

FINANCIAL ADMINISTRATION LEGISLATION AMENDMENT BILL 1999

EXPLANATORY NOTES

GENERAL OUTLINE

Policy objectives of the Bill

There are two main policy objective of the Bill.

Firstly, in order to achieve greater accountability and transparency in government, it is desired to create a system under which successive Governments will be required to prepare and present to Parliament, in accordance with legislated principles, a formal statement setting out their broad social and fiscal objectives and establishing a framework for assessing a Government's performance in achieving the objectives. The concept of a Charter of Social and Fiscal Responsibility is proposed.

The second policy objective is to provide for a system of accrual output budgeting in the Budget Sector as from 1st July 1999. The major elements of the policy as approved by the Government are set out in the Treasury Department publications *Managing for Outcomes —Policy Guidelines* and the *Financial Management Manual*.

A subsidiary policy objective to modernise and improve current financial administration practice in a number of areas e.g. providing for short form annual reporting as well as long form reporting for departments and statutory bodies, providing for delegation of accountable officer's powers to officers in corporate service agencies, updating the list of the Treasurer's allowable investments, bringing the references to certification of financial statements into line with modern practice, providing for consolidated whole-of-government financial reporting and providing for use of derivatives by approved departments on a controlled basis.

Reasons for Policy Objectives

The Charter proposal reflects growing practice to adopt this form of improved accountability in a number of jurisdictions in Australia and overseas. It will provide transparency and accountability in developing , implementing and reporting on the Government's social and fiscal objectives.

As to accrual output budgeting, the current system of Budget management in place, Program Management, has been in operation over 10 years and does not now reflect best practice. All other major jurisdictions in Australia have either introduced or are in the process of introducing some form of accrual output budgeting. It is proposed to modernise Budget practice in this State by adopting a form of accrual output budgeting.

Accrual output budgeting represents a modern form of public management. The Government decides the outcomes it wishes to achieve for the community and arranges for Departments to produce the outputs (services) which will help produce those outcomes. Departments will present for the Budget, budgeted operating, financial position and cash flow statements and statements of the outputs to be produced and capital investment plans. The proposed system, as more fully described in the publications referred to above should be a substantial improvement on the current system.

It will:

- promote the achievement of the Government's endorsed policy objectives and outcomes, by translating them into funded services;
- promote better management of the State's balance sheet;
- encourage an improved focus on results achieved;
- increase flexibility for agencies to manage service delivery within agreed accountability frameworks;
- give public service managers the tools to manage their core business more effectively;
- promote a clearer understanding for public sector managers of what is expected and how success will be measured; and
- provide significantly improved financial and non-financial information on:

- the services being delivered by agencies;
- the total cost of these services;
- the net worth of agencies and Government and the impact of Budget decisions on this net worth; and
- the expenses and revenues, assets and liabilities of individual agencies and the Government as a whole.

Ways in which the Policy Objectives will be achieved by the Bill

The policy objectives of the proposed framework for Charters of Social and Fiscal Responsibility will be achieved by:

- Placing a statutory obligation on successive Treasurers to produce a Charter;
- Placing in legislation the principles on which a Charter must be based and the matters it must include.

As to accrual output budgeting, the Financial Administration and Audit Act puts in place a comprehensive framework dealing with all aspects of the financial administration of the State including the creation of the public accounts and their management, the departmental accounts and their control and management, dealing with moneys received by the public offices, presentation of an annual Appropriation Act to Parliament and the obtaining of appropriation, management of the State's finances during the year including by accountable officers, audit of the Government accounts and public reporting by accountable officers and the Treasurer. All of these aspects are affected by the proposed change to accrual output budgeting. The key aspects in the Financial Administration and Audit Act that are proposed to be amended to facilitate accrual output budgeting are as follows:

- As part of increased accountability for departments, providing that their accounts are no longer within the Consolidated Fund created by the Act (but are still subject to the full control of the Act) so they can stand as reporting entities providing information about the services they have been funded to deliver to help achieve the Government's outcomes;
- As a further aspect of greater definition of the accountability of departments, creating a system in which :—

- the Treasurer passes to departments a new category of appropriation to fund the net cost of outputs (the efficiency of which, accountable officers of departments are accountable for, by specific addition to their responsibilities under the Act) and a new category of appropriation for equity injection by which the Government can vary, in a way measured in accrual accounting reports, the level of investment in a department for which the accountable officer has responsibility; as part of this, defining a new category of “controlled” receipts (largely user charges and Commonwealth grants for specific recurrent purposes) which are retained by departments and spent in output production or as business unit inputs. All “controlled” transactions will be recorded in a set of controlled financial statements, wherein appropriation for departmental outputs will be received as appropriation revenue and equity injection will go into the balance sheet;
- separating the accounting for the “administered” aspects of departmental operations by defining “administered” receipts (mainly taxes, Crown land receipts, fines and forfeitures, licenses, permits and other regulatory fees and royalties) which departments levy and collect for the Government and remit to the Consolidated Fund and creating a category of appropriation for “administered” items (non-departmental outputs, grants to outside bodies) which accountable officers undertake for the Government but for which they do not have managerial responsibility. All “administered” transactions will be recorded in a set of administered financial statements separate from the controlled statements;
- Restructuring the Consolidated Fund as the Fund in which the Treasurer holds on behalf of Parliament all “administered” receipts from where moneys can only be issued to departments pursuant to appropriation (including supplementary appropriation) granted by Parliament;
- Providing for the closure of the Trust and Special Funds as a separate part of the public accounts and their devolution to Departments;

- Providing for the three new categories of appropriation mentioned above B Departmental Outputs, Administered Items and Equity Adjustment and providing that:-
 - one amount, a Vote, will be appropriated for each Department (the Appropriation Act will show how this is allocated between “headings” of Departmental Outputs, Administered Items and Equity Adjustments);
 - appropriation is the amount that the Treasurer issues to departments, not what departments actually spend (this is to clarify the separate accountabilities);
- Amending existing operational provisions in the Act in relation to such matters as Treasurer’s Advance, Transfers, Unforeseen Expenditure, Credit to Vote, revenue retention and investment of cash balances to adjust them to requirements under accrual output budgeting;
- Amending the requirements on the Treasurer as to public reporting on appropriations;
- With Departments accounting separately from the Consolidated Fund, providing for a system under which the Treasurer can require them to pay any amounts of unpaid tax equivalents, dividends or borrowing fees (this also takes up an undertaking to the Commonwealth in relation to competitive neutrality in return for Commonwealth tax exemption);
- Providing consequential amendments in the audit provisions without changing the audit mandate.

Reasonable Alternative Ways of Achieving the Policy Objectives

The fundamental basis of the proposal for a Charter is that the obligation to prepare it, the principles on which it is founded and the matters it must address are enshrined in legislation. Therefore no satisfactory alternative ways of introducing the concept are seen.

As to accrual output budgeting, the Financial Administration and Audit Act provides for the key elements in the State’s financial administration framework. Much is additionally provided for in subordinate legislation (the Financial Management Standard) and in guidelines.

The matters in the Act that require amendment to provide for accrual output budgeting are generally of central Constitutional significance and it is not possible for them to be provided for other than by legislation.

Administrative Cost to Government of Implementing the Bill

The administrative cost of preparing a Charter will be minimal. The proposed principles and content largely reflect existing or already planned practice. The review and reporting regimes anticipated are already built into the future plans of Departments and central agencies. No Budget supplementation will be required specifically for the initiative.

The cost of implementing the aspects of the Bill which deal with accrual output budgeting is part of the ongoing cost of implementing that initiative. As lead agency for the introduction of accrual output budgeting, the Treasury Department has allocated funding in 1996-97, 1997-98 and 1998-99 for policy development, support for agencies in implementing accrual output budgeting and for the redevelopment of a whole of Government central finance system within Treasury, noting that the existing system is not year 2000 compliant.

Individual agencies have been generally managing and will continue to manage the operational implementation of accrual output budgeting within existing resources. In many cases agencies have been incorporating and will continue to incorporate requirements associated with accrual output budgeting within planned upgrades/redevelopment of existing systems.

Consistency With Fundamental Legislative Principles

The Bill is considered not to be offensive to fundamental legislative principles as applicable to the issues of the management of the public revenues by the Executive Government and the appropriation of taxation, regulatory and State asset revenue.

Under the principle of the Crown Initiative, as reflected in section 18 of the *Constitution Act 1867* and section 21 of the *Financial Administration and Audit Act 1977*, it is not lawful for the Legislative Assembly to originate any vote, resolution or Bill for appropriation unless it is first recommended by a Message of the Governor. The principle effectively requires the Executive Government to take sole responsibility for the content of an Appropriation Bill. Further, an Appropriation Bill is a unique piece of

legislation in that under Constitutional precedent the Parliament cannot amend it. The role of Parliament in relation to an Appropriation Bill is limited to debating the various measures included in it and either passing it or failing to pass it.

The Bill provides that controlled receipts, being mainly Commonwealth tied grants, moneys already designated by an Act to be applied in a specified way particularly through a Fund, grants from industry to be applied for specific purposes and user charges to reimburse already incurred input costs, will not be forwarded to the Consolidated Fund and be available for appropriation by the Parliament. It also provides that other moneys (trust or fiduciary moneys such as employee superannuation contributions) will not be remitted to the Consolidated Fund and require appropriation for their expenditure. See section 9 and section 18(3).

This is the next step to more modern practice as seen in other jurisdictions and which to some extent is already reflected in the Act. Section 34B allows Departments to retain revenue from user charges and from the disposal of assets other than land and buildings, under agreement with the Treasurer for spending without appropriation. Controlled moneys are, by their nature, already committed to particular purposes and, as there is no practical scope for the Parliament to appropriate them to other purposes, there is little purpose in continuing to appropriate them. In the case of other monies, they are in fact the property of private citizens. They cannot be spent to meet Government objectives. There is no purpose to appropriation other than as an authorisation for release from the public accounts. It has always been questionable as to whether Parliament should be appropriating these monies.

A significant improvement in the accrual output budgeting initiative is the substantial increase in meaningful information that will be made available as part of the appropriation process. This information addresses Parliament's role in overseeing the Executive Government just as much as its role in passing the annual Budget.

Section 21 of the Act will require that, when presenting the Appropriation Bill, the Treasurer must table documents (the Budget Papers) stating how the amounts appropriated are to be funded. Comprehensive financial statements showing operating, balance sheet and cash flow statements for both controlled and administered transactions for each Department will be included in the Budget Papers. These statements will be prepared under professional accounting standards and will show all revenue and all

expenses i.e. they will show expenses incurred from appropriation funds and expenditure of controlled revenue. In addition, they will show all assets and liabilities of Departments. This will be the first time that the value of all assets held by Departments to deliver services will be shown in the Budget Papers. Under existing arrangements, own-source revenue retained by Departments is not shown in the Budget Papers.

Parliament's role in overseeing the operations of the Executive Government, particularly through the Estimates Committees, will be enhanced through the provision of these financial statements. They will give Estimates Committees better information on which to review Department's total performance, particularly as the reporting on outcomes and outputs develops over time.

The longstanding principle that all funds flowing through Government needed to be banked into a separate fund and could only be spent subject to appropriation, developed in times when virtually the only revenue of Government was from taxes. Over many years the revenue flows have developed to become more complex and varied without any change to that principle in this jurisdiction. The response in other jurisdictions has been a gradual move back to the principle that Parliament's key role in appropriation is to appropriate taxes, other compulsory levies and the proceeds of the State assets such as coal and timber royalties. The adoption of the proposals in the Bill by the Queensland Parliament would be consistent with the practice adopted by other Parliaments in Australasia:

- The New Zealand and Australian Capital Territory models of accrual output budgeting allow for Departments to retain their controlled revenue;
- In New South Wales, the Annual Appropriation Bill provides that only revenues in the nature of taxes are paid into the Consolidated Fund and appropriated;
- Victoria places revenue hypothecated by Parliament, from commercial operations and Commonwealth payments into a Trust Fund for expenditure without appropriation;
- South Australia allows agencies to retain own sourced revenue and Commonwealth Specific Purpose Payments;
- Tasmania places Commonwealth tied grants in a Trust Fund from which expenditure is not appropriated;

- Western Australia is heading in the direction of adopting net appropriation and allowing agencies to retain own-source revenue.

There are a number of other sections which enable matters to be dealt with by prescribed requirements or regulation, for example, subsections 18(4) and (5), subsection 38B(1), subsection 39(5), subsection 43B(2)(a), subsections 43D(1) and (2) and subsection 46J(4). In view of the need to limit administrative detail and lists in legislation, the subsidiary nature of the matters involved and Parliament's power to review and disallow if necessary any prescription or regulation, these provisions are not considered to constitute inappropriate delegations of legislative power.

As mention above in relation to a specific matter, the Bill vests certain powers of approval in the Governor in Council, for example, section 23A (reallocation of Vote on redistribution of government business), section 25 (approval of Unforeseen Expenditure) and subsection 41(3)(d) approval of types of investments.

Further, the Bill vests powers in the Treasurer to, for example, approve the rate of interest on overdrawn Funds, close a Fund, give directions as to the timing of remittances of receipts to the Consolidated Fund, approve entry into a derivative transaction, write off losses in the Consolidated Fund, allocate the supply amount amongst Departments and effect transfers under section 24.

The exercise of the powers granted often involves complex issues which require expert knowledge. The central role of the Treasurer in these issues must be recognised and it is appropriate that the Treasurer be delegated executive powers that require the application of the necessary expertise. Parliament's sitting times do not permit timely consideration and assessment of technical matters regarding budgetary arrangements. In view of the important role which Parliamentary and Constitutional practice has accorded the Executive Government in managing the appropriations during a financial year, these provisions are not considered to constitute inappropriate delegation of legislative power.

Consultation

The proposals for the Charter have been developed in central agencies with consultation with representative Departments as necessary.

As to accrual output budgeting, Departmental Directors of Finance or senior offices representing them attended a presentation by Treasury Department on the major features of the Bill. An advanced draft of the Bill was subsequently circulated to each Department for review and comment. Comments made have either been resolved or incorporated in the draft.

An advanced draft of the Bill has been made available to officers of the Department of Premier and Cabinet and the office of the Auditor-General.

The Bill has been drafted by the Office of the Parliamentary Counsel.

At the time of approval by the Executive Government, there were no material objections to the Bill.

NOTES ON PROVISIONS

PART I—PRELIMINARY

Clause 1 provides the short title of the Bill.

Clause 2 provides the commencement provisions. As the provisions concern a new scheme of financial administration to commence in 1999-2000 it is proposed that the Bill will commence on 1 July 1999 except that the minor consequential amendments to the *Supreme Court of Queensland Act 1991* are timed to commence at the same time as the *Civil Justice Reform Act 1998* amends section 93D of the *Supreme Court of Queensland Act*.

PART 2—AMENDMENT OF APPROPRIATION ACT 1998

Clause 3 provides that Part 2 amends the *Appropriation Act 1998*.

Clause 4 substitutes the existing section 4 in the *Appropriation Act 1998* with a section which reflects the Fund structure and terminology which will apply under the new arrangements. In the Act as amended the term “public accounts” will generally be substituted with a reference to the Consolidated Fund and the term “services” will be discontinued and be replaced by reference to outputs, administered items and equity adjustment. The reference to supply granted from Trust and Special Funds needs to be deleted as this section of the public accounts is being discontinued. There will be a reduced need for supply because of the double (and in some cases triple) appropriation that is caused by transfers between Funds in the public accounts and the proposal that tied Commonwealth grants, hypothecated taxes and user charges will not be appropriated.

PART 3—AMENDMENT OF FINANCIAL ADMINISTRATION AND AUDIT ACT 1977

Clause 5 provides that Part 3 amends the Financial Administration and Audit Act.

Clause 6 deletes existing sections 5 and 5AA and insets new sections 2, 3, 4, 4A and 5.

Proposed section 2 provides that the definitions are now shifted from the front of the Act to a dictionary in Schedule 3.

Proposed section 3 provides for a new definition of Annual Appropriation Act. The units of Government that can receive appropriation are Departments. A Vote will be the total amount appropriated to a Department. The total for each Department will be appropriated although the Annual Appropriation Act will also show how this amount is allocated to departmental outputs, administered items and equity adjustment.

Proposed section 4 defines “administered” and “controlled” receipts. A limited number of items are specifically defined as “controlled” and the balance automatically fall as “administered”. The effect is that controlled receipts are retained by Departments and are not forwarded to the Consolidated Fund for appropriation. In order to provide some flexibility that may be required, subsection (3) provides for an Annual Appropriation Act to prescribe, despite the definitions, that public moneys be defined as

controlled or administered for a year. It may be necessary in a year to vary the character of a particular new type of receipt if under the existing definitions it is not classified as required. Permanent variation to the definitions by amendment to the Act would be undertaken if necessary.

Proposed section 4A provides a new definition of Department. It links with the power to appoint accountable officers and the persons who may be appointed as accountable officers. The presentation being adopted puts in one place all the “Departments”. Independent offices such as the Auditor-General and the Ombudsman mentioned in Schedule I will be regarded as Departments for the purposes of the Act. Subsection (3) provides that where an accountable officer is appointed for part of a Department, it becomes a separate Department for the purposes of the Act.

Proposed section 5 provides a new definition of statutory body.

Clause 7 inserts a new Part 1A and transfers the headings Part 2 and Division I thereof to after the new Part with the Division I title amended from “The public accounts” to the “The consolidated fund”.

PART 1A—CHARTER OF SOCIAL AND FISCAL RESPONSIBILITY

Proposed section 6A provides that the Treasurer must prepare a charter of social and fiscal responsibility within 90 days of commencement and table it in Parliament. A charter takes effect when it is tabled.

Proposed section 6B sets out the purpose of a charter.

Proposed section 6C sets out the principles which the Treasurer must have regard to in preparing a charter.

Proposed section 6D sets out the matters that a charter must include. Matters additional to those listed may be included in a charter.

Proposed section 6E provides that the Treasurer may amend or withdraw and replace a charter. Any amended or replacement charter does not take effect until tabled in Parliament.

Proposed section 6F provides that, during an election period, Treasury employees may not comment to or provide advice to or provide cost estimates to anyone in relation to policy proposals of any political party or candidate for election, except another Treasury employee. This exception provides for Treasury employees to discuss these matters amongst themselves in preparing briefs for incoming governments.

PART 2—FINANCIAL ADMINISTRATION

Division 1—The consolidated fund

Clause 8 repeals existing sections 9 to 11A and inserts new sections 9 and 10.

Proposed section 9 provides that controlled receipts do not form part of the Consolidated Fund. Section 34 of the *Constitution Act 1867* provides that all taxes imposts rates and duties and all territorial casual and other revenues of the Crown form one consolidated revenue fund. However under the accrual output budgeting system, controlled receipts will be kept in Departments and will not be forwarded to the Treasurer’s Consolidated Fund. This provision confirms that it is legal for controlled receipts to be kept in Departmental accounts.

Proposed section 10 provides for a restructured Consolidated Fund in place of the existing public accounts. The existing section 10, “The public accounts”, provides that the public accounts consist of the Consolidated Fund and the Trust and Special Funds and prescribes the moneys that are to be paid into and out of each Fund.

The term “public accounts” will not continue to be used. With the devolution of the Trust and Special Funds to Departments, there is need only to provide for appropriation from the Consolidated Fund.

Proposed section 10 provides for the restructured Consolidated Fund to consist of the Treasurer’s Consolidated Fund operating account and the Treasurer’s Consolidated Fund investment account and set out the moneys that are to be paid into and out of the Fund.

Clause 9 adjusts the definition of “departmental accounts” to recognise that under accrual accounting and budgeting, there will be accounts for both controlled and administered transactions and items. It also provides that the accounts kept for the preparation of the section 38B consolidated whole-of-government statement, other than the consolidated fund accounts, are departmental accounts of the Treasury Department.

Clause 10 extends the existing exemption in section 14 for moneys in investments under Division 8 not to be kept at a financial institution, to investments under the new derivatives power under Division 8A.

Clause 11 replaces existing section 17 which currently provides for the public bank accounts to be the bank accounts for the public accounts and prescribes that all moneys received by the Treasurer must be paid in and that moneys may only be withdrawn for transfer to departmental financial-institution accounts. The proposed section provides for a bank account to be kept for the Consolidated Fund, the payments into it and what moneys may be withdrawn from it.

Clause 12 provides for replacement of subsections (3) and (4) of section 18. The section provides for the establishment of financial-institution accounts and specifies that all moneys collected by Departments are to be paid into them at intervals specified by the accountable officer, that moneys are to be remitted to the Treasury, as required, and individually lists the circumstances in which public moneys (used for Government purposes) and other moneys (private persons’ trust monies) may be paid out.

Proposed subsection (3) means that administered receipts (taxes, fees, fines, royalties etc) will be forwarded to the Consolidated Fund but a Department’s controlled revenue will be retained in the Department. Appropriation revenue received from the Treasurer will be retained. Administered receipts received for other Departments are to be forwarded to them.

Under proposed subsection (4), it is proposed to prescribe the circumstances in which public moneys may be paid out of the account otherwise than as in (3).

Under proposed subsection (5), it is proposed that other monies may only be paid out of the account as prescribed or in the circumstances described in (b).

Clause 13 adjusts existing section 19. Section 19 currently authorises an unintentional overdraw of the public bank accounts to invest a surplus cash balance and gives an example of unintentional overdraw. This is in the Act to address any concerns the Government's banker may have about the public accounts being overdrawn.

The proposed amendment replaces the reference to the public bank accounts with reference to the Treasurer's Consolidated Fund bank account and the departmental financial-institution accounts and updates the example of unintentional overdraw.

Clause 14 adjusts existing section 21 regarding the Annual Appropriation Act. Subsection 21(2) currently provides that a Bill for an Annual Appropriation Act must indicate the proposed expenditure under the headings of proposed votes, subdivisions and subdivisional items.

As the proposed new arrangements do not involve the continued use of subdivisions and subdivisional items this subsection is being repealed. Detail to be included in an Annual Appropriation Act is now adequately provided for in the definition of Annual Appropriation Act.

Subsection 21(3) currently requires the Treasurer to lay before the House estimates of receipts relating to the proposed expenditure.

The proposed new subsection 21(2) is an updated requirement requiring the Treasurer to demonstrate how the total to be appropriated is to be funded.

Clause 15 provides for the repeal of sections 23 to 24A and inserts new sections 22, 22A, 23, 23A, 23B, 23C, 23D, 24, and 24A.

Proposed section 22 provides that words defined in the Act have, subject to contrary intention, the same meaning in an Annual Appropriation Act as in the Act. This particularly applies in respect of the word "department". The format of the definition of Annual Appropriation Act is that appropriation will be issued to "departments". Under the proposal, the office of the Ombudsman which is not otherwise recognised as a Department, will be able to be accommodated in the new framework.

Proposed section 22A replaces existing section 23 (1) and (1A). Section 23 (1) currently provides that appropriation for a financial year is available up to 14 July in the next year and any balance lapses. Subsection 23 (1A) provides that appropriation is only available for payment of work performed, goods received or services rendered prior to the end of the financial year.

The proposed subsections provide that the total appropriated for a financial year is available for the Treasurer to issue for departmental outputs, administered items or equity adjustment to a Department up to 14 days after the financial year or, under section 23, up to 31 August, and that thereafter it lapses.

The Treasurer is stopped from issuing appropriation if it is considered a Department did not deliver an output, item or equity adjustment or if a departmental or non-departmental output was delivered otherwise than as required. The reference to documentation in (5) is to the Budget Papers, particularly the Ministerial Portfolio Statements.

Further, under accrual budgeting and accounting, expense against appropriation revenue will only be able to be brought to account in the financial year if the work is performed, the goods are received or the services are rendered during the financial year. The existing subsection 23(1A) provisions are therefore no longer required.

Proposed section 23 provides that if a Department's June quarter output report cannot be prepared and analysed by 14 July but the Department is found to be entitled to more appropriation revenue than it has received for the year, the Treasurer may, up to the end of August, issue more appropriation to it, up to the limit for that year and the appropriation is taken to not have lapsed at 14 July. However, the books will not be kept open past 14 July. If appropriation is issued past 14 July under these provisions, it is provided that it will be recorded in the next financial year's Treasurer's Appropriation Statement but as an expenditure in respect of the previous financial year.

Proposed section 23A provides a similar system to that in existing section 23 (2) and (3). Sub section (3) currently provides for the Governor in Council to determine under headings of votes, subdivisions and subdivisional items how unspent appropriation will be reallocated when there is a redistribution of the public business amongst the Departments.

The proposed section provides for the Governor in Council to similarly determine, by Gazette notice, the unspent appropriations and how they will be reallocated to a Department's headings of departmental outputs, administered items and equity injection and the resultant remaining allocations for the remainder of the year for both Departments that have lost functions and Departments that have gained functions.

Proposed section 23B replaces section 27(1). The existing section 27 “Charging of Expenditure” provides that sums issued from the public accounts must be charged to the appropriate heading for special services or the proper vote, subdivision or subdivisional item or unforeseen expenditure heading.

The proposed section 23B replaces these concepts with the terms of the new system. The special services concept (ie services subject to standing appropriation) is no longer to be recognised as a separate category although standing appropriations will exist in a number of Acts. The current practice is that all proposed expenditure from the Consolidated Fund is appropriated annually even though some may be subject to standing appropriation. It provides for the Treasurer to record in the Consolidated Fund operating account when an amount is paid from the Consolidated Fund and to allocate it to the appropriate heading.

Proposed section 23C provides arrangements for the payment of an equity withdrawal from a Department which is provided for in an Annual Appropriation Act. It provides for the recording of the receipt of the withdrawal by the Treasurer.

Under accrual output budgeting, the Budget Papers will contain budgeted financial statements including budgeted balance sheets of Departments, which will show the State’s budgeted net asset holding in Departments as at the close of the Budget year. These net asset holdings, which Departments will employ in delivering outputs, will be subject to an equity return. They will also be subject to review as to their efficiency and a request for an equity withdrawal may result as part of the Budget deliberations.

Proposed section 23D replaces existing sections 27 (3) and (4). These existing sections provide that, when there is a late Budget, the Treasurer is required to furnish to accountable officers a statement setting out the headings that expenditure under supply may be charged to. All expenditure within the limits of those sums and for the purposes specified is deemed to be appropriated. This is known as a Treasurer’s Determination.

A similar facility is required in the new system to cater for when there is an August-September Budget or if a May Budget is not passed by 1 July.

Proposed new section 23D provides that in these circumstances the Treasurer will prepare a statement setting out the total amount available for each Department during the period of supply and the way in which the total amount is to be applied between departmental outputs, items and adjustment

and advise Departments accordingly. Payments under the statement will be taken to be authorised by an Annual Appropriation Act.

As the next Budget is planned for September, the new accrual output budgeting system will commence with the Treasurer preparing a statement under these provisions for application from 1 July 1999.

Division 4A—Matters about changes to appropriation

Proposed section 24 provides a replacement for existing section 24. The existing section 24 allows the Treasurer, within a Vote total, to reallocate the totals of expenditure under the subdivisional and subdivisional headings provided the Vote total approved by Parliament is not exceeded. These are known as Transfers.

The proposed section 24 allows for a similar system under which the Treasurer will be able to apply an amount to one heading that may be deficient out of the surplus arising in another heading. “Heading” for a Department is a defined term and means departmental outputs, administered items or equity adjustment. The Treasurer, however, is not authorised to pay more than the Vote total. The Treasurer must give written notice of any transfer effected to the relevant Departments.

Proposed section 24A provides a replacement for existing section 24A. The existing section 24A, referred to as Treasurer’s Advance, provides that where provision is made in a Vote (or subdivision or subdivisional item) of the Treasury for service expenditure that may be incurred by any Department, the Treasurer may transfer a part of the Vote (or subdivision or subdivisional item) to that Department.

The proposed Section 24A provides for similar arrangements under the new system of appropriation. The amount involved is specifically referred to as the “Treasurer’s advance”. It applies where the Vote of the Treasury includes an amount for purposes that may be delivered or provided by any Department. If the Treasurer is satisfied that a Department is to achieve one or more of those purposes the Treasurer may issue to the Department a part of the Treasurer’s advance.

Clause 16 makes amendments to existing section 25 to adjust it to the new system. The existing section 25 provides a system, referred to as “Unforeseen Expenditure”, under which, expenditure that needs to be made by the Government from the public accounts and for which there is no or insufficient appropriation, may be authorised by the Governor in Council in advance of appropriation.

The proposed amendments preserve this system but

- replace references to the public accounts with references to the consolidated fund and departmental headings;
- delete references to sub divisions and sub divisional items as those categories are to be discontinued; and
- provide for Unforeseen Expenditure to be available up to 14 days after 30 June as for appropriation.

As the headings “departmental outputs”, “administered items” and “equity adjustment” will be standard, Annual Appropriation Act headings will not vary so there is no further need for a provision as is currently in section 25(2).

Clause 17 adjusts existing section 25A dealing with the Treasurer’s Statement of Unforeseen Expenditure. Existing section 25A provides that where Unforeseen Expenditure from the public accounts is approved during a financial year, as soon as practicable after the close of the financial year, the Treasurer must prepare and sign a statement of that expenditure and have it audited by the Auditor-General. This statement is defined in (1) as the “Statement of Unforeseen Expenditure to be Appropriated”.

The proposed amendments replace the reference to the public accounts with a reference to the consolidated fund and amend the reference in (2) to “a statement” to “the Statement of Unforeseen Expenditure to be Appropriated” to improve the drafting.

Proposed subsection (3) is a reformatting of the existing section under which the Auditor-General will examine the statement and “prepare a report about it” rather than examine the statement and “certify thereon”. The proposed wording reflects modern auditing standards and is similar to the proposed amendments in section 40 and 46G.

Clause 18 inserts proposed sections 27 and 28.

Proposed section 27 provides that if unforeseen expenditure is paid from the Consolidated Fund the Treasurer must record it in the consolidated fund operating account. This provision was previously in section 27 (1)(c).

Proposed section 28 applies the relevant parts of existing section 34A and provides for recovery of funding issued for outputs subsequently undelivered. Existing section 34A provides that where expenditure from the public accounts by way of overpayment, error or investment is recovered in the same year, the appropriate heading or vote or subdivision or subdivisional item to which it has been charged may be credited so allowing further expenditure within the original appropriation limit.

It further provides that where an amount is received in a financial year in recovery of expenditure otherwise or in recovery of expenditure from the public accounts in a previous year, it is to be recorded as a receipt rather than as a credit of expenditure.

Under the new arrangements, overpayments and errors in the payment of accounts by Departments is not an issue as they are outside the Consolidated Fund. Further it is proposed that investment of any surplus balance of the Consolidated Fund will be subject to standing appropriation and specific annual appropriation will not be required.

To provide for a situation where funds issued from the Consolidated Fund by the Treasurer are required to be returned because it is discovered they were issued in error or there has been an overpayment because a Department has been paid appropriation for departmental or non-departmental outputs which have not been delivered, these provisions link with proposed section 22A (4) which place an obligation on the Treasurer to adjust payments if an output was not delivered. The proposed section creates an obligation on accountable officers to repay any incorrectly paid amounts to the Treasurer. The proposed section also provides that when the Department repays the incorrectly paid amount, the Treasurer must credit the Vote of the Department and allocate the amount to the appropriate heading.

Clause 19 repeals Division 5 consisting of 31A, 34A and 34B and inserts the new heading for Division 5 and sections 29, 30, and 31.

Section 31A provides that the Treasurer may approve that the accountable officer of one department may process expenditure payable from the public accounts for the accountable officer of another department. It is considered inappropriate for the Treasurer to be involved in approvals at this level. The

extended delegation power proposed for accountable officers in section 36B will allow them to delegate powers to officers in other Departments for this purpose.

Section 34A provides as outlined above under proposed section 28. Replacement provisions are being provided in new section 28.

Section 34B—This section provides that the Treasurer may authorise an accountable officer to retain receipts from:

- (a) levying a charge for goods or services; or
- (b) disposal of assets other than land or buildings,

rather than commit them as receipts of the public accounts and the receipts may be spent without appropriation. They are taken to be appropriated in that financial year.

This provision will no longer be required in this form and is being repealed. Under the new system, “controlled” receipts may be retained by Departments and spent without appropriation as discussed in relation to fundamental legislative principles. The receipts in (a) above are similar to those in (a) in the definition of controlled receipts and those in (b) are included in (d) in the definition.

Division 5—Continuing funds

This Division provides for Funds in Departments created under the Act which continue after 1 July 1999 which are defined as continuing funds.

Proposed section 29 provides each existing Fund created under the Act continues with the purpose for which the Fund was established. This means that the revenue of the Fund and the purpose of expenditure from the Fund is to continue to be as intended when the Fund was established. It is also being provided that “Trust” can no longer be in the name of these Funds. They are listed in Schedule 2.

Proposed section 30 provides that approval (on conditions necessary or desirable) is required for a Fund to be overdrawn. This approval power currently vests in the Governor in Council but it is considered that a matter such as this is more appropriately considered by the Treasurer. It also provides, as now, that the Treasurer may decide and charge a rate of interest

on the overdrawing. It is additionally being provided now that the Treasurer must advise the rate of interest in writing.

Proposed section 31 provides for the Treasurer to close a continuing Fund by Gazette notice and for the matters which need to be dealt with on the closure of a Fund including that the balance is paid to the Consolidated Fund. As it is desired that the use of Funds created under this Act will phase out, there is no provision to create any further Funds under it. It will be open however for new Funds under individual Acts to be created if necessary.

Clause 20 inserts a new section 34 which is a restructuring of section 35 (1) and (2) dealing with the appointment of accountable officers.

It provides that the chief executives of Departments are accountable officers for their Departments by virtue of their appointments and that the Treasurer may appoint a person to be the accountable officer for a public sector unit other than a Department or another authority, corporation, instrumentality or office. If the authority, corporation, instrumentality or office is initially part of a Department, the appointment makes it a separate Department for the purposes of the Act by virtue of the definition of Department (Section 4A (3)).

Clause 21 amends section 35 by inserting a new heading “Clerk of the Parliament as accountable officer” and repealing (1) and (2) dealing with appointment of accountable officers generally. This continues the existing provisions which create the Clerk of the Parliament as the accountable officer for the accounts relating to the Legislative Assembly and the Parliamentary Service.

Clause 22 inserts proposed section 35A which provides specially for the appointment of a category of independent officer-holders to be accountable officers of their offices.

Section 35 currently provides for the appointment of chief executives as accountable officers of their Departments and also provides that the clerk of Parliament is the accountable officer for accounts relating to the Legislative Assembly and the Parliamentary Service. The Ombudsman has also previously been appointed under this section. The Auditor General is appointed under section 67 as the accountable officer of the audit office.

It is desired to separate the appointment of holders of independent offices from the appointment of Public Service officers to emphasise their independence. The Auditor General and the Ombudsman are to be

appointed by virtue of this section as set out in Schedule I. The Clerk of Parliament's appointment is however retained separately in section 35.

In respect of these Offices, appropriation is taken to be for a Department, accounts are taken to be Departmental accounts and any appropriation to them for departmental outputs, administered items or equity adjustment is taken to be for a Department.

Clause 23 adjusts the responsibilities of accountable officers. The purpose of the proposed amendment to section 36 (1)(c)(iii) is to ensure that the duty of accountable officers to obtain reasonable value for money is restated in terms of accrual output budgeting concepts. The intended operation of the amendment is that this duty will now be in respect of delivering departmental outputs and purchasing, developing or augmenting assets of the department.

Clause 24 provides for existing section 36A to be repealed and for the insertion of new sections 36A and 36B.

Proposed section 36A has the purpose of providing the Treasurer with a facility to require the payment of tax equivalents and dividends under an arrangement about a business unit within a Department.

However these provisions cannot apply to the Clerk of the Parliament, the Ombudsman or the Auditor-General.

Proposed section 36B has the purpose of extending the power of an accountable officer to delegate his or her powers to an officer of the same Department to officers in another department. The intended operation of the provision is for example, where a department has established a separate corporate services agency which services the operations of itself and another Department, the accountable officer for the other department which is also serviced, may delegate his or her powers to officers in the corporate service agency.

The *Public Service Act 1996*, section 57, provides for chief executives to delegate their powers to any person. Sub-section 2 provides that the delegations of an accountable officer's powers are according to the *Financial Administration and Audit Act* rather than the *Public Service Act*.

Clause 25 repeals existing sections 37B, 38, and 39 and inserts new sections 37, 38, 38A, 38B, 38C and 39.

Existing section 37B deals with annual reports by Departments and is to be replaced by proposed section 39.

Existing section 38 deals with Quarterly statements by the Treasurer of receipts and expenditure for the public accounts and this is to be replaced by the proposed sections 38 and 38A.

Existing section 39 deals with the Treasurer's annual statement and this is to be replaced by the proposed section 38B dealing with a consolidated whole-of-government financial statement.

Proposed section 37 states that the purpose of the division is to provide for the Treasurer's accountability for the Consolidated Fund (for example through the preparation of quarterly statements) and the accountability of the accountable officers for public moneys and other moneys (for example through annual reports and general purpose financial statements).

Proposed section 38 has the purpose of providing for the accountability of the Treasurer for the operation of the Consolidated Fund by way of regular quarterly reporting to the Parliament and the community.

The operation of the section is that as soon as possible after the end of each quarter the Treasurer must prepare a statement setting out the cash receipts, for each Department the amounts paid from its Vote and how the amounts were applied to each heading and the opening and closing cash and investment balances and the amount of investment and comparative figures for the corresponding quarter of the immediately preceding financial year. The statements for the second, third and fourth quarters must include progressive cumulative totals for the financial year and the immediately preceding financial year.

The statement for the second, third and fourth quarter returns each financial year are to be published in the Gazette as soon as possible after the statements are prepared.

Proposed section 38A provides for an appropriation statement to be prepared as at the close of the fourth quarter each year and is required to show for the year receipts, and balances of cash and investments as provided in section 38 and for each Department details of the Vote and any variations during the year, the amount paid to it and its application to headings, equity withdrawals, unforeseen expenditure, lapsed votes and amounts written off under section 106. It is also required to contain a report on the Treasurer's investment during the year under section 41.

The Treasurer is required to prepare and sign the statement within 2 months after the end of the financial year and provide it to the

Auditor-General for audit. After audit, the statement is to be laid by the Treasurer before the Legislative Assembly.

Proposed section 38B has the purpose of substituting alternative arrangements to modernise the Treasurer's reporting at the whole-of-government level. The Treasurer's Annual Statement currently provided for in Section 39 will not continued to be used.

Modern practice Australia wide is for governments to produce a comprehensive consolidated financial statement for the whole-of-government pursuant to the Australian Accounting Standard AAS 31.

The intended operation of the new section 38B is that within 6 months after the end of each financial year the Treasurer will prepare, under the prescribed requirements, a consolidated whole-of-government financial statement. Australian Accounting Standard AAS31 has already been prescribed for this purpose and included in the Financial Management Standard and it is proposed that a prescription may be made in respect of other details to be provided in the report.

The completed statement will be certified by the Treasurer, the Under Treasurer and the most senior officer of the Treasury department responsible for the preparation of the statement and be submitted to the Auditor-General for auditing. After the Treasurer receives the audit report from the Auditor-General, the Treasurer must lay the statement and the audit report before the Legislative Assembly within 14 days.

Proposed section 38C provides that for the preparation of the statement, the Under Treasurer may, by written notice to an accountable officer of a department or a statutory body, require them to give particular information by a stated date. The date cannot be earlier than 14 days after the auditor-general certifies the general purpose financial statements.

Proposed section 39 largely reflects existing section 37B with the addition of provision for short form reporting. Existing subsections (1) to (4) have been slightly redrafted to reflect modern practice.

There is a change in relation to departmental annual reporting in the new sub-sections (5) and (6). The purpose of these sub-sections is to provide a facility for departments to prepare and issue a short form annual report. The intended operation of these provisions is that the form in which these reports may be prepared will be prescribed. It is proposed that the Financial

Management Standard will require that the short form reports contain abridged information on an agency's operations, financial statement aggregates, advice on whether the financial statements have an audit qualification and advice that a full report is available on request. Whether or not a short term report is prepared by a Department will be a matter for approval by the appropriate Minister. However, short-form reports will not in any way replace full annual reports and for tabling in Parliament, the full annual report must be used. Sub-section (6) provides that the accountable officer must ensure that both the full annual report and short-form report must be available at all times so that a Department may not offer the short form when the request is for the full annual report.

Clause 26 provides for amendments to section 40. The purpose of the proposed amendments is to modernise the description of how the Auditor-General examines and reports on the financial statements of Departments.

The intended operation of the amendment is that, whereas currently the Auditor-General is required to audit the general purpose financial statements of Departments and "certify on those statements", the new provision is that the Auditor-General would "prepare a report about the financial statements". This wording reflects modern auditing standards. The other amendments are consequential flowing from this proposed change except that the amendment to (7) improves the drafting in relation to the case of consolidated statements.

Clause 27 omits the existing heading "Division 8—Investments", inserts proposed new section 40B in "Division 7A—Borrowings" and inserts a new heading "Division 8—Investment by Treasurer" containing proposed new section 40C.

Proposed section 40B allows the Treasurer to levy a borrowing fee if amounts borrowed by the Treasurer have been passed on to a Department. Departmental business units currently pay fees in relation to funds which they borrow from the Treasury which has been borrowed on behalf of the State. Now that the operations of Departments will be outside the Consolidated Fund, it will be advantageous for the Treasurer to have a statutory basis for levying the fee.

The intended operation of the provision is that if the Treasurer considers all or part of amounts borrowed for the State have been used by a Department the Treasurer may, by written notice declare that the

Department is liable for a borrowing fee. The notice must state the amount of borrowings the Treasurer considers have been utilised, the borrowing fee levied and the time for payment.

Division 8—Investment by Treasurer

Proposed section 40C is to clarify that now that Departments are separated from the Consolidated Fund it is still the Treasurer that has power to invest the funds in Departmental financial-institution accounts.

This general prohibition however is subject to the specific investment powers that individual bodies such as superannuation trustees, the Public Trustee investment board and the Trustees of the Funeral Benefit Trust Fund have by virtue of their own legislation. Proposed subsection (3) (c) is designed to achieve this.

It is also subject to the controlled power to enter into derivative transactions under section 43B.

Proposed subsection (2) is designed to allow departments to be able to operate normal operating account facilities.

Clause 28 has the purpose of amending sections 41(1) and (2) to restructure them so that they reflect the change to the public accounts. The current act provides for the Treasurer to invest with respect to any Fund of the public accounts and any departmental account.

As the term “public accounts” is not used in the new Act, it is preferable to authorise an investment of cash from a bank account rather than from a ledger account.

The amendment to 41(1)(a) provides for the definition of the Treasury Department. The amendment to 41(1)(b) provides a short-hand definition of the Treasury investment suspense financial-institution account—TISFIA.

The proposed sub-section (2) authorises the Treasurer to make an investment out of TISFIA, the balance of the Treasurer's Consolidated Fund bank account or the balance in a Departmental financial institution account.

Proposed subsection (2A) provides for the Treasurer to use the TISFIA account also for the investment of miscellaneous other moneys (e.g. Eventide patients' trust moneys) which are invested under the powers in section 43.

The purpose of the proposed amendment to the beginning of sub-section (3) is to modernise the wording.

The amendment to (3) is to delete the existing category (d) which is out of date due to changes in Reserve Bank arrangements and to insert the proposed additional categories of investment.

In relation to proposed sub-section (6), existing subsection (4) is provided in new section 41A, existing section (5) is provided for in section 38A and existing (6) is dealt with in new 43A.

Proposed sub-section (4) is related to (2A). It provides that if an investment of other moneys is undertaken, moneys received from the investment are payable to the owner.

Clause 29 provides for the repeal of existing section 42 and the insertion of new section 41A and 42.

Proposed section 41A provides for the distribution of interest from investment of balances in the consolidated fund bank account and the departmental financial institution accounts. This proposed section replaces existing section 41(4).

In respect of monies invested through TISFIA the intended operation of this section is that earnings will initially be paid into TISFIA and the funds to recoup the investment will be applied thereto and the Treasurer will identify the “investment earnings”. The Treasurer will declare an amount from the investment earnings which has to be paid to departmental financial-institution account as interest and arrange for the payment of the interest. The balance will be paid into the Consolidated Fund bank account.

If money for an investment is paid directly out of the Consolidated Fund bank account, moneys received from the investment must be paid to the Consolidated Fund.

If monies for an investment are paid out of a departmental financial institution account, monies received from the investment must be paid to the departmental financial institution account.

Proposed section 42 has the purpose of being a modernised version of existing section 42 and replaces the existing reference to a “public bank account”, which term is no longer to be in the Act, and improves the wording in relation to the payment of monies without appropriation.

The intended operation of the new section is that if monies are required to be paid out of the Treasurer's Consolidated Fund bank account for an authorised investment the payment of the monies out of the bank account is appropriated accordingly.

Clause 30 makes technical adjustments to section 43. The purpose of the proposed amendment is to correct an error which has occurred in the reprint process in that in sub-sections (2) and (3) the reference to the Treasurer should be a reference to the Treasurer of Queensland. In addition the opportunity is been taken to improve the drafting.

Clause 31 provides for new sections 43A, 43B, 43C, 43D and 43E.

Proposed section 43A has the purpose of replicating what was in the existing section 41 (6) with the deletion of references to the trust and special funds and put into a modern drafting format.

Division 8A—Derivative transactions

Proposed section 43B provides for a Department to enter into derivative transactions if it has been prescribed by Regulation as an authorised Department, if the Treasurer has given approval for entering into the arrangement of the type concerned and the Department only enters into the transaction to hedge against a risk to which the Department is or will be exposed.

Proposed section 43C provides for the Treasurer to approve of a Department entering derivative transactions of particular types, which approval may include conditions and that a Department must keep a register of the Treasurer's approvals.

Proposed section 43D provides for a Minister to monitor the derivative transactions entered into by a Department and prescribes that Departments must give the Minister a report each month containing the prescribed details. The Minister must monitor the derivative transactions entered into by the Department.

Proposed section 43E provides for the Treasurer to be able to obtain a report under 43D.

Clause 32 substitutes “consolidated fund” for “public accounts” in section 46 (1A) and modernises the drafting in (2).

Clause 33 inserts proposed section 46D. This proposed section provides a mechanism for dealing with overpayment of appropriation for non-departmental outputs to be delivered by statutory bodies on a basis similar to that established for Departments under proposed section 28.

Clause 34 amends section 46F. The purpose of the proposed amendment to section 46F is to provide consequential amendments which arise from the proposed changes to supporting section 46G relating to the ways in which the Auditor-General certifies the statutory bodies annual financial statements.

Clause 35 amends section 46G which deals with statutory bodies. The purpose of the proposed amendment is similar to the amendment as to how the Auditor-General certifies the annual financial statements of Departments which is provided for in clause 26.

In similar fashion, it is proposed that on completion of the audit of the annual financial statements of a statutory body, the Auditor-General will “prepare a report about” the financial statements rather than “certify thereon” as is currently provided for in the Act.

The other amendments proposed for this clause are consequential thereon except that, the drafting in existing section 46G(1A) in relation to modifying the certificate required in the case of consolidated financial statements, has been improved as set out in the proposed sub-section (3).

Clause 36 inserts into section 46J provisions which allow statutory bodies to prepare short form annual reports on a basis similar to what has been provided for Departments in amended section 39.

Clause 37 provides for repeal of section 67 which appoints the Auditor-General as accountable officer of the audit office, as his appointment would now be provided for under proposed section 35A.

Clause 38 substitutes CONSOLIDATED FUND for PUBLIC ACCOUNTS in the heading to Part 6.

Clause 39 inserts a new heading to section 73 and additionally has the purpose in section 73(1) of adjusting the reference to the public accounts, which will no longer be a defined term in the Act, to a reference to the consolidated fund.

The consequential amendment of section 73(1) is that the mandate of the Auditor-General will relate to:

- (a) the consolidated fund (in lieu of the public accounts; and
- (b) all public sector entities.

Clause 40 adjusts section 75 so that when a new public sector entity comes into being the responsible Minister must advise the Auditor-General and supply any information requested. At present the Auditor-General has a right to request information but there is no mechanism under which the Auditor-General is automatically advised when a new entity comes into being.

Clause 41 makes amendments to section 81. The purpose of the proposed amendments to section 81 are to substitute the references therein to “public accounts” with references to the consolidated fund accounts.

The intended operation of section 81 as amended is that whereas previously it was directed at what the Auditor-General had to satisfy himself about in relation to audit of the “public accounts”, the Auditor-General would now have to be satisfied about in relation to the audit of the “consolidated fund accounts”.

Clause 42 amends section 85. The purpose of the proposed amendment to section 85(1) is to substitute the reference therein to the public accounts with a reference to the consolidated fund accounts.

Clause 43 amends section 93(4)(a). The purpose of the proposed amendment to section 93(4)(a) is to substitute therein a reference to the public accounts with a reference to the consolidated fund accounts.

The intended operation of the amendment will be that if the Auditor-General is of the opinion that observations or suggestions made in an audit report require attention or further consideration and they arose out of an audit of the consolidated fund accounts, the Treasurer must be given a copy of the observations or suggestions.

Clause 44 amends section 98 which provides that the Auditor-General must prepare a report to the Legislative Assembly on each audit of the public accounts. The proposed amendments substitute references to the public accounts in this section with references to the consolidated fund accounts.

Clause 45 inserts a recasting of sections 106 (1) and (2) which deal with the writing off of losses and the making of special payments by accountable officers. The proposed amendment to section 106 has the purpose of adjusting for the fact that the “public accounts” is no longer a defined term and giving the Treasurer the same write-off powers in respect of the Consolidated Fund as accountable officers have in respect of departmental accounts.

Clause 46 amends section 109 to provide a modern delegation power in which the persons to which powers may be delegated are clearly defined.

***Division 1—Transitional provisions before commencement of the
Financial Administration Legislation Amendment Act 1999***

Clause 47 inserts the above divisional heading before section 111.

***Division 2—Transitional provisions for Financial Administration
Legislation Amendment Act 1999***

Clause 48 after existing section 114 inserts the above heading and proposed new sections 115 to 135 which deal with the closure of the public account the Trust and Special Funds, the separation of Departments from the Consolidated Fund and other transitional provisions.

Subdivision I—Interpretation

Proposed section 115 creates definitions for Division 2.

Subdivision 2—Transitional provisions about existing funds

Proposed section 116 provides that the public accounts entitled “the Trust and Special Funds” close on 1 July 1999. As a transitional measure, the monies of the Funds will be paid into the Consolidated Fund before they are transferred to Departments.

Provision is made for transactions completed on or before 30 June in the Trust and Special Funds to be recorded later despite formal closure.

The Fund known as the Public Trustee Account currently serves no real purpose and it has no continuing balance. The administrative expenditures of the Public Trustee are charged to it periodically and these are then immediately reimbursed by placing a similar amount of the Office's earnings in the Fund so there is no draw on taxpayers moneys. It is proposed to discontinue the Fund from 1 July 1999.

Because the old corporations legislation under which the Companies Liquidation Account was established cannot be amended, special provisions have been made for the Account. A further fund entitled Companies Liquidation Account will be established under the existing provisions of the Act before 30 June and will become an "existing fund". This is the Account referred to in Schedule 2. The existing Account will cease to exist on 1 July 1999.

Proposed section 117 provides that as soon as practicable after 1 July 1999, the Treasurer is to be satisfied that a Department responsible for a Fund has established appropriate accounts to record its transactions and balances.

When so satisfied, for Funds with credit balances, the Treasurer is to transfer the cash in the closing balance of the Funds at 30 June 1999 from the Consolidated Fund bank account to the Department's bank account.

For Funds with overdrafts, the Treasurer is to be satisfied that the amount representing the overdraft is entered into the Department's accounts as an amount owing to the Consolidated Fund.

The new Companies Liquidation Account in Schedule 2 is deemed to be the Account under the Corporations (Queensland) Act. The moneys previously in the old Companies Liquidation Account (which ceases to exist) will be transferred to it via the Consolidated Fund.

For an existing Fund that includes amounts invested, the Treasurer must be satisfied that an amount representing the investments of the Fund at 30 June 1999 is entered in the accounts of the Department.

The amounts issued from the Consolidated Fund to effect the transfers to the various Funds in Departments is appropriated accordingly.

Proposed section 118 There is some legal doubt as to whether the Motor Accident Insurance Fund and the Nominal Defendant Fund of the Motor Accident Insurance Commission were ever effectively made part of the Trust and Special Funds even though the monies of the Funds are in the Trust and Special Funds public bank account. Definitionally, the provisions only apply if a Fund is a Fund of the Trust and Special Funds, so it is necessary to include special declaratory provisions that ensure these Funds are covered.

Subdivision 3—Other specific transitional provisions

Proposed section 119 provides for the separation of the Departments from the Consolidated Fund. At 1 July, all monies in Departmental financial-institution accounts will be paid into the Consolidated Fund except transferred Trust and Special Fund monies, own source revenue which has been approved for retention under section 34B and “other monies” of the Department, that is, monies which cannot be used for public purposes, such as unclaimed monies, security deposits and patients’ monies. As, because of section 23(1), the books of the public accounts are not finally closed for a financial year until 14 July, it is also provided that where a receipt in respect of 1998-99 is received on or after 1 July and before 15 July, it must be paid into the Consolidated Fund even if it falls under the definition of “controlled” receipt.

Proposed section 120 is a “catchall” provision to ensure any references to amounts to be paid to the public accounts now apply to the Consolidated Fund.

Proposed section 121 provides for the Treasurer’s existing public bank account for the Consolidated Fund to become the Treasurer’s consolidated fund bank account under the new system.

Proposed section 122 extends the existing section 23 regarding the availability of supply into the first 14 days of 1999-2000.

Proposed section 123 extends the existing section 24 regarding transfers between subdivisions and subdivisional items into the first 14 days of 1999-2000.

Proposed section 124 extends the existing section 24A regarding Treasurer's Advance into the first 14 days of 1999-2000.

Proposed section 125 extends the existing section 25 regarding the availability and approval of Unforeseen Expenditure into the first 14 days of 1999-2000.

Proposed section 126 has the effect that even though the Supply for 1999-2000 was provided in an existing Appropriation Act, the proposed new provisions for Treasurer's Determination for spending in the first period of 1999-2000 will be applicable.

Proposed section 127 provides for the final Treasurer's quarterly statement (existing section 38) and the Treasurer's Annual Statement (existing section 39) for 1998-99 to be completed on the existing basis.

Proposed section 128 provides that the new short form reporting provisions for Departments will apply for 1998-99. The new provisions regarding certification of statements and reporting on financial statements by the Auditor-General in section 40 apply for 1998-99.

Proposed section 129 provides that the borrowing fee provisions established in proposed section 40B only apply after 1 July 1999.

Proposed section 130 provides that the new short form reporting provisions established in section 46G for statutory bodies will apply for 1998-99. The new provisions regarding certification of statements in section 46F apply in 1998-99.

Proposed section 131 provides that for 1998-99 transactions, section 106 regarding write offs of losses and approvals of special payments applies as in the existing Act.

Proposed section 132 provides that for investments, the old provisions apply to investments made before the commencement and, if they are from the Trust and Special Funds monies or other moneys, they are to be returned to the Departmental Fund.

Proposed section 133 provides that for 1998-99, the public accounts and all public sector entities are to be audited under the existing provisions of the Act.

Subdivision 4—Pre-amended Act to continue to take effect in relation to other matters for 1998-99 financial year.

Proposed section 134 is a general provision that the existing Act applies for 1998-99 matters.

Proposed section 135 provides that words used in a provision of the pre-amended Act applying after the commencement have the meanings the words have under the pre-amended Act.

Clause 49 inserts the Schedules.

Schedule 1

This is the Schedule of officers who become accountable officers by virtue of proposed new section 35A for the accounts of the body appearing opposite their description in the Schedule.

Schedule 2

Funds are in two categories. Those that have been previously established under the Financial Administration and Audit Act and those that are established under a separate Act. This Schedule has two purposes. It defines the existing Funds which were created under this Act and to which proposed sections 29 to 31 will apply and it deletes the use of the word “trust” in the titles of Funds which do not hold private persons money.

Schedule 3

This schedule contains a dictionary that defines terms used in the Bill.

PART 4—MISCELLANEOUS

Clause 50 provides a Schedule of consequential amendments to various Acts to provide for the devolution of the Trust and Special Funds to responsible Departments, to adjust references to the “public accounts” and to adjust references to the old form of certification by the Auditor-General which is being affected by amendments to sections 46F and 46G and for other minor matters.

The amendments to Acts in relation to the closure of the Trust and Special Funds follow a generally standard pattern:

- the Fund is continued in existence;
- there is a confirmatory requirement that accounts for the Fund must be kept as part of the “departmental accounts” (section 12 of Act);
- there is a requirement that amounts for the Fund must be deposited in a “departmental financial-institution account” and whether or not it is permissible to mix the monies of the Fund with “other amounts”;
- references to Funds being kept at the Treasury are deleted;
- where appropriate, references to the Treasurer as being in control of the Fund or the person who receives monies for the Fund are replaced with references to “Minister”;
- where necessary, provisions have been included aimed at clarifying amounts receivable for, and payable from, the relevant Funds;
- where provision is made for Funds to receive monies appropriated by Parliament, this has been reworded to reflect the proposed changes to the system of appropriation as set out in the body of the Bill; and
- there are definitions of “departmental accounts”, “departmental financial institution account” and “other amounts”.

Differences to this pattern are mentioned below:

BRISBANE FOREST PARK ACT 1977

Clause 4 amends section 40(3) to provide that amounts are payable from the fund for liabilities properly incurred.

CASINO CONTROL ACT 1982

Clause 2 omits section 52(7) because the provision requiring separate accounts for levies now appears in section 52(4A).

GAMING MACHINE ACT 1991

Clause 5 necessarily amends section 174 (2) because the relevant account is no longer an account established in the Treasury.

RECREATION AREAS MANAGEMENT ACT 1988

Clause 2 omits “or appropriation of money” because that term is no longer applicable and because clause 5 provides for the new departmental Vote system.

**MISCELLANEOUS AMENDMENTS TO PUBLIC
ACCOUNTS REFERENCES**

Minor technical amendments are made to the following Acts to adjust references to the “public accounts” to the “consolidated fund” and where necessary departmental accounts of departments or, in the case of the Supreme Court, “moneys controlled by the public sector unit”.

BUILDING AND CONSTRUCTION INDUSTRY (PORTABLE
LONG SERVICE LEAVE) ACT 1991

LAND TAX ACT 1915

RURAL ADJUSTMENT AUTHORITY ACT 1994

SUPREME COURT OF QUEENSLAND ACT 1991

MINOR AMENDMENTS TO AUDIT CERTIFICATION REFERENCES

Minor technical amendments are made to the following Acts to adjust references to provide for the new form of report on audited financial statements being provided in sections 46F and 46G.

CITY OF BRISBANE ACT 1924

LOCAL GOVERNMENT ACT 1993

MEDICAL ACT AND OTHER ACTS (ADMINISTRATION) ACT
1966

ACTS INTERPRETATION ACT 1954

Clause 1 provides in the definition of “consolidated fund” for the section reference to the Financial Administration and Audit Act to be amended.

Clause 2 provides for the reference in section 47C(3)(b) to “public accounts” to be replaced with a reference to “consolidated fund”.

PARLIAMENTARY COMMITTEES ACT 1995

Clause 1 provides for the reference to “public accounts” in section 21(2)(b)(i) to be a reference to “consolidated fund or the controlled receipts of a department”. This provides coverage where expenditure may be from a Department’s controlled revenue rather than from appropriation funds.

Clause 2 provides for reference to the new location of the definitions in the *Financial Administration and Audit Act 1977*.

PUBLIC SERVICE ACT 1996

Section 19 of the Public Service Act provides that that Act applies to a public service office as if it were a Department and the head were a chief executive and there is a proviso that such provision has no effect on the provisions for accountable officers under the Financial Administration and Audit Act. The proposed provision adjusts this to the new relevant section regarding the appointment of accountable officers and also provides that the Public Service Act provisions do not have any effect on how a Department is defined for the purposes of the Financial Administration and Audit Act.

STATUTORY BODIES FINANCIAL ARRANGEMENTS ACT 1982

The proposed amendments adjust references to the Treasurer’s investment power and the definition of statutory body in line with the changes in the Bill.