

I certify that this is a copy of the authorised version of this Act as at 1 December 2022, and that it incorporates all amendments, if any, made before and in force as at that date and any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 December 2022.

K Woodward
Deputy Chief Parliamentary Counsel
Dated 22 December 2022



TASMANIA

FINANCIAL MANAGEMENT ACT 2016

No. 42 of 2016

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement
3. Interpretation
4. Appropriate Minister
5. Principles of sound financial management
6. Application of Act
7. Application of Act to certain appropriations
8. Power of Governor to amend Part 1 of Schedule 1

PART 2 – ACCOUNTS

9. Public Account
10. System of public accounts
11. Public Account: expenditure and receipts

12. Other money collected to be credited to Public Account
13. Authorised deposit-taking institution accounts
14. Treasurer may approve overdraft
15. All money to be paid to authorised deposit-taking institution account
16. Agency accounts
17. Establishment of Specific Purpose Accounts
18. Agency Trust Accounts

PART 3 – FUNDS MANAGEMENT

19. Supporting statements in respect of Bills for Appropriation Acts
20. Transfer of appropriations of Public Account
21. Treasurer's Reserve
22. Variation of appropriations for Commonwealth grants
23. Rollover of unexpended balance of an appropriation
24. Supplementary estimates
25. Authority for expenditure
26. Application out of Public Account for advances to Agencies, &c.
27. Power of Treasurer to meet current and accruing requirements
28. Treasurer's expenditure control authority
29. Temporary borrowing pending receipts
30. Governor's authority for emergency expenditure
31. Investment of funds of Public Account

PART 4 – ACCOUNTABLE AUTHORITIES

32. Accountable authority responsible to Minister
33. Delegation by accountable authority
34. Accountable authority responsibilities

PART 5 – REPORTS

Division 1 – Treasurer's reports

35. Treasurer's September quarterly report
36. Treasurer's revised estimates report

37. Treasurer's December quarterly report
38. Treasurer's March quarterly report
39. Treasurer's preliminary outcomes report
40. Treasurer's annual financial report
41. Tabling of Treasurer's annual financial report

Division 2 – Annual reports by Agencies

42. Reports by Agencies
43. Power to fix special financial year
44. Tabling of reports of accountable authorities

Division 3 – Reporting on abolition of Agencies

45. Purpose of Division
46. Reporting on abolition of Agency
47. Content of final report
48. Reporting officers entitled to reasonable assistance and facilities and access to accounts
49. Reporting officers to submit financial statements and information to Auditor-General

PART 6 – MISCELLANEOUS

50. Delegations
51. Treasurer's Instructions
52. Power to borrow money
53. Investment and borrowing powers
54. Indemnities and guarantees
55. Ex gratia payments
56. Write-off of debts, &c.
57. Prosecution for offences
58. Copies of orders to be forwarded to Auditor-General
59. Regulations
60. Administration of Act
61. Savings and transitional provisions
62. Legislation repealed

63. Legislation rescinded

64. Legislation revoked

SCHEDULE 1 – GENERAL GOVERNMENT SECTOR AGENCIES

SCHEDULE 2 – SAVINGS AND TRANSITIONAL PROVISIONS

SCHEDULE 3 – LEGISLATION REPEALED

SCHEDULE 4 – LEGISLATION RESCINDED

SCHEDULE 5 – LEGISLATION REVOKED



FINANCIAL MANAGEMENT ACT 2016

No. 42 of 2016

An Act to provide for the management of the public finances of the State of Tasmania in an economical, efficient and effective manner consistent with contemporary accounting standards and financial practices and to make provision for, and with respect to, the Public Account of the State, and to repeal the *Financial Management and Audit Act 1990* and the *Public Account Act 1986* and various other legislative instruments

[Royal Assent 17 October 2016]

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

Financial Management Act 2016
Act No. 42 of 2016

s. 1

Part 1 – Preliminary

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Financial Management Act 2016*.

2. Commencement

This Act commences on a day to be proclaimed.

3. Interpretation

In this Act, unless the contrary intention appears –

abolition of an Agency means –

- (a) the abolition of the Agency; or
- (b) the amalgamation of the Agency with one or more Agencies; or
- (c) the division of the Agency into 2 or more Agencies;

accountable authority means a person from time to time holding or acting in –

- (a) a position specified in Column 2 of Part 1 or 2 of Schedule 1, opposite an Agency specified in Column 1 of that Part of the Schedule; or

Financial Management Act 2016
Act No. 42 of 2016

Part 1 – Preliminary

s. 3

- (b) the position of a person specified in an order under section 6(3) to be the accountable authority in relation to an entity;

accounts means –

- (a) records, however compiled, recorded or stored, of transactions in respect of money, or other property, expressed in monetary units or, in the case of property, expressed in monetary units or other units of measurement; and
- (b) any books, documents, writing, monetary forms, abstracts, vouchers and other records of any kind from which records mentioned in paragraph (a) have been compiled;

Agency means a Government department, State authority, body, organisation, or office, that is specified in Column 1 of Part 1 or 2 of Schedule 1;

Agency Trust Account means an Agency Trust Account established under section 18;

appropriate Minister – see section 4;

Appropriation Act means an Act which authorises the issue and application of any money from the Public Account to meet –

Financial Management Act 2016
Act No. 42 of 2016

s. 3

Part 1 – Preliminary

- (a) the cost of the ordinary annual services of the Government; or
- (b) expenditure on public works or the acquisition of any property required for public purposes; or
- (c) the making of a loan authorised by law;

Auditor-General means a person holding the office of Auditor-General by virtue of section 9 of the *Audit Act 2008*;

Australian Accounting Standards means the standards made, or formulated, from time to time by the Australian Accounting Standards Board;

Australian Accounting Standards Board means the body of that name continued in existence under the *Australian Securities and Investments Commission Act 2001* of the Commonwealth;

Budget Papers means –

- (a) the speech, introducing an Appropriation Bill for a financial year, given by the Minister who introduces the Bill into the House of Assembly; and
- (b) the papers that are tabled in Parliament in connection with that Bill;

Financial Management Act 2016
Act No. 42 of 2016

Part 1 – Preliminary

s. 3

entity includes –

- (a) a Government Business Enterprise; and
- (b) a State-owned Company; and
- (c) a State authority that is not a Government Business Enterprise; and
- (d) the council or board (however designated) of, or for, a corporation, body of persons, or institution, that is or are appointed by the Governor or a Minister of the Crown –

but does not include an Agency specified in Part 1 or 2 of Schedule 1;

final report means a report prepared and submitted under section 46(3)(b);

financial year –

- (a) means a period of 12 months ending on 30 June in any year; or
- (b) if an Agency is required by any written law, or a direction given under section 43, to maintain financial records for any other period of 12 months, means, in relation to that Agency, that other period;

Financial Management Act 2016
Act No. 42 of 2016

s. 3

Part 1 – Preliminary

General Government Sector means the Agencies referred to in Column 1 of Part 1 or 2 of Schedule 1;

generally accepted accounting principles means the standard framework for financial reporting that is established in accordance with –

- (a) the Australian Accounting Standards; and
- (b) other requirements issued by the Australian Accounting Standards Board;

Government Business Enterprise means a statutory authority specified in Schedule 1 to the *Government Business Enterprises Act 1995*;

Government Finance Statistics means the Government Finance Statistics as established by the Australian Bureau of Statistics;

officer means a person who is –

- (a) a State Service officer or State Service employee; or
- (b) employed –
 - (i) by or in an Agency; or
 - (ii) by the Governor-in-Council pursuant to the royal prerogative or

Financial Management Act 2016
Act No. 42 of 2016

Part 1 – Preliminary

s. 3

pursuant to any written law; or

- (iii) for the purposes of an Agency pursuant to any written law –

whether that person is employed under a contract of service or a contract for service and whether or not that person receives any remuneration for the employment;

other money means money collected, received or held by the State or an Agency for, or on behalf of, a person other than the State or an Agency;

other property means property that is held by the State or an Agency for, or on behalf of, a person other than the State or an Agency;

Public Account means the Public Account referred to in section 9;

public money means money collected, received or held by any person for, or on behalf of, the State or an Agency;

public property means all property, other than public money, held by a person for, or on behalf of, the State or an Agency;

regulations means regulations made and in force under this Act;

Financial Management Act 2016
Act No. 42 of 2016

s. 3

Part 1 – Preliminary

reporting officer means a person appointed by the Treasurer under section 46(1);

Secretary means the Secretary of the department responsible for the administration of this Act;

Specific Purpose Account means a Specific Purpose Account established under section 17(1);

State authority means any body or authority, whether incorporated or not, that is –

- (a) established or constituted under a written law or under the royal prerogative; and
- (b) a body, or authority, which, or of which the governing authority, wholly or partly comprises a person, or persons, appointed by the Governor, a Minister or another State authority;

State-owned Company means a company incorporated under the Corporations Act which is controlled by –

- (a) the State; or
- (b) a State authority; or
- (c) another company which is itself controlled by the State or a State authority;

Financial Management Act 2016
Act No. 42 of 2016

Part 1 – Preliminary

s. 4

Treasurer’s annual financial report means the annual financial report prepared by the Treasurer under section 40;

Treasurer’s expenditure control authority means a Treasurer’s expenditure control authority referred to in section 28;

Treasurer’s Instructions means instructions issued by the Treasurer under section 51;

written law means –

- (a) an Act passed by the Parliament of Tasmania and for the time being in force; and
- (b) all subordinate legislation for the time being in force under any such Act; and
- (c) any directions given under this Act; and
- (d) any Treasurer’s Instructions.

4. Appropriate Minister

- (1) Subject to this section, for the purposes of this Act, the appropriate Minister in relation to an Agency is the Minister for the time being responsible for the administration of that Agency.
- (2) If more than one Minister has responsibility for the administration of an Agency, a reference in a provision of this Act to the appropriate Minister

Financial Management Act 2016
Act No. 42 of 2016

s. 5

Part 1 – Preliminary

is to be taken, in so far as the provision applies to an activity, of that Agency, for which one of those Ministers has responsibility, to be a reference to that Minister.

- (3) A reference in this Act to the appropriate Minister in relation to an Agency is to be taken to be, if the Agency is –
- (a) the Legislative Council – a reference to the President of the Legislative Council; or
 - (b) the House of Assembly – a reference to the Speaker of the House of Assembly; or
 - (c) the Legislature-General – a reference to the President and the Speaker acting jointly; or
 - (d) the Office of the Governor – a reference to the Minister administering the *Governor of Tasmania Act 1982*.
- (4) If there is doubt as to who is the Minister who has responsibility for the administration of an activity, the Treasurer is to determine who is to be the appropriate Minister in relation to that activity.

5. Principles of sound financial management

- (1) An accountable authority must, as far as is practicable, undertake the financial management

Financial Management Act 2016
Act No. 42 of 2016

Part 1 – Preliminary

s. 6

of an Agency in a manner that is consistent with the principles of sound fiscal management.

- (2) In respect of the financial management of the State, the Government is to have regard to the principles of sound fiscal management.
- (3) The principles of sound fiscal management are the principles defined in the Charter of Budget Responsibility set out in the *Charter of Budget Responsibility Act 2007*.

6. Application of Act

- (1) The provisions of this Act apply to Agencies specified in Column 1 of Part 1 or 2 of Schedule 1.
- (2) The Treasurer may, by order, determine that this Act, or any specified provision of this Act, does not apply to an Agency, or to an organisation forming part of an Agency, specified in the order.
- (3) The Treasurer may, by order –
 - (a) determine that this Act, or any specified provision of this Act, applies to an entity –
 - (i) that is not specified in Part 1 or 2 of Schedule 1; and
 - (ii) that is not a Government Business Enterprise or a State-owned Company; and

Financial Management Act 2016
Act No. 42 of 2016

s. 6

Part 1 – Preliminary

- (b) determine who is to be the accountable authority for that entity.
- (4) An order made under subsection (2) or (3) may be expressed to be in force for a period specified in the order, in which case the order is in force for the period so specified and then ceases to have effect.
- (5) The provisions of sections 47(3), (3A), (4), (5), (6) and (7) of the *Acts Interpretation Act 1931* apply to an order made under subsection (2) or (3) in the same manner as they apply to regulations.
- (6) If the enabling Act of an entity in respect of which an order has been made under subsection (3) contains provisions in respect of the financial management of the entity –
 - (a) those provisions are suspended during the period that the entity is subject to this Act, unless the Treasurer determines otherwise; or
 - (b) if the Treasurer determines that only some of those provisions are to be suspended, those provisions are suspended during the period that the entity is subject to this Act.
- (7) If the enabling Act of an Agency specified in Schedule 1 contains provisions in respect of the financial management of the Agency –
 - (a) those provisions are suspended, unless the Treasurer determines otherwise; or

Financial Management Act 2016
Act No. 42 of 2016

Part 1 – Preliminary

s. 7

- (b) if the Treasurer determines that only some of those provisions are to be suspended, those provisions are suspended.
- (8) Nothing in this Act limits the application of Part IV of the *Constitution Act 1934* or the powers of the House of Assembly and the Legislative Council that are described in that Part.

7. Application of Act to certain appropriations

- (1) The provisions of this Act are in addition to, and not in derogation from, the provisions of the *Financial Agreement Act 1994* and this Act is to be construed accordingly.
- (2) Nothing in this Act authorises –
 - (a) the commencement of a public work contrary to section 16 of the *Public Works Committee Act 1914*; or
 - (b) the commencement or continuation of any other work or undertaking contrary to any enactment requiring the specific authority of Parliament for that work or undertaking.

8. Power of Governor to amend Part 1 of Schedule 1

- (1) The Governor may, by order, amend Column 1 of Part 1 of Schedule 1 –
 - (a) by omitting the name of an Agency; or

Financial Management Act 2016
Act No. 42 of 2016

s. 8

Part 1 – Preliminary

- (b) by inserting the name of another Agency, other than an Agency specified in Part 2 of that Schedule; or
 - (c) if the name of any Agency specified in Part 1 of Schedule 1 is changed, by omitting the name of that Agency and inserting its new name.
- (2) The Governor may, by order, amend Column 2 of Part 1 of Schedule 1 by inserting, opposite the name of an Agency, the title or other description of an office or by omitting or amending that title or other description.
 - (3) The Governor may, by order, omit Part 1 of Schedule 1 and substitute a new Part 1.

PART 2 – ACCOUNTS

9. Public Account

For the purposes of this Act, the Public Account of the State comprises –

- (a) receipts of, and expenditure from, the General Government Sector, that do not form part of a Specific Purpose Account or an Agency Trust Account; and
- (b) any Specific Purpose Accounts established under section 17.

10. System of public accounts

- (1) The Treasurer must keep accounts of all transactions affecting the Public Account.
- (2) The system of accounting for all transactions affecting the Public Account is to be based on –
 - (a) generally accepted accounting principles; or
 - (b) Government Finance Statistics.

11. Public Account: expenditure and receipts

- (1) The Treasurer must properly record all expenditure from the Public Account.

Financial Management Act 2016
Act No. 42 of 2016

s. 11

Part 2 – Accounts

- (2) An officer must not draw money from the Public Account except under the authority of this Act or some other Act.
- (3) Every appropriation out of the Public Account for any financial year lapses and ceases to have effect for any purpose at the close of that year.
- (4) The Treasurer may cause to be opened the accounts he or she considers necessary for the purpose of recording transactions in connection with the Public Account.
- (5) Except as otherwise provided by this or any other Act, all receipts of the State, including –
 - (a) all money received by the Treasurer after the commencement of this Act in repayment of advances or loans made, or money borrowed, for the public purposes of the State under an Act; and
 - (b) all money borrowed for the purposes of an Appropriation Act; and
 - (c) all money received from the Commonwealth; and
 - (d) all money received by the Treasurer from the sale of lands or other property belonging to the State; and
 - (e) all money received by an Agency, unless the Treasurer determines otherwise; and
 - (f) any other receipts determined by the Treasurer –

Financial Management Act 2016
Act No. 42 of 2016

Part 2 – Accounts

s. 12

are to be credited to the Public Account.

- (6) Any money borrowed by, or on behalf of, the State is to be recorded through an account of the State established for that purpose –
 - (a) by the Treasurer; or
 - (b) by an Agency, if the money has been borrowed pursuant to a determination under section 53.
- (7) If an Agency is unable to determine correctly the purpose for which any money has been paid to that Agency, the money is to be retained by the Agency until the Agency has determined the purpose or the Treasurer determines the purpose for which the money is to be applied.

12. Other money collected to be credited to Public Account

- (1) Other money which comes into the possession or control of an officer of an Agency –
 - (a) is to be treated in the same manner as if it were public money; and
 - (b) is to be paid by that officer into the Public Account or is to be accounted for in another manner that the Treasurer directs.
- (2) For the purposes of this section, other money does not include money that is to be held in trust by the State or an Agency.

Financial Management Act 2016
Act No. 42 of 2016

s. 13

Part 2 – Accounts

- (3) This section applies to the extent only to which it is consistent with any other written law applicable to that money.

13. Authorised deposit-taking institution accounts

- (1) An accountable authority may, with the prior approval of the Treasurer, open and maintain one or more authorised deposit-taking institution accounts for the purpose, and subject to any terms and conditions, that the Treasurer determines.
- (2) An account opened and maintained in accordance with subsection (1) is to be used to receive and expend money only as authorised by this Act or any other written law.

14. Treasurer may approve overdraft

An officer must not cause any authorised deposit-taking institution account of an Agency maintained under this Part to be overdrawn, except with, and subject to, the approval of the Treasurer.

15. All money to be paid to authorised deposit-taking institution account

An accountable authority must ensure that all public money or other money collected or received is paid each day, or at other intervals approved by the Treasurer, into an authorised deposit-taking institution account maintained in

accordance with this Act or any other written law.

16. Agency accounts

An accountable authority of an Agency is to, in respect of all money paid into or out of the Public Account or Agency Trust Account in respect of that Agency, establish and maintain accounts, and accounting and financial information systems, in accordance with this Act and with the Treasurer's Instructions.

17. Establishment of Specific Purpose Accounts

- (1) The Treasurer may –
 - (a) establish one or more Specific Purpose Accounts for any money kept in the Public Account; and
 - (b) specify the purposes for which a Specific Purpose Account is to be used, including to provide for future obligations; and
 - (c) determine the Agency that is to be responsible for administering a Specific Purpose Account.
- (2) The money standing to the credit of a Specific Purpose Account is taken to be money standing to the credit of the Public Account.
- (3) The Treasurer may direct that a Specific Purpose Account be closed.

Financial Management Act 2016
Act No. 42 of 2016

s. 17

Part 2 – Accounts

- (4) If the Treasurer directs that a Specific Purpose Account be closed, the account is, after all liabilities relating to the account have been met, to be closed by the Agency that is responsible for administering that account.
- (5) The Treasurer may direct that –
 - (a) any money standing to the credit of a Specific Purpose Account that is not required for the purposes of that account; and
 - (b) the balance of money standing to the credit of a Specific Purpose Account closed under subsection (3) –

be transferred to another account, in the Public Account, determined by the Treasurer.
- (6) If any money has been credited to a Specific Purpose Account without the approval of the Treasurer, the Treasurer may direct that the money be transferred to another account, in the Public Account, determined by the Treasurer.
- (7) The Treasurer may –
 - (a) accept, and credit to an appropriate Specific Purpose Account, deposits of money belonging to, or appropriated or set aside for the use of, the State or an Agency; and
 - (b) allow interest on those deposits at the rates approved by the Treasurer.

Financial Management Act 2016
Act No. 42 of 2016

Part 2 – Accounts

s. 17

- (8) The Treasurer may accept, and credit to an appropriate Specific Purpose Account, money granted or loaned to the State by the Commonwealth that is –
- (a) to be applied for specified purposes prescribed by or under a Commonwealth Act; or
 - (b) received by the State on condition that it be applied for purposes referred to in paragraph (a); or
 - (c) received by the State in accordance with an agreement made between the State and the Commonwealth in respect of the purposes for which that money may be spent –

and may, without any authority other than this Act, issue and apply that money for the purposes for which it was granted or loaned.

- (9) The Treasurer is not to expend any money standing to the credit of a Specific Purpose Account except for the purposes of that account or under the authority of this Act.
- (10) The Treasurer is to –
- (a) approve, as part of the development of the annual Appropriation Act; and
 - (b) report to Parliament in the Budget Papers –

Financial Management Act 2016
Act No. 42 of 2016

s. 18

Part 2 – Accounts

the estimated receipts and expenditure in relation to each Specific Purpose Account.

- (11) After an Appropriation Act is passed in respect of a financial year, the Treasurer may approve a variation in the estimated receipts and expenditure in relation to a Specific Purpose Account.

18. Agency Trust Accounts

- (1) The Treasurer may establish Agency Trust Accounts for the receipt of money by the State or an Agency to be held in trust.
- (2) The accountable authority is to ensure that all money required or permitted by this Act or any other law in force in the State to be held in trust by the State or an Agency is credited to an Agency Trust Account.
- (3) Money may be withdrawn from an Agency Trust Account only for the purposes of the trust to which the money relates or for any purpose authorised by this Act or any other written law.
- (4) Each Agency must keep, in relation to each Agency Trust Account, the accounts that are specified in the Treasurer's Instructions.
- (5) If any money has been credited to an Agency Trust Account without the approval of the Treasurer, the Treasurer may direct that the money be transferred to an account, in the Public Account, that the Treasurer determines.

Financial Management Act 2016
Act No. 42 of 2016

Part 2 – Accounts

s. 18

- (6) The Treasurer may invest, in securities approved by the Treasurer for the purposes of this section, any money standing to the credit of an Agency Trust Account.

Financial Management Act 2016
Act No. 42 of 2016

s. 19

Part 3 – Funds Management

PART 3 – FUNDS MANAGEMENT

19. Supporting statements in respect of Bills for Appropriation Acts

- (1) A Bill for an Appropriation Act in relation to a financial year is to be accompanied by a statement in the Budget Papers showing, in respect of that financial year, the total amounts of –
 - (a) estimated receipts of the Public Account; and
 - (b) estimated expenditure from the Public Account; and
 - (c) the major General Government Sector financial statements required to be prepared in accordance with the Australian Accounting Standards.
- (2) The Treasurer may include with the accompanying statements referred to in subsection (1), in the form, or manner, if any, that the Treasurer determines, any other financial or statistical report.
- (3) In this section, a reference to an Appropriation Act does not include a reference to a supplementary Appropriation Act or a Supply Act.

20. Transfer of appropriations of Public Account

- (1) If, in an Appropriation Act, an amount is specified opposite an item in the Schedule to that Act as estimated expenditure on that item and the Treasurer is of the opinion that the amount is deficient, the Treasurer may make good the deficiency out of any surplus arising, or saving effected, in relation to another item specified in that Schedule.
- (2) The Public Account is, without further or other appropriation, appropriated to the extent necessary to provide an amount mentioned in subsection (1).

21. Treasurer's Reserve

- (1) The Treasurer may, in any financial year, issue and apply from the Public Account, for expenditure, the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is necessary for efficient financial administration –
 - (a) an amount that is contingently appropriated by an Appropriation Act for the relevant financial year; and
 - (b) if receipts, additional to the total estimated receipts specified in a statement accompanying an Appropriation Act, are generated within that financial year – the amount of those additional receipts less any amount of

Financial Management Act 2016
Act No. 42 of 2016

s. 22

Part 3 – Funds Management

Commonwealth money received by the State.

- (2) The amount that may be issued and applied from the Public Account under subsection (1) may not, in total, exceed 2.5% of the total appropriation in the Appropriation Act for that financial year.
- (3) Subsection (1) does not authorise expenditure for a purpose other than a purpose mentioned in an Appropriation Act then in force, unless the Governor has, in writing, approved that expenditure.
- (4) The Public Account is, without further or other appropriation, appropriated to the extent necessary to provide an amount mentioned in subsection (1)(b).
- (5) Nothing in this section affects the operation of section 30.

22. Variation of appropriations for Commonwealth grants

- (1) If –
 - (a) an appropriation is to be funded in whole or in part by a payment made to the State, by the Commonwealth, that is to be applied for a nominated purpose; and
 - (b) the Budget Papers contain an estimate of the level of funding to be provided to the State by the Commonwealth for that

Financial Management Act 2016
Act No. 42 of 2016

Part 3 – Funds Management

s. 23

purpose which is less than the level of
funding provided by the
Commonwealth –

the Treasurer may, in writing, direct that the appropriation be increased to an amount not exceeding the level of funding provided by the Commonwealth.

- (2) If funding provided to the State by the Commonwealth is for a purpose not specified in the Budget Papers for the current financial year, the Treasurer may issue and apply from the Public Account, for a purpose approved, in writing, by the Treasurer, an amount not exceeding the level of funding provided by the Commonwealth.
- (3) The Public Account is, without further or other appropriation, appropriated to the extent necessary to provide an amount mentioned in subsection (1) or (2).

23. Rollover of unexpended balance of an appropriation

- (1) If an amount appropriated to an Agency in a financial year remains unexpended, the Treasurer may determine that an amount of that unexpended appropriation which, in total, does not exceed 5% of that Agency's appropriation is to be issued and applied from the Public Account in the following financial year.
- (2) The determination mentioned in subsection (1) must specify –

Financial Management Act 2016
Act No. 42 of 2016

s. 24

Part 3 – Funds Management

- (a) the Agency and item in the Schedule to an Appropriation Act to which the amount is to be issued and applied; and
 - (b) the total amount authorised to be issued and applied; and
 - (c) the purpose for which the amount is to be issued and applied.
- (3) The Public Account is, for the following financial year, appropriated to the extent necessary to provide for the amount mentioned in subsection (2)(b).

24. Supplementary estimates

- (1) The Treasurer, after the end of each financial year, is to –
- (a) prepare supplementary estimates of all expenditure from the Public Account that is authorised under section 20, 21, 22 or 30 together with a summary of all determinations made under section 23(1); and
 - (b) cause the supplementary estimates prepared under paragraph (a), as they consist before being audited under the *Audit Act 2008*, to be included in the Treasurer’s preliminary outcomes report prepared in accordance with section 39; and

Financial Management Act 2016
Act No. 42 of 2016

Part 3 – Funds Management

s. 25

- (c) cause the supplementary estimates prepared under paragraph (a), as they consist after being audited under the *Audit Act 2008*, to be laid before each House of Parliament together with the annual financial report prepared in accordance with section 40.
- (2) If the Treasurer is unable to comply with subsection (1)(c) because either House of Parliament is not sitting, the Treasurer –
- (a) is to immediately forward to the Clerk of the Legislative Council or the Clerk of the House of Assembly, as the case may require, copies of the supplementary estimates prepared under subsection (1)(a), as they consist after being audited under the *Audit Act 2008*; and
 - (b) on the next sitting-day of that House, is to cause copies of those supplementary estimates to be laid before that House.

25. Authority for expenditure

An accountable authority must not draw money from the Public Account except in accordance with –

- (a) a Treasurer's expenditure control authority; or

Financial Management Act 2016
Act No. 42 of 2016

s. 26

Part 3 – Funds Management

- (b) estimated expenditure approved by the Treasurer pursuant to section 17(10) or (11); or
- (c) any other written law.

26. Application out of Public Account for advances to Agencies, &c.

- (1) Subject to this section, the Treasurer may issue and apply out of the Public Account the amounts that are required to provide –
 - (a) advances to Agencies, the accounts of which are kept in the relevant Agency; and
 - (b) special advances to Agencies for specific purposes, pending adjustment when actual expenditure on those purposes is made.
- (2) An advance to an Agency must not be made under subsection (1)(a) unless –
 - (a) the expenditure is in accordance with an Appropriation Act; or
 - (b) the expenditure is authorised under section 30.
- (3) Unless otherwise determined by the Treasurer and approved by the Auditor-General, all amounts that are issued and applied under subsection (1) are to be paid back by the relevant Agency into the Public Account.

27. Power of Treasurer to meet current and accruing requirements

- (1) The Treasurer may, in any financial year before the passing of an Appropriation Act for that year, issue and apply in accordance with this section the amounts that may be necessary to meet the current and accruing requirements for that year.
- (2) The power of the Treasurer under subsection (1) in respect of a financial year –
 - (a) ceases on the passing of an Appropriation Act for or in respect of that financial year; and
 - (b) does not in any event extend beyond the first 2 months of that financial year.
- (3) On the passing of an Appropriation Act, all money issued and applied under this section is to be regarded and treated for all purposes as having been paid out of the supply granted by that Act under the appropriate items.
- (4) A payment under this section –
 - (a) is to be at the rates equivalent to the rates of payment in the immediately preceding financial year in respect of the appropriate item to which the payment relates; and
 - (b) is not in the whole to exceed the amount that would be equivalent to the expenditure of an amount of 20% of the

Financial Management Act 2016
Act No. 42 of 2016

s. 28

Part 3 – Funds Management

appropriation of the immediately preceding financial year in respect of each Agency.

- (5) If an appropriation includes an Agency that was not included in the Appropriation Act for the last preceding financial year, a payment authorised by this section is not to exceed an amount of 20% of the estimated appropriation for that Agency for the current financial year.
- (6) If –
- (a) the estimates of expenditure for a financial year have been submitted to Parliament; and
 - (b) the rate of expenditure in those estimates is, in any case, lower for any Agency than the rate of expenditure authorised in the Appropriation Act for the last preceding financial year –

a payment authorised by this section is not to exceed the lower rate.

28. Treasurer’s expenditure control authority

- (1) The Treasurer, from time to time, is to issue a Treasurer’s expenditure control authority to the appropriate Minister for the purpose of issuing and applying money from the Public Account in accordance with an Appropriation Act.
- (2) The appropriate Minister is to authorise the responsible accountable authority to incur

Financial Management Act 2016
Act No. 42 of 2016

Part 3 – Funds Management

s. 29

expenditure in accordance with the authority referred to in subsection (1).

- (3) A Treasurer's expenditure control authority –
 - (a) may be a standing authority regulating expenditure in general terms; or
 - (b) may limit or specify the period or nature of expenditure transactions or series of expenditure transactions.
- (4) A reference in this section to the regulation of the expenditure of money includes a reference to the commitment of money for expenditure.
- (5) Nothing in this section authorises the Treasurer to expend money –
 - (a) in excess of an amount appropriated by Parliament; or
 - (b) for any purpose other than a purpose authorised by Parliament, unless otherwise provided in this Act or any other written law.

29. Temporary borrowing pending receipts

- (1) If –
 - (a) authority to pay money out of the Public Account has been granted by any Act; and

Financial Management Act 2016
Act No. 42 of 2016

s. 29

Part 3 – Funds Management

- (b) the money standing to the credit of the Public Account is, for the time being, insufficient to provide for that payment –

the Governor may authorise the Treasurer to make arrangements for obtaining temporary advances to an extent not exceeding, in any case, the amount by which –

- (c) the receipts of revenue; or
- (d) as the case may be, the available money borrowed –

are or is for the time being insufficient to provide for that payment.

- (2) A temporary advance under this section may be authorised –
 - (a) by way of overdraft or otherwise; and
 - (b) in the State or elsewhere.
- (3) The interest or discount on a temporary advance under this section is chargeable to the Public Account which, to the necessary extent, is appropriated accordingly.
- (4) All amounts of money raised by a temporary advance under this section during a financial year are to be issued and applied by the Treasurer solely for the purposes for which an Appropriation Act for that financial year has authorised an issue of money from the Public Account.

30. Governor’s authority for emergency expenditure

- (1) In cases of emergency, if it is necessary to incur expenditure from the Public Account –
 - (a) in excess of an amount authorised to be spent by an item in a Schedule to an Appropriation Act; or
 - (b) for a purpose not provided for by Parliament –

the Treasurer must obtain the written authority of the Governor.

- (2) The Treasurer must, before seeking the Governor’s authority under subsection (1), request that the Auditor-General prepare a report to the effect that the authority would be proper having regard to the circumstances of the emergency.
- (3) The Treasurer must provide to the Governor any report that is provided by the Auditor-General to the Treasurer under subsection (2).
- (4) The Auditor-General –
 - (a) before making a report under subsection (2), may seek any necessary explanation from the Treasurer or any other appropriate Minister; and
 - (b) may make, in that report, any observation that the Auditor-General thinks necessary.

Financial Management Act 2016
Act No. 42 of 2016

s. 31

Part 3 – Funds Management

- (5) The Treasurer may authorise the issue and application of money from the Public Account of the amount, and for the purposes, specified in the written authority for emergency expenditure from the Governor.

31. Investment of funds of Public Account

- (1) Money standing to the credit of the Public Account may be invested by the Treasurer in securities approved by the Treasurer for the purposes of this section.
- (2) Except where otherwise provided in this Act or any other Act, the Treasurer must pay into the Public Account any interest or other return that is received from the investment of money standing to the credit of the Public Account.

PART 4 – ACCOUNTABLE AUTHORITIES

32. Accountable authority responsible to Minister

- (1) The accountable authority of an Agency specified in Part 1 of Schedule 1 is responsible to the appropriate Minister for the financial management of the Agency.
- (2) The accountable authority of an Agency specified in Part 2 of Schedule 1 is responsible for the financial management of the Agency.

33. Delegation by accountable authority

An accountable authority may delegate any of his or her functions or powers under this Act, other than this power of delegation.

34. Accountable authority responsibilities

An accountable authority of an Agency is responsible for the financial management of the Agency in an efficient, effective and economical manner, including in particular –

- (a) ensuring that expenditure by the Agency is in accordance with the law; and
- (b) ensuring the effective and efficient use of resources in achieving the Government's objectives; and
- (c) ensuring that appropriate stewardship is maintained over the assets of the Agency

Financial Management Act 2016
Act No. 42 of 2016

s. 34

Part 4 – Accountable Authorities

- and the incurring of liabilities of the Agency; and
- (d) ensuring that the Agency's financial management processes, records, procedures, controls and internal management structures are appropriate; and
 - (e) ensuring the custody, control and management of, and accounting for, all public property, public money, other property and other money in the possession of, or under the control of, the Agency; and
 - (f) ensuring the proper collection of all money payable to, or collectable under, any law administered by the Agency; and
 - (g) conducting reviews, at the times determined by the Treasurer, of fees and charges collected by or payable to the Agency; and
 - (h) ensuring compliance by the Agency with this Act or any other written law.

PART 5 – REPORTS

Division 1 – Treasurer’s reports

35. Treasurer’s September quarterly report

- (1) The Treasurer is to publish a report (the *September quarterly report*) no later than 45 days after the Auditor-General’s report has been prepared pursuant to section 16(2) of the *Audit Act 2008*.
- (2) The Treasurer is to publish the expected date for the publication of the September quarterly report at least 7 days before the expected date.
- (3) The September quarterly report is to contain, in respect of the major General Government Sector statements as defined by the Australian Accounting Standards and disclosed in the Budget Papers, results for the period of 3 months ending on the previous 30 September.
- (4) The September quarterly report is to contain, in respect of the major Public Account statements disclosed in the Budget Papers, results for the period of 3 months ending on the previous 30 September.
- (5) The Treasurer may include in the September quarterly report, in the form, or manner, if any, that the Treasurer determines, any other financial or statistical report.

36. Treasurer’s revised estimates report

- (1) The Treasurer is to publish a report (the *revised estimates report*) no later than 15 February in the financial year to which it relates.
- (2) The Treasurer is to publish the expected date for the publication of the revised estimates report at least 7 days before the expected date.
- (3) The revised estimates report is to contain, in respect of the major General Government Sector statements as defined by the Australian Accounting Standards and disclosed in the Budget Papers –
 - (a) original estimates disclosed in the Budget Papers for the current financial year; and
 - (b) revised estimates for the current financial year; and
 - (c) revised forward estimates.
- (4) The revised estimates report is to contain an explanation of any material variation between the original estimates disclosed in the Budget Papers and the revised estimates for the current financial year.
- (5) The revised estimates report is to contain an assessment of the Government’s fiscal performance against its current fiscal strategy statement, within the meaning of the *Charter of Budget Responsibility Act 2007*.

Financial Management Act 2016
Act No. 42 of 2016

Part 5 – Reports

s. 37

- (6) The revised estimates report is to contain in respect of the major Public Account statements disclosed in the Budget Papers –
- (a) original estimates of Public Account receipts and expenditures disclosed in the Budget Papers for the current financial year; and
 - (b) revised estimates of Public Account receipts and expenditures for the current financial year.
- (7) The Treasurer may include in the revised estimates report, in the form, or manner, if any, that the Treasurer determines, any other financial or statistical report.

37. Treasurer’s December quarterly report

- (1) The Treasurer is to publish a report (the *December quarterly report*) no later than 15 February in the financial year to which it relates.
- (2) The Treasurer is to publish the expected date for the publication of the December quarterly report at least 7 days before the expected date.
- (3) The December quarterly report is to contain, in respect of the major General Government Sector statements as defined by the Australian Accounting Standards and disclosed in the Budget Papers, results for the period of 6 months ending on the previous 31 December.

Financial Management Act 2016
Act No. 42 of 2016

s. 38

Part 5 – Reports

- (4) The December quarterly report is to contain, in respect of the major Public Account statements disclosed in the Budget Papers, results for the period of 6 months ending on the previous 31 December.
- (5) The December quarterly report is to contain the balances of Specific Purpose Accounts as at 31 December in the financial year to which the December quarterly report relates.
- (6) The Treasurer may include in the December quarterly report, in the form, or manner, if any, that the Treasurer determines, any other financial or statistical report.

38. Treasurer’s March quarterly report

- (1) If a Bill for an Appropriation Act is tabled within 45 days before the commencement of the financial year to which it relates, the Treasurer is to publish a report (the *March quarterly report*) which is to be included in the Budget Papers.
- (2) If a Bill for an Appropriation Act is tabled more than 45 days before the commencement of the financial year to which it relates, the Treasurer is to publish the March quarterly report by no later than 15 May in the financial year to which it relates.
- (3) The Treasurer is to publish the expected date for the publication of the March quarterly report at least 7 days before the expected date.

Financial Management Act 2016
Act No. 42 of 2016

Part 5 – Reports

s. 39

- (4) The March quarterly report is to contain, in respect of the major General Government Sector statements as defined by the Australian Accounting Standards and disclosed in the Budget Papers, results for the period of 9 months ending on the previous 31 March.
- (5) The March quarterly report is to contain, in respect of the major Public Account statements disclosed in the Budget Papers, results for the period of 9 months ending on the previous 31 March.
- (6) The Treasurer may include in the March quarterly report, in the form, or manner, if any, that the Treasurer determines, any other financial or statistical report.

39. Treasurer’s preliminary outcomes report

- (1) Before 31 July in each year, the Secretary is to –
 - (a) review the preliminary outcomes results for the previous financial year; and
 - (b) determine whether those results vary materially from the revised estimates published in the Budget Papers that relate to the previous financial year.
- (2) If the Secretary’s determination under subsection (1) is that there is no material variation, the Secretary must inform the Treasurer and publicly release a notice that no report will be issued.

Financial Management Act 2016
Act No. 42 of 2016

s. 40

Part 5 – Reports

- (3) If the Secretary's determination under subsection (1) is that there is material variation, the Secretary must inform the Treasurer.
- (4) On receiving advice under subsection (3), the Treasurer is to publish a report (the *preliminary outcomes report*) for the previous financial year by no later than the 15 August immediately following the financial year to which the report relates.
- (5) The preliminary outcomes report for the previous financial year is to contain, in respect of the major General Government Sector statements as defined by the Australian Accounting Standards and disclosed in the Budget Papers –
 - (a) original estimates disclosed in the Budget Papers for the previous financial year; and
 - (b) preliminary results for the previous financial year.
- (6) The Treasurer may include in any preliminary outcomes report, in the form, or manner, if any, that the Treasurer determines, any other financial or statistical report.

40. Treasurer's annual financial report

- (1) The Treasurer is to prepare an annual financial report for each financial year, no later than the 31 October immediately following the financial year to which the report relates.

Financial Management Act 2016
Act No. 42 of 2016

Part 5 – Reports

s. 40

- (2) The annual financial report is to contain for the financial year to which the report relates –
- (a) the original estimates disclosed in the Budget Papers in respect of the major General Government Sector statements as defined by the Australian Accounting Standards; and
 - (b) the results in respect of the major General Government Sector statements; and
 - (c) the results in respect of the major Public Account statements disclosed in the Budget Papers; and
 - (d) the balances of Specific Purpose Accounts at the end of that financial year; and
 - (e) an assessment of the Government’s fiscal performance against its current fiscal strategy statement, within the meaning of the *Charter of Budget Responsibility Act 2007*; and
 - (f) the Auditor-General’s report on the statements referred to in section 16(2) of the *Audit Act 2008*.
- (3) The Treasurer may include in the annual financial report, in the form, or manner, if any, that the Treasurer determines, any other financial or statistical report.

Financial Management Act 2016
Act No. 42 of 2016

s. 41

Part 5 – Reports

41. Tabling of Treasurer’s annual financial report

- (1) The Treasurer, on or before 31 October in each year, is to cause copies of the Treasurer’s annual financial report for the previous financial year to be laid before each House of Parliament.
- (2) If the Treasurer is unable to comply with subsection (1) because neither House of Parliament is sitting, the Treasurer is to immediately –
 - (a) forward copies of the Treasurer’s annual financial report to the Clerk of the Legislative Council or the Clerk of the House of Assembly, as the case may require; and
 - (b) make copies of the Treasurer’s annual financial report available to the public –

and, on the next sitting-day of that House, is to cause copies of the Treasurer’s annual financial report to be laid before that House.

Division 2 – Annual reports by Agencies

42. Reports by Agencies

- (1) An accountable authority of an Agency, in respect of each financial year, is to prepare financial statements of the Agency in respect of that financial year.
- (2) The financial statements required to be prepared by subsection (1) are to be prepared and certified in accordance with, and in the manner, and form,

Financial Management Act 2016
Act No. 42 of 2016

Part 5 – Reports

s. 42

if any, specified in, the Treasurer’s Instructions, so as to present fairly –

- (a) the financial transactions of the Agency during the financial year; and
 - (b) the components, of the financial position of the Agency at the end of the financial year, that are specified in the Treasurer’s Instructions; and
 - (c) any other components of the financial position of the Agency at the end of the financial year that the accountable authority considers desirable to be included in the statements.
- (3) An accountable authority is to submit to the appropriate Minister the financial statements prepared under subsection (1), together with the Auditor-General’s report on those statements prepared in accordance with section 19 of the *Audit Act 2008*, by the date determined by that Minister for the purpose of complying with section 44.
- (4) If an Agency is required by section 36(1) of the *State Service Act 2000* or any other Act to prepare an annual report, the financial statements prepared under subsection (1) and the Auditor-General’s report on those statements prepared in accordance with section 19 of the *Audit Act 2008* are to be combined so as to form part of that annual report.

43. Power to fix special financial year

- (1) The Treasurer may direct that the financial records of an Agency be maintained in respect of a period of 12 months ending on a day other than 30 June in any year.
- (2) A direction under subsection (1) may fix different periods of 12 months in relation to different accountable authorities, different Agencies and different parts of Agencies.

44. Tabling of reports of accountable authorities

- (1) The appropriate Minister in relation to an Agency, on or before 31 October in each year, is to cause to be laid before each House of Parliament copies of –
 - (a) the financial statements prepared under section 42(1) in relation to the Agency, together with the Auditor-General's report on those statements prepared in accordance with section 19 of the *Audit Act 2008*; or
 - (b) if section 42(4) applies to the Agency, an annual report prepared under section 42(4) in relation to the Agency.
- (2) If the appropriate Minister is unable to comply with subsection (1) in relation to a copy of a document, or copies of documents, referred to in that subsection because neither House of Parliament is sitting, the appropriate Minister, on 31 October, is to immediately –

Financial Management Act 2016
Act No. 42 of 2016

Part 5 – Reports

s. 44

- (a) forward a copy of the document, or copies of the documents, to be laid before each House of Parliament under subsection (1), to the Clerk of the Legislative Council or the Clerk of the House of Assembly, as the case may require; and
- (b) make copies of the document, or of the documents, available to the public –

and, on the next sitting-day of that House, cause a copy of the document, or copies of the documents, to be laid before that House.

- (3) If 31 October is a Saturday or Sunday or a day which is a statutory holiday as defined in the *Statutory Holidays Act 2000* or a public holiday throughout the State, it is sufficient compliance with this section if copies of the documents –
 - (a) are forwarded to the Clerk of the Legislative Council and the Clerk of the House of Assembly; and
 - (b) are made available to the public –

on the next day after 31 October which is not a statutory holiday as defined in the *Statutory Holidays Act 2000* or a public holiday throughout the State.

- (4) If the Treasurer has given a direction under section 43(1) that the financial records of an Agency are to be maintained in respect of a period of 12 months ending on a day other than 30 June in any year –

Financial Management Act 2016
Act No. 42 of 2016

s. 45

Part 5 – Reports

- (a) the Treasurer may fix a date other than 31 October for the tabling under this section of the documents referred to in subsection (1) in relation to the Agency; and
 - (b) if a date is so fixed, this section has effect as if references to 31 October were references to the date so fixed.
- (5) If an Agency is required by section 36(1) of the *State Service Act 2000* to prepare an annual report, the Treasurer must consult with the Minister administering that Act before fixing a date under subsection (4) in relation to the Agency.
- (6) A date fixed under subsection (4) is not to be later than 4 months after the expiration of the period of 12 months specified in the relevant direction.

Division 3 – Reporting on abolition of Agencies

45. Purpose of Division

The purpose of this Division is to secure proper accountability in relation to the abolition of an Agency.

46. Reporting on abolition of Agency

- (1) Before, on or after the abolition of an Agency, the Treasurer is to appoint a person to perform the duties of a reporting officer set out in this Division.

Financial Management Act 2016
Act No. 42 of 2016

Part 5 – Reports

s. 46

- (2) If the abolition of an Agency takes effect at the end of a financial year of the Agency, the reporting officer is to comply with the provisions of section 42 of this Act and section 17 of the *Audit Act 2008* in respect of the Agency –
- (a) for that financial year; and
 - (b) to the extent that those provisions have not been complied with for any earlier financial year of the Agency –
- as if the reporting officer were the accountable authority for the purposes of those sections.
- (3) If the abolition of an Agency takes effect at a time other than the end of a financial year of the Agency, the reporting officer is to –
- (a) comply with the provisions of section 42 of this Act and section 17 of the *Audit Act 2008* in respect of the Agency, as if the reporting officer were the accountable authority for the purposes of those sections, to the extent that those provisions have not been complied with for any financial year of the Agency that ended before the abolition; and
 - (b) prepare and submit to the Minister a final report in respect of the Agency for the period starting from the beginning of that financial year of the Agency and ending with the abolition.

Financial Management Act 2016
Act No. 42 of 2016

s. 47

Part 5 – Reports

- (4) The Treasurer may give the reporting officer written directions as to the preparation and submission of the final report.
- (5) On appointment under subsection (1), the reporting officer has a duty to prepare and submit any report required under this section and to comply with any directions given by the Treasurer under subsection (4).

47. Content of final report

The reporting officer is to include in the final report financial statements and information of the kind referred to in section 42.

48. Reporting officers entitled to reasonable assistance and facilities and access to accounts

- (1) For the purposes of this Division, the reporting officer is entitled to be provided with reasonable assistance and facilities and to have full and free access at all reasonable times to all accounts and any other information, documents and records, in the possession of any person, that the reporting officer considers necessary for those purposes.
- (2) The reporting officer may –
 - (a) make copies of, or take extracts from, any of those accounts, documents or records; or
 - (b) make a record of any of that information.

Financial Management Act 2016
Act No. 42 of 2016

Part 5 – Reports

s. 49

- (3) A person who has possession of any accounts, information, documents or records of the kind referred to in subsection (1) must at any reasonable time, on the request of the reporting officer, produce any of those accounts, documents or records, or any of that information, specified in the request.

Penalty: Fine not exceeding 50 penalty units.

49. Reporting officers to submit financial statements and information to Auditor-General

- (1) Subject to any directions given by the Treasurer for the purposes of this Division, the reporting officer is to submit for the opinion of the Auditor-General the financial statements and information referred to in section 47.
- (2) Subject to any necessary modifications, this Act applies to those financial statements in the same way that it applies to financial statements referred to in section 42.
- (3) Section 44 applies to the final report in the same way that it applies to the financial statements referred to in section 42, but the prescribed period referred to in section 44 is taken to be 14 days after the final report is submitted to the appropriate Minister.

PART 6 – MISCELLANEOUS

50. Delegations

- (1) The Treasurer may, by instrument in writing and either generally or as otherwise provided by that instrument, delegate to a Minister or the Secretary such of the Treasurer's functions and powers under this Act as are specified in that instrument.
- (2) The Treasurer may, by instrument in writing, revoke wholly or in part or vary a delegation made under subsection (1).
- (3) If a function or power has been delegated under subsection (1) to the Secretary, the Secretary may, by instrument in writing, delegate to a person for the time being holding a specified office in the responsible Department in relation to this Act any functions or powers that are delegated to the Secretary in accordance with this section, other than this power of delegation.
- (4) The Secretary may, by instrument in writing, revoke wholly or in part or vary a delegation made under subsection (3).
- (5) An act or thing done in the performance of a function or power delegated under subsection (1) or (3) has the same force and effect as if it had been done by the Treasurer under this Act.
- (6) A delegation under this section may be made subject to the conditions or limitations –

Financial Management Act 2016
Act No. 42 of 2016

Part 6 – Miscellaneous

s. 51

- (a) as to the performance or exercise of any of the functions or powers delegated; or
 - (b) as to time or circumstance –
specified in the instrument of delegation.
- (7) Despite any delegation made under this section, the Treasurer may continue to perform or exercise all or any of the functions or powers delegated.
 - (8) An instrument purporting to be signed by a delegate of the Treasurer or of the Secretary in the capacity of such a delegate is in all courts and before all persons acting judicially to be received in evidence as if it were an instrument executed by the Treasurer or Secretary, as the case may require.
 - (9) If the Treasurer or Secretary by whom a delegation is made dies, or ceases to hold office as such, that delegation is taken to continue in force according to its tenor until it is revoked or varied under this section.

51. Treasurer's Instructions

- (1) The Treasurer is to issue instructions in respect of the principles, practices and procedures to be observed in the financial management of all Agencies.
- (2) Instructions issued under subsection (1) have effect unless they are inconsistent with this Act or any Act, subordinate legislation or direction

Financial Management Act 2016
Act No. 42 of 2016

s. 52

Part 6 – Miscellaneous

referred to in the definition of *written law* in section 3.

- (3) Treasurer's Instructions may be issued –
 - (a) so as to apply –
 - (i) at all times or at a time specified in the Treasurer's Instructions; or
 - (ii) to all Agencies or to Agencies specified in the Treasurer's Instructions; and
 - (b) so as to confer a discretionary authority on a person or body or a class of persons or bodies specified in the Treasurer's Instructions.
- (4) It is the duty of each accountable authority and officer to comply with any requirement of the Treasurer's Instructions that is applicable to that accountable authority or officer.
- (5) Treasurer's Instructions are not statutory rules within the meaning of the *Rules Publication Act 1953*.
- (6) Despite subsection (4) and sections 16, 18(4) and 42(2), Treasurer's Instructions do not apply to, or in relation to, an Agency, or an accountable authority, specified in Part 2 of Schedule 1.

52. Power to borrow money

The Treasurer may borrow such money as may be required for the purposes of the State.

53. Investment and borrowing powers

Unless the Treasurer determines otherwise, all investment and borrowing powers are to be held exclusively by the Treasurer.

54. Indemnities and guarantees

- (1) An accountable authority of an Agency must seek the Treasurer's approval if the Agency intends to enter into any indemnity or guarantee arrangement which the accountable authority reasonably believes has the capacity to impose a significant financial burden on the Agency or on the public finances of the State.

Penalty: Fine not exceeding 50 penalty units.

- (2) An accountable authority of an Agency must advise the Treasurer if an event occurs that may significantly affect the financial position of the Agency or the public finances of the State.

Penalty: Fine not exceeding 50 penalty units.

55. Ex gratia payments

- (1) If the Treasurer is satisfied that it is appropriate to do so because of special circumstances, the Treasurer may authorise an amount to be paid to a person even though the payment would not otherwise be authorised by law or be required to meet a legal liability.
- (2) A payment under this section may be made subject to conditions.

Financial Management Act 2016
Act No. 42 of 2016

s. 56

Part 6 – Miscellaneous

- (3) If a condition imposed under subsection (2) on a payment is breached, the amount paid may be recovered as a debt due to the State in a court of competent jurisdiction.

56. Write-off of debts, &c.

- (1) The Treasurer may, in writing, on behalf of the State –
- (a) write off the State’s right to payment of an amount payable to the State; or
 - (b) write off losses, or deficiencies, of money; or
 - (c) write off the value of lost, deficient, condemned, unserviceable, abandoned or obsolete property; or
 - (d) postpone any right of the State to be paid a debt in priority to another debt; or
 - (e) allow the payment by instalments of an amount payable to the State; or
 - (f) defer the time for payment of an amount payable to the State.
- (2) A write-off relating to an amount payable to the State by a person may be expressed to be subject to a condition that the person agrees to pay an amount to the State in circumstances specified in the write-off.
- (3) If any condition referred to in subsection (2) is breached, the amount of the write-off may be

recovered as a debt due to the State in a court of competent jurisdiction.

- (4) A write-off relating to an amount payable to the State must be reported by the relevant Agency in the notes to the financial statements of that Agency that relate to the year in which the right to payment was waived.

57. Prosecution for offences

A prosecution for an offence against this Act –

- (a) is to be taken by way of summary proceedings under the *Justices Act 1959* within –
- (i) 12 months after the offence is committed; or
 - (ii) 6 months after the commission of the offence comes to the knowledge of the complainant –

whichever period expires later; and

- (b) may be instituted by a person authorised in writing in that behalf by the Treasurer or the Auditor-General.

58. Copies of orders to be forwarded to Auditor-General

- (1) The Treasurer, within 15 days after he or she makes an order under this Act, is to cause a copy

Financial Management Act 2016
Act No. 42 of 2016

s. 59

Part 6 – Miscellaneous

of the order to be forwarded to the Auditor-General.

- (2) An order made by the Treasurer under this Act is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

59. Regulations

- (1) The Governor may make regulations for the purposes of this Act.
- (2) The regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.
- (3) The regulations may authorise any matter to be from time to time determined, applied or regulated by any person or body specified in the regulations.
- (4) The regulations may –
- (a) provide for savings or transitional matters necessary or expedient for bringing this Act into operation; and
 - (b) provide for any of those savings or transitional matters to take effect when this Act commences or on a later day specified in the regulations, whether the day so specified is before, on or after the day on which the regulations are made.

60. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act is assigned to the Treasurer; and
- (b) the department responsible to the Treasurer in relation to the administration of this Act is the Department of Treasury and Finance.

61. Savings and transitional provisions

The savings and transitional provisions specified in Schedule 2 have effect.

62. Legislation repealed

The legislation specified in Schedule 3 is repealed.

63. Legislation rescinded

The legislation specified in Schedule 4 is rescinded.

64. Legislation revoked

The legislation specified in Schedule 5 is revoked.

Financial Management Act 2016
Act No. 42 of 2016

sch. 1

**SCHEDULE 1 – GENERAL GOVERNMENT SECTOR
AGENCIES**

Section 3

PART 1 – GOVERNMENT AGENCIES

Column 1 - Agency	Column 2 - Accountable authority
Department for Education, Children and Young People	Secretary of the Department
Department of Health	Secretary of the Department
Department of Justice	Secretary of the Department
Department of Police, Fire and Emergency Management	Secretary of the Department
Department of Premier and Cabinet	Secretary of the Department
Department of Natural Resources and Environment Tasmania	Secretary of the Department
Department of State Growth	Secretary of the Department
Department of Treasury and Finance	Secretary of the Department

Financial Management Act 2016
Act No. 42 of 2016

sch. 1

Column 1 - Agency	Column 2 - Accountable authority
Brand Tasmania	The chief executive officer appointed under section 21 of the <i>Brand Tasmania Act 2018</i>
Director of Inland Fisheries	The Director of Inland Fisheries appointed under section 11 of the <i>Inland Fisheries Act 1995</i>
Director of Public Prosecutions	The person appointed as Director of Public Prosecutions under section 4(1) of the <i>Director of Public Prosecutions Act 1973</i>
Environment Protection Authority	The chief executive officer of the Environment Protection Authority
Finance - General	Secretary of the responsible Department in relation to the <i>Financial Management Act 2016</i>

Financial Management Act 2016
Act No. 42 of 2016

sch. 1

Column 1 - Agency	Column 2 - Accountable authority
Integrity Commission	The chief executive officer appointed under section 17 of the <i>Integrity Commission Act 2009</i>
Marine and Safety Authority	The chief executive officer appointed under section 16 of the <i>Marine and Safety Authority Act 1997</i>
Office of the Ombudsman	The person appointed as Ombudsman under section 5(1A) of the <i>Ombudsman Act 1978</i>
Royal Tasmanian Botanical Gardens	The Director of the Botanical Gardens appointed under section 18 of the <i>Royal Tasmanian Botanical Gardens Act 2002</i>
State Fire Commission	The Chief Officer appointed under section 10 of the <i>Fire Service Act 1979</i>
Tasmanian Audit Office	Auditor-General

Financial Management Act 2016
Act No. 42 of 2016

sch. 1

Column 1 - Agency	Column 2 - Accountable authority
Tasmanian Health Service	Secretary of the responsible Department in relation to the <i>Tasmanian Health Service Act 2018</i>
TasTAFE	The TasTAFE CEO within the meaning of the <i>TasTAFE (Skills and Training Business) Act 2021</i>
Tourism Tasmania	The chief executive officer appointed under section 17 of the <i>Tourism Tasmania Act 1996</i>

PART 2 – LEGISLATIVE AGENCIES

Column 1 – Agency	Column 2 – Accountable authority
Office of the Governor	A person appointed as Official Secretary under section 7 of the <i>Governor of Tasmania Act 1982</i>
House of Assembly	The Clerk of the House of Assembly
Legislative Council	The Clerk of the Legislative Council

Financial Management Act 2016
Act No. 42 of 2016

sch. 1

Column 1 – Agency	Column 2 – Accountable authority
Legislature-General	Both the Clerk of the Legislative Council and the Clerk of the House of Assembly acting jointly

**SCHEDULE 2 – SAVINGS AND TRANSITIONAL
PROVISIONS**

Section 61

1. References to Consolidated Fund, Consolidated Revenue, Consolidated Revenue Fund, Loan Fund and Special Deposits and Trust Fund

(1) In this clause –

relevant document means any enactment, agreement, certificate, notice, or other document, that existed or was in force immediately before the commencement of this Act.

(2) A reference, in a relevant document, to the Consolidated Fund, Consolidated Revenue, the Consolidated Revenue Fund, the Loan Fund, or the Special Deposits and Trust Fund established under the *Public Account Act 1986*, is to be read after the commencement of this Act as a reference to the Public Account and the relevant document is to be construed and have effect accordingly.

2. Matters or things made, entered into, &c., under *Financial Management and Audit Act 1990* and *Public Account Act 1986*

(1) Any matter or thing that –

(a) the Treasurer may make, enter into, authorise or determine; and

Financial Management Act 2016
Act No. 42 of 2016

sch. 2

- (b) has been imposed or conferred on, or entrusted to, the Head of an Agency, accountable authority or special appropriation under the *Financial Management and Audit Act 1990* or *Public Account Act 1986*; and
- (c) is in effect before the commencement of this Act –

continues to apply under this Act for a period of 2 years from the commencement of this Act or a shorter or longer period that the Treasurer determines.

- (2) Subclause (1) does not apply if this Act provides that –
 - (a) the matter or thing is to be made, entered into, authorised or determined exclusively by the Treasurer; or
 - (b) the Treasurer is not authorised to make, enter into, authorise or determine that matter or thing.

3. Certain accounts that are continued may be established under section 17 or 18

- (1) This clause applies to an account that –
 - (a) was established, by or under an enactment as in force immediately before the commencement of this Act, in the Special Deposits and Trust Fund; and

Financial Management Act 2016
Act No. 42 of 2016

sch. 2

- (b) is continued, under an amendment to the enactment, as an account under this Act;
and
 - (c) is not specified under that amendment to be an account continued as, or under, an Agency Trust Account established under this Act.
- (2) If this clause applies to an account, the Treasurer may, by instrument in writing, determine that the account is to be an account, specified in the determination, established under section 17 or 18.

Financial Management Act 2016
Act No. 42 of 2016

sch. 3

SCHEDULE 3 – LEGISLATION REPEALED

Section 62

Public Account Act 1986 (No. 56 of 1986)

Financial Management and Audit Act 1990 (No. 28 of 1990)

Financial Management and Audit Amendment Act 2006 (No. 7
of 2006)

Financial Management and Audit Amendment Act 2007 (No. 5
of 2007)

Financial Management Act 2016
Act No. 42 of 2016

sch. 4

SCHEDULE 4 – LEGISLATION RESCINDED

Section 63

Financial Management and Audit Regulations 2013 (No. 97 of
2013)

Public Account Regulations 2014 (No. 122 of 2014)

Financial Management Act 2016
Act No. 42 of 2016

sch. 5

SCHEDULE 5 – LEGISLATION REVOKED

Section 64

Proclamation under the Financial Management and Audit Act
1990 (No. 204 of 1990)

Financial Management and Audit Order 2014 (No. 89 of
2014)

Financial Management Act 2016
Act No. 42 of 2016

sch. 5

NOTES

The foregoing text of the *Financial Management Act 2016* comprises those instruments as indicated in the following table. Any reprint changes made under any Act, in force before the commencement of the *Legislation Publication Act 1996*, authorising the reprint of Acts and statutory rules or permitted under the *Legislation Publication Act 1996* and made before 1 December 2022 are not specifically referred to in the following table of amendments.

Act	Number and year	Date of commencement
<i>Financial Management Act 2016</i>	No. 42 of 2016	1.7.2019
<i>Brand Tasmania Act 2018</i>	No. 37 of 2018	1.7.2019
<i>Financial Management Amendment Order 2019</i>	S.R. 2019, No. 41	1.7.2019
<i>Financial Management Amendment Order (No. 2) 2019</i>	S.R. 2019, No. 85	25.12.2019
<i>Financial Management Amendment Order 2021</i>	S.R. 2021, No. 95	1.12.2021
<i>TasTAFE (Skills and Training Business) Act 2021</i>	No. 32 of 2021	1.7.2022
<i>Financial Management Amendment Order 2022</i>	S.R. 2022, No. 73	1.10.2022
<i>Financial Management Amendment Order (No. 2) 2022</i>	S.R. 2022, No. 102	1.12.2022

TABLE OF AMENDMENTS

Provision affected	How affected
Part 1 of Schedule 1	Amended by No. 37 of 2018, Sched. 5, S.R. 2019, No. 41, S.R. 2019, No. 85, No. 32 of 2021, Sched. 4, S.R. 2021, No. 95, S.R. 2022, No. 73 and S.R. 2022, No. 102