



# **Financial Management Legislation Amendment Act 1999**

**No. 20, 1999**



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**An Act to amend legislation relating to  
Commonwealth financial management, and for  
related purposes**

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**An Act to amend legislation relating to  
Commonwealth financial management, and for  
related purposes**

The Parliament of Australia enacts:

## **Part 1—Preliminary**

### **1 Short title**

This Act may be cited as the *Financial Management Legislation  
Amendment Act 1999*.

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## 2 Commencement

- (1) If this Act receives the Royal Assent before 1 May 1999, then this Act commences on 1 July 1999.
- (2) Subject to subsection (3), if this Act receives the Royal Assent on or after 1 May 1999 then it commences on a day to be fixed by Proclamation. The day must be the first day of a quarter.
- (3) If this Act receives the Royal Assent on or after 1 May 1999 but does not commence under subsection (2) within the period of 6 months beginning on the day on which it receives the Royal Assent, then it commences on the first day of the third quarter after the quarter in which it receives the Royal Assent.

## 3 Definitions

In this Act, unless the contrary intention appears:

*commencing time* means the time when this Act commenced.

*instrument* includes an Act and any instrument made under an Act.

*new account* means an account established by section 5.

*old component* means:

- (a) a component of the Reserved Money Fund; or
- (b) a component of the Commercial Activities Fund.

*quarter* means any of the following periods:

- (a) the period starting on 1 January and ending on 31 March;
- (b) the period starting on 1 April and ending on 30 June;
- (c) the period starting on 1 July and ending on 30 September;
- (d) the period starting on 1 October and ending on 31 December.

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## **Part 2—Amendments**

### **4 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Part 3—Transitional and miscellaneous

### 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
  - (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

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- (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.



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## 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.

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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.

## **Schedule 1—Amendments and repeals**

### ***Financial Management and Accountability Act 1997***

#### **1 Reader’s guide (second paragraph under the heading “Overview of this Act”)**

Repeal the paragraph.

#### **2 Reader’s guide (third paragraph under the heading “Overview of this Act”)**

Omit “This Act also has”, substitute “This Act contains”.

#### **3 Reader’s guide (paragraph that summarises Part 4)**

Repeal the paragraph, substitute:

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.

#### **4 Reader’s guide (paragraph that summarises Part 8)**

Omit “of transactions of the Funds”.

#### **5 Section 5 (definition of *appropriation*)**

Repeal the definition, substitute:

*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”.

#### **6 Section 5 (definition of *Commercial Activities Fund*)**

Repeal the definition.

**7 Section 5 (definition of *Consolidated Revenue Fund*)**

Repeal the definition.

**8 Section 5**

Insert:

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

**9 Section 5 (definition of *Drawn Money*)**

Repeal the definition.

**10 Section 5 (definition of *Fund*)**

Repeal the definition.

**11 Section 5 (definition of *Loan Fund*)**

Repeal the definition.

**12 Section 5 (definition of *Received Money*)**

Repeal the definition.

**13 Section 5 (definition of *Reserved Money Fund*)**

Repeal the definition.

**14 Section 5**

Insert:

*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.

**15 Section 6 (note)**

Repeal the note, substitute:

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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.

## **16 Part 4 (heading)**

Repeal the heading, substitute:

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

### **17 Division 1 of Part 4**

Repeal the Division, substitute:

### **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 or any of the following:
  - (a) establishes a Special Account;
  - (b) allows or requires amounts to be credited to the Special Account;
  - (c) specifies the purposes of the Special Account.
- (2) The Finance Minister may make a determination that revokes or varies a determination made under subsection (1).

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

- (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.
- (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.

## **18 Paragraph 26(b)**

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Omit “from a Fund”, substitute “against an appropriation”.

**19 Paragraph 26(c)**

Omit “from a Fund”, substitute “against an appropriation”.

**20 Paragraph 27(1)(b)**

Omit “from a Fund”.

**21 Paragraph 27(1)(c)**

Omit “from a Fund”.

**22 Subsections 27(2) and (3)**

Repeal the subsections, substitute:

- (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.

**23 Paragraph 28(1)(b)**

Omit “of any Fund”.

**24 Subsections 28(2) and (3)**

Repeal the subsections, substitute:

- (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.

**25 Section 29**

Repeal the section.

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**26 Section 30**

Repeal the section, substitute:

**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.

**27 Subsection 31(5) (definition of *item*)**

Repeal the definition.

**28 Subsection 35(5)**

Omit “a Fund”, substitute “the CRF”.

**29 Section 39**

Repeal the section, substitute:

**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.



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- (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:
    - (i) securities of the Commonwealth or of a State or Territory;

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- (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.

### **30 After subsection 53(1)**

Insert:

- (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, 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.

### **31 Section 54**

Repeal the section, substitute:

### **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.

### **32 After section 62**

Insert:

**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.

**33 Appendix A**

Repeal the Appendix.

***Loan Consolidation and Investment Reserve Act 1955***

**34 The whole of the Act**

Repeal the Act.

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I HEREBY CERTIFY that this Bill originated in the House of Representatives and has been finally passed by the Senate and the House of Representatives.

*Clerk of the House of Representatives*

IN THE NAME OF HER MAJESTY, I assent to this Act.

*Governor-General*  
19 April 1999

(4/99)

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