) For the purpose of managing the public debt of the Commonwealth, the Treasurer may invest public money in any authorised investment.
- (3) An investment of public money under this section must not be inconsistent with the terms of any trust that applies to the money concerned.
- (4) If an amount invested under this section was debited from a Special Account, then expenses of the investment may be debited from that Special Account.

- (5) Upon realisation of an investment of an amount debited from a Special Account, the proceeds of the investment must be credited to that Special Account.
- (6) At any time before an investment matures, the Finance Minister or Treasurer, as the case requires, may authorise the re-investment of the proceeds upon maturity in an authorised investment with the same entity.

Note: The proceeds of investment of the original investment will not become public money when the investment matures because the proceeds will not be received by or on behalf of the Commonwealth.

- (7) The corporation established by section 62B of the *Audit Act 1901* is continued in existence for the purposes of this section with the name “The Minister for Finance of the Commonwealth”. Investments by the Finance Minister under this section must be made in that corporate name.
- (8) The corporation established by section 8 of the *Loan Consolidation and Investment Reserve Act 1955* is continued in existence for the purposes of this section with the name “The Treasurer of the Commonwealth”. Investments by the Treasurer under this section must be made in that corporate name.
- (9) The CRF is appropriated as necessary for the purposes of this section.
- (10) In this section:

***authorised investment*** means:

- (a) in relation to the Finance Minister—any of the following investments:
- (i) securities of the Commonwealth or of a State or Territory;
  - (ii) securities guaranteed by the Commonwealth, a State or a Territory;
  - (iii) a deposit with a bank, including a deposit evidenced by a certificate of deposit;
  - (iv) any other form of investment prescribed by the regulations; and
- (b) in relation to the Treasurer—any of the following investments:

Section 39

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- (i) securities of the Commonwealth or of a State or Territory;
- (ii) securities guaranteed by the Commonwealth, a State or a Territory;
- (iii) a deposit with a bank, including a deposit evidenced by a certificate of deposit;
- (iv) debt instruments issued or guaranteed by:
  - (A) the government of a foreign country; or
  - (B) a financial institution whose members consist of foreign countries, or of Australia and foreign countries;being debt instruments with a credit rating that is consistent with the sound management of public debt;
- (v) any other form of investment prescribed by the regulations.

## **Part 6—Control and management of public property**

### **40 Custody etc. of securities**

An official who receives any bonds, debentures or other securities in the course of carrying out duties as an official must deal with them in accordance with the Finance Minister's Orders.

Maximum penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **41 Misapplication or improper use of public property**

An official or Minister must not misapply public property or improperly dispose of, or improperly use, public property.

Maximum penalty: Imprisonment for 7 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

### **42 Liability for loss etc. of public property**

- (1) If:
  - (a) a loss of public property occurs; and
  - (b) at the time of the loss, an official or Minister had nominal custody of the property as described in subsection (2);the official or Minister is liable to pay to the Commonwealth the amount of the loss. However, it is a defence if the person proves that he or she took reasonable steps in all the circumstances to prevent the loss.
- (2) A person (the *custodian*) has nominal custody of public property if both of the following conditions are satisfied:
  - (a) the custodian has taken delivery of the property and has not returned it to the person entitled to receive the property on behalf of the Commonwealth;

Section 43

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- (b) when the custodian took delivery of the property the custodian signed a written acknowledgment that the property was delivered on the express condition that the custodian would at all times take strict care of the property.
- (3) If:
- (a) a loss of public property occurs; and
  - (b) an official or Minister caused or contributed to the loss by misconduct, or by a deliberate or serious disregard of reasonable standards of care;
- the official or Minister is liable to pay to the Commonwealth the amount of the loss. However, if the person's misconduct or disregard was not the sole cause of the loss, the person is liable to pay only so much of the amount of the loss as is just and equitable having regard to the person's share of the responsibility for the loss.
- (4) A person's liability under this section that arises when the person is an official or Minister is not avoided merely because the person ceases to be an official or Minister.
- (5) An amount payable to the Commonwealth under this section is recoverable as a debt in a court of competent jurisdiction.
- (6) The Commonwealth is not entitled to recover amounts from the same person under both subsections (1) and (3) for the same loss.
- (7) In this section:
- amount of the loss* means:
- (a) if the property is damaged—the value of the property or the cost of repairing the property, whichever is less;
  - (b) in all other cases—the value of the property.

*loss* includes destruction or damage.

### 43 Gifts of public property

An official or Minister must not make a gift of public property unless:

- (a) the making of the gift is expressly authorised by law; or

- (b) the Finance Minister has given written approval to the gift being made; or
- (c) the Commonwealth acquired the property to use it as a gift.

Maximum penalty: Imprisonment for 7 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

## Part 7—Special responsibilities of Chief Executives

### 44 Promoting efficient, effective and ethical use of Commonwealth resources

- (1) A Chief Executive must manage the affairs of the Agency in a way that promotes proper use of the Commonwealth resources for which the Chief Executive is responsible.
- (2) If compliance with the requirements of the regulations, Finance Minister's Orders, Special Instructions or any other law would hinder or prevent the proper use of those resources, the Chief Executive must manage so as to promote proper use of those resources to the greatest extent practicable while complying with those requirements.
- (3) In this section:  
*proper use* means efficient, effective and ethical use.

### 45 Fraud control plan

A Chief Executive must implement a fraud control plan for the Agency. For this purpose, *fraud* includes fraud by persons outside the Agency in relation to activities of the Agency.

### 46 Audit committee

A Chief Executive must establish and maintain an audit committee for the Agency, with the functions and responsibilities required by the Finance Minister's Orders.

### 47 Recovery of debts

- (1) A Chief Executive must pursue recovery of each debt for which the Chief Executive is responsible unless:
  - (a) the debt has been written off as authorised by an Act; or
  - (b) the Chief Executive is satisfied that the debt is not legally recoverable; or



- (c) the Chief Executive considers that it is not economical to pursue recovery of the debt.
- (2) For the purposes of subsection (1), a Chief Executive is responsible for:
  - (a) debts owing to the Commonwealth in respect of the operations of the Agency; and
  - (b) debts owing to the Commonwealth that the Finance Minister has allocated to the Chief Executive.

#### **48 Accounts and records**

- (1) A Chief Executive must ensure that accounts and records of the Agency are kept as required by the Finance Minister's Orders.
- (2) The Finance Minister is entitled to full and free access to the accounts and records kept under subsection (1). However, the Finance Minister's access is subject to any law that prohibits disclosure of particular information.

#### **49 Annual financial statements**

- (1) A Chief Executive must give to the Auditor-General the annual financial statements required by the Finance Minister's Orders.
- (2) The financial statements must be prepared in accordance with the Finance Minister's Orders and must give a true and fair view of the matters that those Orders require to be included in the statements.
- (3) If financial statements prepared in accordance with the Finance Minister's Orders would not otherwise give a true and fair view of the matters required by those Orders, the Chief Executive must add such information and explanations as will give a true and fair view of those matters.
- (4) In the financial statements, the Chief Executive must state whether, in his or her opinion, the financial statements give a true and fair view of the matters required by Finance Minister's Orders.

Section 50

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**50 Additional financial statements and information**

- (1) A Chief Executive must, when required by the Finance Minister, give the Finance Minister financial statements covering a period of less than a financial year. The Finance Minister may require the statements to include some or all of the details that are required to be included in the annual financial statements.
- (2) A Chief Executive must give the Finance Minister any information that the Finance Minister requires about the financial affairs of the Agency. However, a Chief Executive is not required to give information whose disclosure is prohibited by any law.

**51 Reporting requirements on change of Agency functions**

- (1) If an Agency ceases to exist, the financial statements that would have been required to be prepared under section 49 by the Chief Executive of that Agency must be prepared instead by another Chief Executive nominated by the Finance Minister. However, the statements need not deal with any functions that were transferred from the Agency that ceased to exist to another Agency.
- (2) If a function is transferred between 2 or more Agencies in a financial year, the financial statements under section 49 for that function must be prepared by the Chief Executive of one of those Agencies, or by the Chief Executives of 2 or more of those Agencies, as directed by the Finance Minister.

**52 Chief Executive's instructions**

- (1) The regulations may authorise Chief Executives to give instructions to officials in their Agencies on any matter on which regulations may be made under this Act.
- (2) An instruction cannot create offences or impose penalties.

**53 Chief Executive may delegate powers**

- (1) A Chief Executive may, by written instrument, delegate any of the following powers and functions to an official in any Agency:
  - (a) the Chief Executive's powers or functions under this Act (including powers or functions that have been delegated to the Chief Executive under section 62 or 62A);
  - (b) the Chief Executive's power to give instructions under regulations referred to in section 52.
- (1A) If the Chief Executive delegates to a person (the *second delegate*) a power or function that has been delegated to the Chief Executive under section 62 or 62A, then that power or function, when exercised or performed by the second delegate, is taken for the purposes of this Act to have been exercised or performed by the Finance Minister or Treasurer.
- (2) If the Chief Executive is subject to directions in relation to the exercise of a power or function delegated to the Chief Executive under section 62 or 62A, the Chief Executive must give corresponding directions to the second delegate.
- (3) The second delegate must comply with any directions of the Chief Executive.

## **Part 8—Reporting and audit**

### **54 Finance Minister must publish monthly financial statements**

- (1) As soon as practicable after the end of each month of a financial year, the Finance Minister must publish financial statements in relation to that month.
- (2) The statements must be in a form that is consistent with the budget estimates for the financial year.
- (3) The statements may include any additional information that the Finance Minister considers relevant.

### **55 Preparation of annual statements by Finance Minister**

- (1) As soon as practicable after the end of each financial year, the Finance Minister must prepare the annual financial statements required by the regulations.
- (2) The Finance Minister must give the statements to the Auditor-General as soon as practicable after they are prepared.
- (3) If the Finance Minister has not given the statements to the Auditor-General within 5 months after the end of the financial year, the Finance Minister must cause to be tabled in each House of the Parliament a statement of the reasons why the statements were not given to the Auditor-General within that period.

### **56 Audit of Finance Minister's annual financial statements**

- (1) As soon as practicable after receiving financial statements under section 55, the Auditor-General must examine the statements and prepare an audit report in accordance with the regulations.
- (2) Instead of preparing a single report, the Auditor-General may prepare an initial report and one or more later supplementary reports.

- (3) The Auditor-General must give a copy of each report to the Finance Minister.
- (4) The Finance Minister must cause a copy of each report to be tabled in each House of the Parliament as soon as practicable after receipt. Except in the case of a supplementary report, the copy that is tabled must be accompanied by a copy of the annual financial statements.

### **57 Audit of annual financial statements of Agency**

- (1) As soon as practicable after receiving financial statements under subsection 49(1) for an Agency, the Auditor-General must examine the statements and report in accordance with this section to the Minister responsible for the Agency.
- (2) In the report, the Auditor-General must state whether, in the Auditor-General's opinion, the financial statements:
  - (a) have been prepared in accordance with the Finance Minister's Orders; and
  - (b) give a true and fair view of the matters required by those Orders.

If the Auditor-General is not of that opinion, the Auditor-General must state the reasons.

- (3) If the Auditor-General is of the opinion that failing to prepare the financial statements in accordance with the Finance Minister's Orders has a quantifiable financial effect, the Auditor-General must quantify that financial effect and state the amount.
- (4) If the Auditor-General is of the opinion that the Chief Executive has contravened section 48, the Auditor-General must state particulars of the contravention.
- (5) If the Auditor-General is of the opinion that the Auditor-General did not obtain all necessary information and explanations, the Auditor-General must state particulars of the shortcomings.
- (6) Instead of preparing a single report, the Auditor-General may prepare an initial report and one or more later supplementary reports.

**Section 57**

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- (7) A copy of the financial statements and the Auditor-General's report or reports must be included in the Agency's annual report that is tabled in the Parliament.

## **Part 9—Miscellaneous**

### **58 Modifications of Act for intelligence or security agency**

- (1) The application of this Act to an intelligence or security agency is subject to any modifications that are prescribed by the regulations.
- (2) In this section:

*intelligence or security agency* has the meaning given by section 85ZL of the *Crimes Act 1914*.

*modifications* includes additions, omissions and substitutions.

### **59 Advisory Committees for reporting on large waivers etc.**

- (1) An Advisory Committee for the purposes of this Act consists of:
  - (a) the Chief Executive Officer of Customs; and
  - (b) the Secretary to the Department of Finance and Administration; and
  - (c) the Chief Executive of the Agency that is responsible for the matter on which the Committee has to report.
- (2) If there is no Agency responsible for the matter, or if the responsible Agency is the Department of Finance and Administration or the Australian Customs Service, then the third member of the Committee is to be a Chief Executive nominated by the Finance Minister.
- (3) A member of an Advisory Committee may appoint a deputy to act in his or her place.
- (4) An Advisory Committee may prepare its report without having a meeting.

Section 60

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**60 Misuse of Commonwealth credit card**

- (1) An official or Minister must not use a Commonwealth credit card, or a Commonwealth credit card number, to obtain cash, goods or services otherwise than for the Commonwealth.

Maximum penalty: Imprisonment for 7 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

- (2) Subsection (1) does not apply to a particular use of a Commonwealth credit card or Commonwealth credit card number if:
- (a) the use is authorised by the Finance Minister's Orders; and
  - (b) the Commonwealth is reimbursed in accordance with the Finance Minister's Orders.

- (3) In this section:

***Commonwealth credit card*** means a credit card issued to the Commonwealth to enable the Commonwealth to obtain cash, goods or services on credit.

**62 Finance Minister may delegate powers**

- (1) The Finance Minister may, by written instrument, delegate to an official any of the Finance Minister's powers or functions under this Act, except the power to make Orders.
- (2) In exercising powers or functions under a delegation, the official must comply with any directions of the Finance Minister.

**62A Treasurer may delegate powers**

- (1) The Treasurer may, by written instrument, delegate to an official any of the Treasurer's powers or functions under this Act.
- (2) In exercising powers or functions under a delegation, the official must comply with any directions of the Treasurer.



**63 Finance Minister's Orders**

- (1) The Finance Minister may make Orders:
  - (a) on any matter on which this Act requires or permits Finance Minister's Orders to be made; and
  - (b) on any matter on which regulations may be made.
- (2) An Order cannot create offences or impose penalties.
- (3) An Order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

**64 Guidelines by Ministers**

- (1) The regulations may authorise a Minister to issue guidelines to officials on matters within the Minister's responsibility. The matters must be ones about which regulations may be made under this Act.
- (2) A guideline cannot create offences or impose penalties.

**65 Regulations**

- (1) The Governor-General may make regulations prescribing 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.
- (2) In particular, the regulations may make provision:
  - (a) relating to any of the following matters:
    - (i) handling, spending and accounting for public money;
    - (ii) commitments to spend public money;
    - (iii) recovering amounts owing to the Commonwealth;
    - (iv) using or disposing of public property, or acquiring property that is to be public property;
  - (b) generally for ensuring or promoting:
    - (i) the proper use and management of public money, public property and other resources of the Commonwealth;

Section 65

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- (ii) proper accountability for the use and management of public money, public property and other resources of the Commonwealth;
- (c) for penalties for offences against the regulations by way of fines of up to 10 penalty units

Note: Section 4AA of the *Crimes Act 1914* sets the current value of a penalty unit.

**Table of Acts****Notes to the *Financial Management and Accountability Act 1997*****Note 1**

The *Financial Management and Accountability Act 1997* as shown in this compilation comprises Act No. 154, 1997 amended as indicated in the Tables below.

The *Financial Management and Accountability Act 1997* was amended by the Parliamentary Service (Consequential and Transitional) Determination 2000/1 (No. 1 of 2000). The amendment is incorporated in this compilation.

For all relevant information pertaining to application, saving or transitional provisions see Table A.

**Table of Acts**

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Financial Management and Accountability Act 1997</i>	154, 1997	24 Oct 1997	1 Jan 1998 (see <i>Gazette</i> 1997, No. GN49)	
<i>Financial Management Legislation Amendment Act 1999</i>	20, 1999	19 Apr 1999	Schedule 1 (items 1–33): 1 July 1999 (a)	Ss. 5–9
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (item 481): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (b)	—
<i>Financial Management and Accountability Amendment Act 2000</i>	80, 2000	30 June 2000	30 June 2000	—
<i>Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000</i>	137, 2000	24 Nov 2000	Ss. 1–3 and Schedule 1 (items 1, 4, 6, 7, 9–11, 32): Royal Assent Remainder: 24 May 2001	Sch. 2 (items 418, 419)
<i>Financial Framework Legislation Amendment Act 2005</i>	8, 2005	22 Feb 2005	S. 4, Schedule 1 (items 139–144, 496) and Schedule 2 (items 113–118, 174): Royal Assent	S. 4, Sch. 1 (item 496) and Sch. 2 (item 174)

## Act Notes

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- (a) The *Financial Management and Accountability Act 1997* was amended by Schedule 1 (items 1–33) only of the *Financial Management Legislation Amendment Act 1999*, subsection 2(1) of which provides as follows:
- (1) If this Act receives the Royal Assent before 1 May 1999, then this Act commences on 1 July 1999.
- (b) The *Financial Management and Accountability Act 1997* was amended by Schedule 1 (item 481) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
  - (2) Subject to this section, this Act commences at the commencing time.

**Table of Amendments****Table of Amendments**

ad. = added or inserted   am. = amended   rep. = repealed   rs. = repealed and substituted

Provision affected	How affected
Readers Guide.....	am. No. 20, 1999
<b>Part 2</b>	
S. 5 .....	am. Nos. 20 and 146, 1999; Determination No. 1 of 2000
Note to s. 6.....	rs. No. 20, 1999
<b>Part 4</b>	
Heading to Part 4.....	rs. No. 20, 1999
<b>Division 1</b>	
Div. 1 of Part 4 .....	rs. No. 20, 1999
Ss. 17, 18 .....	rep. No. 20, 1999
S. 19 .....	rs. No. 20, 1999
<b>Division 1A</b>	
Div. 1A of Part 4.....	ad. No. 20, 1999
S. 20 .....	rs. No. 20, 1999 am. No. 8, 2005
Note to s. 20(4) .....	ad. No. 8, 2005
S. 21 .....	rs. No. 20, 1999 am. No. 8, 2005
Note to s. 21(1) .....	rep. No. 8, 2005
Notes 1, 2 to s. 21(1) .....	ad. No. 8, 2005
S. 22 .....	rs. No. 20, 1999
Ss. 23–25 .....	rep. No. 20, 1999
<b>Division 2</b>	
S. 26 .....	am. No. 20, 1999
S. 27 .....	am. No. 20, 1999
<b>Division 3</b>	
S. 28 .....	am. No. 20, 1999
S. 29 .....	rep. No. 20, 1999
S. 30 .....	rs. No. 20, 1999
S. 30A.....	ad. No. 80, 2000
S. 31 .....	am. No. 20, 1999
<b>Division 4</b>	
S. 35 .....	am. No. 20, 1999
<b>Part 5</b>	
S. 39 .....	rs. No. 20, 1999
<b>Part 7</b>	
S. 53 .....	am. No. 20, 1999; No. 8, 2005
<b>Part 8</b>	
S. 54 .....	rs. No. 20, 1999

## **Table of Amendments**

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ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

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Provision affected	How affected
<b>Part 9</b>	
S. 59 .....	am. No. 8, 2005
S. 61 .....	rep. No. 137, 2000
S. 62A.....	ad. No. 20, 1999
Appendix A.....	rep. No. 20, 1999

**Table A**

**Application, saving or transitional provisions**

*Financial Management Legislation Amendment Act 1999* (No. 20, 1999)

**5 Conversion of RMF components and CAF components**

- (1) This section applies to each old component that:
- (a) was in existence immediately before the commencing time;  
or
  - (b) is established by a provision of an Act that comes into operation after the commencing time.

However, this section does not apply to the Loan Consolidation and Investment Reserve.

Note: Schedule 1 repeals the *Loan Consolidation and Investment Reserve Act 1955*.

- (2) The **conversion time** for the old component is:
- (a) the commencing time, if the component was in existence immediately before the commencing time; or
  - (b) otherwise, the time when the component is established.
- (3) At the conversion time:
- (a) a new account is established in respect of the old component;  
and
  - (b) any balance of the old component is to be credited to the new account.
- (4) The new account is a Special Account for the purposes of the *Financial Management and Accountability Act 1997*.
- (5) The name of the new account is:
- (a) if the name of the old component ends with “Reserve”—a name that is the same as the name of the old component, but ends with “Account” instead of “Reserve”; or
  - (b) if the name of the old component ends with “Fund”—a name that is the same as the name of the old component, but ends with “Account” instead of “Fund”; or

**Table A**

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- (c) if the name of the old component ends with “Account”—a name that is the same as the name of the old component; or
  - (d) in any other case—the name determined in writing by the Finance Minister for the purposes of this subsection.
- (6) In relation to matters that happen after the commencing time, a reference in any instrument to the old component is to be read as a reference to the new account and, in particular:
- (a) a reference to:
    - (i) transferring or paying an amount from the Consolidated Revenue Fund to the old component; or
    - (ii) debiting an amount from the Consolidated Revenue Fund and crediting the amount to the old component;is to be read as a reference to crediting the amount to the new account; and
  - (b) a reference to:
    - (i) transferring or paying an amount to the Consolidated Revenue Fund from the old component; or
    - (ii) debiting an amount from the old component and crediting the amount to the Consolidated Revenue Fund;is to be read as a reference to debiting the amount from the new account; and
  - (c) a reference to paying an amount out of the old component is to be read as a reference to paying the amount out of the Consolidated Revenue Fund and debiting the amount from the new account.
- (7) If the old component was established by the Finance Minister under the *Financial Management and Accountability Act 1997*, then:
- (a) the new account is taken to have been established by a determination under section 20 of that Act (as amended by this Act); and
  - (b) that determination may be revoked or varied under that section; and
  - (c) the new account may be abolished under that section.



## **6 Transitional provisions for the Loan Fund**

- (1) In any instrument, a reference to the Loan Fund is to be read as a reference to the Consolidated Revenue Fund, in relation to matters occurring after the commencing time.
- (2) Without limiting subsection (1):
  - (a) after the commencing time, any appropriation that is expressed to be an appropriation of the Loan Fund has effect as an appropriation of the Consolidated Revenue Fund; and
  - (b) after the commencing time, any provision of an instrument that is expressed to require or permit the payment of an amount from the Loan Fund has effect as if it required or permitted the payment of that amount from the Consolidated Revenue Fund.

## **7 Instruments referring to payments into the Consolidated Revenue Fund**

In any instrument, a reference to payment of an amount into the Consolidated Revenue Fund is to be read as a reference to payment of the amount to the Commonwealth (unless the amount is already public money).

Note: *Public money* is defined in the *Financial Management and Accountability Act 1997*.

## **8 Quarterly statements sufficient during transitional period**

- (1) Section 54 of the *Financial Management and Accountability Act 1997* has effect in relation to the transitional period as if references to a month of a financial year were references to a quarter of a financial year.
- (2) In this section:

*transitional period* means the period:

  - (a) starting on the day on which this Act commences; and
  - (b) ending at the end of the third quarter after the quarter in which this Act commences.

## **Table A**

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### **9 Regulations**

- (1) The Governor-General may make regulations prescribing 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.
- (2) In particular, regulations may be made for matters of a transitional or saving nature arising from the amendments made by this Act.

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*Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Act 2000* (No. 137, 2000)

### **Schedule 2**

#### **418 Transitional—pre-commencement offences**

- (1) Despite the amendment or repeal of a provision by this Schedule, that provision continues to apply, after the commencement of this item, in relation to:
  - (a) an offence committed before the commencement of this item; or
  - (b) proceedings for an offence alleged to have been committed before the commencement of this item; or
  - (c) any matter connected with, or arising out of, such proceedings;as if the amendment or repeal had not been made.
- (2) Subitem (1) does not limit the operation of section 8 of the *Acts Interpretation Act 1901*.

#### **419 Transitional—pre-commencement notices**

- If:
- (a) a provision in force immediately before the commencement of this item required that a notice set out the effect of one or more other provisions; and
  - (b) any or all of those other provisions are repealed by this Schedule; and

**Table A**

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(c) the first-mentioned provision is amended by this Schedule; the amendment of the first-mentioned provision by this Schedule does not affect the validity of such a notice that was given before the commencement of this item.

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*Financial Framework Legislation Amendment Act 2005* (No. 8, 2005)

**4 Saving of matters in Part 2 of Schedule 1**

- (1) If:
- (a) a decision or action is taken or another thing is made, given or done; and
  - (b) the thing is taken, made, given or done under a provision of a Part 2 Act that had effect immediately before the commencement of this Act;
- then the thing has the corresponding effect, for the purposes of the Part 2 Act as amended by this Act, as if it had been taken, made, given or done under the Part 2 Act as so amended.

- (2) In this section:

**Part 2 Act** means an Act that is amended by an item in Part 2 of Schedule 1.

**Schedule 1**

**496 Saving provision—Finance Minister’s determinations**

If a determination under subsection 20(1) of the *Financial Management and Accountability Act 1997* is in force immediately before the commencement of this item, the determination continues in force as if it were made under subsection 20(1) of that Act as amended by this Act.

**Schedule 2**

**174 Saving provision—provisions that formerly referred to the Treasurer**

- (1) Any thing that:

**Table A**

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- (a) was done by the Treasurer, or by a delegate of the Treasurer, before the commencing time under an affected provision; and
- (b) was in effect immediately before the commencing time;
- continues to have effect after the commencing time as if it had been done by the Finance Minister under the affected provision.
- (2) In this item:
- affected provision*** means a provision that is amended by an item in this Schedule so as to replace references to the Treasurer with references to the Finance Minister.
- commencing time*** means the day this Act receives the Royal Assent.
- Finance Minister*** means the Minister who administers the *Financial Management and Accountability Act 1997*.