

FINANCIAL ADMINISTRATION AND OTHER LEGISLATION AMENDMENT BILL 2003

EXPLANATORY NOTES

(a) Short title

The proposed Bill may be cited as the *Financial Administration and Other Legislation Amendment Bill 2003*.

(b) Policy Objectives

An Act to amend the *Financial Administration and Audit Act 1977* ('the FA&A Act'), the *Motor Accident Insurance Act 1994* ('the MAI Act'), and the *Casino Control Act 1982* ('the CCA Act').

(c) Achievement of Policy Objectives

Some minor improvements are proposed which will enhance the operational flexibility and/or clarify the existing legislative requirements of the FA&A Act and the MAI Act.

The amendments to CCA Act are of an editorial nature only and are required for consistency with current drafting protocols.

(d) Alternative Ways of achieving Policy Objectives

Not applicable.

(e) Assessment of Administrative Costs to Government

The administrative costs to Government in implementing the Bill are not significant.

(f) Consistency with Fundamental Legislative Principles

The Bill is consistent with fundamental legislative principles.

(g) Results of Consultation

Appropriate consultation has occurred, including with the Department of the Premier and Cabinet and with the Auditor-General.

(h) Explanation of Purpose and Operation of Clauses of Bill

PART 1—PRELIMINARY

Clause 1. Short Title

The title of the proposed Act is the *Financial Administration and Other Legislation Amendment Act 2003*.

Clause 2. Commencement

It is proposed that the amendments commence on date of assent except for the amendment to section 4 of the FA&A Act (paragraph 4) which will take effect on 1 July 2003.

**PART 2—AMENDMENT OF FINANCIAL
ADMINISTRATION AND AUDIT ACT 1977**

Clause 3. Act amended in pt 2

Part 2 amends the *Financial Administration and Audit Act 1977*.

Clause 4. Amendment of s 4A (Meaning of “department”)

This amendment clarifies that a corporation established under the *Corporations Act 2001* (Cwth) is not a department or part of a department for the purposes of the FA&A Act.

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Amendment Bill 2003*

The present definition captures, within the requirements of the FA&A Act, certain corporations that are controlled by departments.

Companies established under the Corporations Act are subject to the governance and accountability requirements of that legislation. The amendment ensures that corporations controlled by Queensland departments operate under the same requirements as other like corporations and that there is no conflict with the FA&A Act requirements.

The Auditor-General will continue to be responsible for auditing all such corporations.

The amendment does not affect Government owned corporations established under the *Government Owned Corporations Act 1993*.

Clause 5. Amendment of s 17 (Treasurer's consolidated fund bank account)

This amendment clarifies that the Treasurer has the power to establish practical arrangements to maintain the Consolidated Fund bank account, including making, varying or cancelling any banking arrangement.

Clause 6. Amendment of s 39 (Annual report by department and short form annual report)

The current wording of section 39(7) permits departments to include only their annual financial statements in electronic form (eg. a CD Rom) in their annual reports. Under the proposed amendment, departments may produce and publish their entire annual and short form (annual) reports in electronic form if desired, provided that paper copies are held for users who require this format.

Clause 7. Amendment of s 40C (No-one other than Treasurer may invest or otherwise lend an amount)

Section 40C currently prohibits departments from making an investment in, or lending to, another entity. Instances are occurring where departments wish to invest, or increase their equity, in subsidiaries for various reasons and/or to otherwise lend moneys to pursue their operational objectives. The proposed amendment will permit departments to undertake such transactions but only with the Treasurer's approval.

Clause 8. Amendment of s 43D (Requirement to report to appropriate Minister about derivatives)

Derivatives transactions are financial contracts, such as 'futures' options, that derive their value from an underlying asset, commodity, liability or

index. They can be of significant risk to an agency's financial performance and financial position if not actively managed.

To improve the present monitoring of derivatives transactions undertaken by departments and for consistency with the reporting requirements of statutory bodies under the *Statutory Bodies Arrangements Act 1982*, the amendment provides that reports on derivatives must now be provided to the Treasurer as well as to the appropriate Minister.

Clause 9. Amission of s 43E (Treasurer may ask for reports)

This section, which allows the Treasurer to ask for reports on derivatives transactions from departments that undertake such transactions, is no longer required because the requirement is subsumed in the amendment described in the previous paragraph.

Clause 10. Amendment of s 46J (Annual Report)

This amendment mirrors the proposed changes to section 39 of the FA&A Act by enabling statutory bodies to prepare copies of their annual and short form (annual) reports in electronic form provided that paper copies are also held for persons who require this format.

Clause 11. Amendment of s 69 (Audit of audit office)

This amendment reflects current practice which is to appoint a registered company auditor to audit the Queensland Audit Office (QAO) for a period of up to five consecutive years.

The requirement under section 69(2) that the auditor's fee be determined by the Treasurer is replaced by a requirement that the annual fee be set by the Governor in Council. In practice, this action will be integrated into the overall appointment process.

The amendment further provides that the audit report on the QAO must be provided direct to the Premier with a copy to the Treasurer and to the Auditor-General, rather than direct to the Auditor-General and to the Treasurer as is currently required. This better reflects the independence of the appointed auditor.

Clause 12. Amendment of s 92 (Confidentiality)

It is proposed that section 92 of the FA&A Act relating to the confidentiality of information obtained by an auditor be amended to clarify that such confidentiality requirements extend to other persons engaged by the QAO.

The amendment provides that information that is otherwise publicly available is not affected by this provision.

Clause 13. Amendment of s 109 (Delegation by treasurer of certain powers)

This amendment is desired to permit the Treasurer to delegate, to an officer of Queensland Treasury, authority to establish arrangements for the maintenance of the Consolidated Fund bank account, including authority to make, change or cancel any banking arrangement (Refer Clause 5 of Bill - proposed new section 17(4) of the Act). The existing legislation requires the Treasurer to personally undertake all such actions, creating administrative difficulties in the absence of the Treasurer.

Clause 14. Amendment of sch 3 (Dictionary)

This amendment reflects the renumbering of section 46J(5) of the Act (annual reports of statutory bodies)

PART 3—AMENDMENT OF MOTOR ACCIDENT INSURANCE ACT 1994

Clause 15. Act amended in pt 3

Part 3 amends the *Motor Accident Insurance Act 1994*.

Clause 16. Amendment of s 14 (Recommendations about levies and administration fee)

Until 1 October 2001, funds collected through the Nominal Defendant levy have been applied to settling claims arising from unidentified and uninsured motor vehicles. With the collapse of the HIH Insurance Group, the Nominal Defendant became responsible for the outstanding compulsory third party (CTP) liabilities of the insolvent insurer. As part of a funding package to ensure that the Nominal Defendant had sufficient funds to cover these outstanding claims, the Nominal Defendant levy was increased by \$5 to help meet these costs.

The amendment to section 14 is required to include a reference to the component of the Nominal Defendant levy which relates to the liabilities of the Nominal Defendant as a result of the insolvency of an insurer(s).

Clause 17. Amendment of s 15 (Report and recommendations when costs of insurance exceed the affordability index)

A key initiative of the October 2000 amendments to the MAI Act was the introduction of an ‘affordability index’.

The index focuses on the overall cost of CTP insurance to motor vehicle owners, relative to a selected index of household income – average weekly earnings. The affordability index is triggered when the highest class 1 (sedans and station wagons) premium filed by insurers exceeds 45% of average weekly earnings in Queensland. Once triggered, the Motor Accident Insurance Commission is required to make recommendations to the Minister, including possible changes in the scheme in respect of benefits and/or scheme delivery costs.

The highest filed premium, effective as at 1 April 2003, is \$355.50 and incorporates levies of \$34.50. These levies include a \$5 component in the Nominal Defendant levy introduced on 1 October 2001, to help meet the cost of claims arising from the collapse of the HIH Insurance Group.

As the \$5 increase in the Nominal Defendant levy relates to the liabilities of an insolvent insurer, this component of the Nominal Defendant levy is generally considered as being outside the basic CTP premium. It is considered that this impost should not include the premium before deciding whether or not there has been any breach of the affordability index.

The proposed amendment is required to prevent any potential distortion of the ‘affordability index’ by factors arguably external to the scheme.

PART 4—MINOR AMENDMENTS OF CASINO CONTROL ACT 1982

Clause 18. Act amended—schedule

The minor amendments to the Casino Control Act, detailed in the schedule to the Bill, are of an editorial nature only and are required for consistency with current drafting protocols.

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