

Financial Accountability Bill 2009

Explanatory Notes

General Outline

Policy Objectives

A Bill to modernise the *Financial Administration and Audit Act 1977* and to update references in other Acts, including the *Government Owned Corporations Act 1993*.

The objective of the Bill is primarily to change the focus of Queensland's public sector financial legislation to principles-based, with accountabilities and outcomes prescribed rather than processes. The Bill also removes the provisions relating to the Auditor-General.

Specifically, the Bill provides for:

- accountability and transparency in government through the preparation of and regular reporting against Government's stated broad objectives for the community and charter of fiscal responsibility;
- the preparation, audit and tabling in Parliament of Ministerial offices expense reports;
- the continuance of the consolidated fund, and the recording and reporting of transactions by the consolidated fund;
- funding to departments through annual appropriations;
- approvals, delegations, investments and borrowings by the Treasurer;
- the making of financial and performance management standards;
- the functions of accountable officers and statutory bodies in managing their resources;
- the preparation of financial statements and annual reports by every department and statutory body and the tabling of these in Parliament; and

- the establishment of chief finance officer and head of internal audit roles within departments, and their respective responsibilities.

Reasons for the Bill

The current *Financial Administration and Audit Act 1977* is over 30 years old. A comprehensive review of the legislation was undertaken to ensure the provisions continued to be appropriate in the current environment, and to assess the robustness of the provisions to cope with continually evolving financial and public sector environments.

The comprehensive review highlighted the prescriptive nature of the current Act and subordinate legislation: they prescribe detailed and potentially costly compliance activities which departments and statutory bodies must observe. In particular circumstances, this may not allow sufficient flexibility for managing agencies in the most effective manner.

Research showed that public sector financial performance would benefit from the legislation being rewritten using a principles-based approach.

Achievement of the Objectives

Principles-based legislation concentrates on accountability and outcomes, without prescribing the processes or inputs required by agencies to achieve these outcomes. This approach specifies the broad outcomes for departments and statutory bodies while allowing them a level of flexibility in achieving these objectives, and mandates only the minimum required legislative obligations.

Implementing principles-based legislation should improve the financial performance of departments and statutory bodies by reducing low level compliance activities and enabling them to concentrate on strategic priorities, including service delivery to the community.

As a result of moving to principles-based legislation, high-level accountability obligations that agencies must comply with remain in the Bill. The subordinate legislation, the Financial and Performance Management Standard and Financial Accountability Regulation, will establish parameters within which agencies must operate to meet their legal obligations under the Bill and, by necessity, will be more prescriptive.

Policy documents and guidance papers will continue to complement the legislation and will provide support to departments and statutory bodies in the implementation of the new legislation.

There are nine major policy changes with the repeal of the *Financial Administration and Audit Act 1977*:

- The provisions relating to the Queensland Auditor-General, the Auditor-General's mandate and the role of the Queensland Audit Office will be moved into a new Auditor-General Act.
- The functions and duties of accountable officers and statutory bodies have been redrafted to shift focus from detailed processes to a more strategic perspective. Section 61 outlines the proposed functions of accountable officers and statutory bodies.
- The subordinate legislation will provide for specific requirements which must be met to achieve these functions, such as provisions on resource management and the minimum contents and mandated timeframes for the preparation and submission of financial statements and annual reports.
- An accountable officer must nominate an officer to assume the responsibilities of 'chief finance officer'. Similar functions are already being undertaken by an officer within departments. However, the intention is to provide a clear and consistent framework across agencies around the responsibilities of this officer. The nomination of the officer to this role would not change the functions and duties of accountable officers, as they remain accountable for the management and performance of their department. Refer to section 77 for the proposed minimum responsibilities of chief finance officers.

The accountable officer must delegate the responsibilities to an officer with relevant qualifications, experience or standing appropriate to the position. It is intended that a regulation will specify the minimum qualifications, experience or standing appropriate to the position of chief finance officer.

- In order to ensure regular assessment of internal controls around financial transactions and systems and to advise whether these controls are operating efficiently, effectively and economically, the chief finance officer will be required to provide an annual statement to the accountable officer (refer section 77).

While the Bill does not specify the process to be used by the chief finance officer for undertaking his/her assessment or the wording of the statement, the subordinate legislation will outline the minimum level assurance which must be provided to the accountable officer, as

well as necessary timeframes for providing the statement to the accountable officer.

- An accountable officer must nominate an officer to assume the responsibilities of 'head of internal audit'. Similar functions are already being undertaken by an officer within departments, however the intention is to provide a framework around the responsibilities of this officer. Refer to section 78 for the proposed minimum responsibilities of heads of internal audit.

The accountable officer must delegate the responsibilities to an officer with qualifications, experience or standing appropriate to the position. It is intended that a regulation will specify the minimum qualifications, experience or standing appropriate to the position of head of internal audit.

- As an important process in the accountability cycle, the Bill formalises current practice by requiring departments to prepare annual budgets for tabling in Parliament (refer section 68). These budgets are currently published in the annual State Budget Papers. The provision therefore formalises current practice and will not involve production of additional documents.
- When granting an exemption to an agency from applying the Financial and Performance Management Standard, either in part or in full, the Treasurer must attach an end date or a review date, to ensure regular assessment of the continuing need for the exemption (refer section 59).

As a transitional provision, any existing approvals that allow an agency to not apply parts of the current subordinate legislation will expire. Any agencies wishing previously approved exemptions to continue will need to submit an application under the Bill. Refer section 95.

- While the requirement to prepare an annual report will be in the Act (as in the Financial Administration and Audit Act), the associated timeframes have been moved to the subordinate legislation. To improve accountability to the public through more timely reporting, the timeframes for departments and statutory bodies to prepare and table their annual reports in Parliament have been reduced by six weeks. Ministers will be required to table the annual reports of their agencies within three months from the end of the applicable financial year.

- The number of powers that the Treasurer is able to delegate will be increased to include powers such as approval for a body to invest or lend an amount. Refer to section 48 for the powers that the Treasurer is able to delegate. Delegation of these powers will not automatically occur. The Treasurer will have the discretion to formally delegate specific powers. Under the *Acts Interpretation Act 1954*, the Treasurer will remain responsible for any decisions or actions of a delegate under a delegated power.

Alternatives to the Bill

The alternative is to retain the current legislation which is overly prescriptive, concentrating on compliance activities rather than outcomes.

Estimated Cost for Government Implementation

There are no financial implications for implementing the requirements of the Bill. However, by allowing more flexibility to agencies to tailor solutions to individual circumstances, it is expected that compliance costs within agencies will reduce in the longer term.

Consistency with Fundamental Legislative Principles

The proposed legislation is consistent with fundamental legislative principles.

Consultation

The Bill and subordinate legislation will be applicable to all departments and statutory bodies. The Auditor-General and all relevant agencies were invited to participate in the comprehensive review of the current Act and the development of policy positions. Feedback received was appropriately taken into account in the development of the policy positions, particularly in ensuring that the proposals are achievable and practical from an implementation perspective.

Notes on Provisions

Part 1 Introduction

Division 1 Preliminary

Proposed sections 1 and 2 state the short title of the Act and when the Act commences.

Proposed section 3 states that all public moneys and public property are the property of the State.

Division 2 Interpretation

Proposed section 4 inserts a dictionary in schedule 3 to define key terms in the Act.

Proposed section 5 provides that words defined in the Act have the same meaning in an annual appropriation Act, except where a contrary intention is stated in the appropriation Act.

Proposed section 6 provides the meanings of terms relating to the annual appropriation Act. Two separate annual appropriation Acts are prepared that authorise the payment of appropriation funding to departments. One Act covers the respective ministerial departments, the other being for the Legislative Assembly and Parliamentary Service. The definition ‘annual appropriation Act’ references two separate annual appropriation Acts, namely an ordinary annual appropriation Act and a parliamentary annual appropriation Act.

Proposed section 7 defines ‘administered’ and ‘controlled’ receipts. A limited number of items are specifically defined as ‘controlled’ and the balance automatically default to ‘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 should it 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 some circumstances to vary the character of a particular new type of receipt in a year notwithstanding the legislated definitions. Permanent variation to definitions by amendment to the Act would be undertaken should these circumstances continue.

Proposed section 8 defines the term ‘department’, an important term as only departments can be paid appropriations under an appropriation Act.

Proposed section 9 defines the term ‘statutory body’.

Part 2 Provisions applying to Ministers

Division 1 Objectives of Government

Proposed section 10 provides that the Government’s community objectives must be outlined in a statement tabled in the Legislative Assembly by the Premier. The statement must be regularly reported against to inform the community of progress against the statement. The first statement of broad objectives must be prepared and tabled in the Legislative Assembly by the Premier within 90 days after the commencement of this section.

Proposed section 11 outlines the accountability measures for the Government with respect to its fiscal objectives. The Treasurer must prepare and table in the Legislative Assembly a charter of fiscal responsibility outlining the Government’s fiscal objectives and detailing its supporting fiscal principles. The Treasurer must regularly report to Parliament on the Government’s achievements against the charter. The first charter of fiscal responsibility must be prepared and tabled in the Legislative Assembly by the Treasurer within 90 days after the commencement of this section.

Division 2 Ministerial offices expenses

Proposed sections 12 to 15 provide legislative recognition to the policy, outlined in the Queensland Ministerial Handbook, requiring a report on the expenditure of each Ministerial office to be tabled in the Legislative

Assembly (by the Premier) on a six-monthly basis. These reports must be provided to the Premier by 15 February (mid-year report) and by 15 August (end of year report). The mid-year reports are required to be tabled in Parliament within five sitting days after receipt by the Premier and by 31 August for the end of year report. The report for the full financial year is to be audited and certified by the Auditor-General.

Part 3 Consolidated fund and Treasurer's responsibilities

Division 1 Consolidated fund

Proposed section 16 provides that the consolidated fund, which was established under the repealed *Financial Administration and Audit Act 1977*, continues to exist under this Act.

Proposed section 17 provides that the consolidated fund is to consist of the Treasurer's consolidated fund operating account and the Treasurer's consolidated fund investment account and sets out the moneys that are to be paid into and out of the consolidated fund.

Proposed section 18 provides for a bank account to be kept for the consolidated fund, the payments into it and what moneys may be withdrawn from it.

Proposed section 19 authorises an unintentional overdraw of the Treasurer's consolidated fund bank account and the departmental financial-institution accounts and provides an example. This is in the Act to address any concerns the Government's banker may have about the accounts being overdrawn.

Proposed section 20 provides for the Treasurer to record in the consolidated fund operating account amounts paid from the consolidated fund and the heading(s) to which they have been allocated.

Proposed section 21 provides that the Treasurer may write off losses (including receivables) relating to the consolidated fund. This power may be delegated under section 48.

Division 2 Consolidated fund reporting

Proposed section 22 holds the Treasurer accountable for the operation of the consolidated fund by way of regular quarterly reporting to the Parliament.

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 (including how the amounts were applied to each heading) and the opening and closing cash and investment balances. Comparative figures for the corresponding quarter of the immediately preceding financial year are also to be shown. 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 first, second and third quarter returns each financial year are to be published in the Gazette as soon as possible after the statements are prepared.

Proposed section 23 provides for a consolidated fund financial report to be prepared as at the close of the fourth quarter each year. This statement is required to show for the year receipts and balances of cash and investments as provided in section 22 and for each Department details of the Vote and any variations during the year, the amount paid to it and its application to headings, unforeseen expenditure, lapsed votes and amounts written off under section 21.

The Treasurer is required to prepare and sign the statement within the timeframes established under section 24 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 24 provides the timeframes for the Treasurer to sign and give the consolidated fund financial report to the Auditor-General to audit, as required by section 23. The audit of the consolidated fund financial report must be completed within 3 months from the end of the financial year.

If a whole-of-Government reason exists why the Treasurer cannot give the consolidated fund financial report to the Auditor-General to allow the audit to be completed within 3 months, a later date can be agreed between the Treasurer and the Auditor-General, but it must be completed within 6

months from the end of the financial year. An example of a whole of government reason is provided.

Proposed section 25 provides that within 6 months after the end of each financial year the Treasurer must prepare, under the prescribed requirements, whole-of-Government financial statements, which will consist of a whole-of-government financial report and a general government sector financial report. Australian Accounting Standard AASB 1049 is prescribed for this purpose.

The completed statements 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 under the Auditor-General Act. Within 14 days 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.

Proposed section 26 provides that, for the preparation of the consolidated whole-of-government financial statements (per section 25), the 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 Treasurer may delegate this power under section 48.

The clause also authorises the Treasurer to require information for budget monitoring or whole-of-Government reporting purposes for any period, not just in respect of a financial year.

Division 3 Appropriations

Proposed section 27 provides that each financial year, the Treasurer must present to the Legislative Assembly two Bills to provide for the annual appropriations – an ordinary annual appropriation Act and a parliamentary annual appropriation Act. These terms are defined in section 6.

Proposed section 28 provides that controlled receipts do not form part of the consolidated fund. Section 64 of the *Constitution of Queensland 2001* provides that all taxes, imposts, rates and duties and other revenues of the State are to form one consolidated 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 29 provides that if a department is found to be entitled to more appropriation revenue than it has received for the year, the Treasurer may, up until 14 July, issue more appropriation to it, up to the limit for that year. If any additional amount is owed but not paid to the department, the unpaid amount of the appropriation lapses after 14 July.

Proposed section 30 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.

Proposed sections 31 and 32 provide that, when there is a late Budget, the Treasurer will prepare a statement setting out the total amount available for each department, the Legislative Assembly and parliament service during the period of supply and the way in which the total amount is to be applied between departmental services, administered items and equity adjustment. The Treasurer is to advise departments accordingly. Payments under the statement will be taken to be authorised by an annual appropriation Act.

Proposed section 33 allows the Treasurer 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 services, 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 34 applies where the Vote of the Treasury department 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 Treasury department’s Vote (referred to as the “Treasurer’s advance”).

Proposed section 35 provides for “Unforeseen Expenditure”. This is a system which allows expenditure that needs to be made by the Government from the public accounts and for which there is no or insufficient appropriation to be authorised by the Governor in Council in advance of appropriation. This approval must be sought and obtained within four weeks of the end of the financial year.

Proposed section 36 provides that if unforeseen expenditure is paid from the consolidated fund, the Treasurer must record it in the consolidated fund operating account.

Proposed section 37 provides 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 or statutory body has been paid appropriation for departmental or non-departmental services which have not been delivered. The clause creates an obligation on accountable officers and statutory bodies (through the appropriate department) to repay incorrectly paid amounts to the Treasurer. The clause 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.

Division 4 Approvals by Treasurer

Proposed section 38 provides that for the purposes of this division, the term “department” includes the accountable officer of the department.

Proposed section 39 provides for the application of this division.

Proposed section 40 enables the Treasurer to issue general approvals where required for the exercise of departmental and statutory bodies’ powers.

Proposed section 41 enables the Treasurer, on application from a department or statutory body, to give a specific approval where required for the exercise of a power. At any time, the Treasurer may repeal or amend an approval, with or without an application to do so from the department or statutory body.

Proposed section 42 provides that, in considering an application from a department or statutory body, the Treasurer may, by written notice, require the body to provide relevant information or documentation.

Proposed section 43 provides that the Treasurer may approve an application in full or in part, or refuse the application. The Treasurer may impose conditions on an approval.

Proposed section 44 provides that a department or statutory body may apply for a specific approval to be amended or repealed. In addition, the Treasurer may amend or repeal a specific approval.

Proposed section 45 requires that where an application has been approved, the department or statutory body, as well as Treasury, must keep a register of the approval.

Proposed section 46 makes it an offence to knowingly provide a document containing false or misleading information to the Treasurer in relation to an application for approval of a financial arrangement. A complaint for an offence under the section does not need to distinguish between whether the document was false or misleading.

Proposed section 47 makes it an offence to knowingly provide false or misleading information to the Treasurer in relation to an application for approval of a financial arrangement.

Division 5 Delegation by Treasurer

Proposed section 48 allows the Treasurer to delegate certain powers to officers or employees of the Treasury department, accountable officers, or officers or employees of either the Queensland Investment Corporation or the Queensland Treasury Corporation.

Division 6 Investment by Treasurer

Proposed section 49 provides that the Treasurer shall maintain a Treasury departmental account called the treasury offset account, with a related financial institution bank account called the treasury offset bank account.

The accounts prescribed in the repealed *Financial Administration and Audit Act 1977* have been renamed to more accurately describe the use of these accounts (i.e. the Treasury investment suspense account (TISA) and the Treasury investment suspense financial institution account (TISFIA) are renamed the treasury offset account and the treasury offset bank account, respectively).

The treasury offset bank account is the financial institution account used to balance the combined position of the consolidated fund and the departmental accounts. The treasury offset account is the departmental ledger account used to record these transactions.

Proposed section 50 provides for investment of the consolidated fund bank account and/or departmental financial institution accounts by the Treasurer when these are in credit.

However, the proposed subsection 50(2) applies when the combined position is in overdraft (net debit balance) and authorises the Treasurer to arrange for the Queensland Treasury Corporation to offset the overdraft and balance the combined position using the treasury offset bank account. All or part of the moneys provided by the Queensland Treasury Corporation can be moved into the consolidated fund bank account. This allows for the management of the consolidated fund balance as may be necessary under contractual obligations associated with the whole-of-Government banking arrangements.

Proposed section 51 provides for the distribution of interest from the investment of balances in the consolidated fund bank account and the departmental financial institution accounts.

This section operates so that earnings on moneys invested through the treasury offset bank account will initially be paid into the treasury offset bank account and the funds to recoup the investment will be applied thereto. The Treasurer will identify the “investment earnings”. The Treasurer will declare an amount from the investment earnings which has to be paid to the 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 moneys for an investment are paid out of a departmental financial institution account, moneys received from the investment must be paid to the departmental financial institution account.

Proposed section 52 provides that if moneys are required to be paid out of the Treasurer’s consolidated fund bank account for an authorised investment the payment of the moneys out of the bank account is appropriated accordingly.

Proposed section 53 provides that the corporation sole constituted under the name of “The Treasurer of Queensland”, as established by the repealed *Financial Administration and Audit Act 1977*, continues in existence. The Treasurer is a body corporate with perpetual succession, has a seal and may

sue and be sued in the Treasurer's corporate name. The Treasurer of Queensland represents the State, has all the privileges and immunities of the State, and has all the powers of an individual.

Proposed section 54 provides that this Act does not permit the Treasurer to invest moneys relating to a departmental account in a manner that conflicts with the requirements in another Act or in an agreement, arrangement, contract, court order, law or transaction applying to the account.

Division 7 Borrowings

Proposed section 55 gives the Treasurer the authority to borrow on behalf of the State, either from within the State, within Australia, or overseas.

Proposed section 56 allows the Treasurer to levy a borrowing fee if amounts borrowed by the Treasurer have been passed on to a department. 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 Standards about financial and performance management

Proposed section 57 provides that the Treasurer is able to make standards (subordinate legislation) outlining policies and principles that departments and statutory bodies must observe in financial and performance management. The standards may include commentary about their proper application or operation to facilitate the practical application of the standards.

Under the *Statutory Instruments Act 1992* (section 23), the standards may apply, adopt or incorporate the provisions of a document (as in force at a particular time) made by the Treasurer or the Treasury department. For example, the Treasurer's minimum reporting requirements for the preparation of general purpose financial statement by departments.

Proposed section 58 provides that before making a standard, the Treasurer must consult the Auditor-General. In addition, if a standard relates to planning or performance management, the Treasurer must consult the Premier.

Proposed section 59 permits the Treasurer, after consultation with the Auditor-General, to exempt a department or statutory body from any standard or part of a standard. In addition, if a standard relates to planning or performance management, the Treasurer must consult the Premier. Where this exemption relates to a prescribed accounting standard, the extent and implications of the exemption must be disclosed in the notes to the agency's financial statements.

Where an exemption is granted, the Treasurer must state an end date or review date for the exemption. This will ensure that assessment of the ongoing need for the exemption occurs on a regular basis.

Part 4 Provisions applying to departments and statutory bodies

Proposed section 60 provides for the application of this part.

Proposed section 61 establishes the responsibilities of accountable officers and statutory bodies. Every accountable officer and statutory body must:

1. ensure that the agency's operations are carried out efficiently, effectively and economically, which includes achieving value for money in respect of delivering agency services and purchasing, developing or augmenting assets of the department or statutory body.
2. establish and maintain suitable systems of internal control and risk management
3. cause funds and accounts to be established and kept in compliance with the prescribed requirements
4. take such action to ensure annual financial statements are prepared, certified and tabled in Parliament in accordance with the prescribed requirements, for example the requirements of the Financial and

Performance Management Standard and the Australian Accounting Standards

5. undertake planning and budgeting appropriate to the size of the agency
6. perform all such other functions and duties as are prescribed by or under this Act or any other Act or law or as required by the Financial and Performance Management Standard.

Proposed section 62 provides that all departments and statutory bodies (including abolished departments and statutory bodies) must prepare annual financial statements, and have these audited by the Auditor-General and tabled by the appropriate Minister in Parliament within the timeframes set out in the Financial and Performance Management Standard. The annual financial statements must be included as part of the agency's annual report.

Proposed section 63 provides that all departments and statutory bodies must prepare annual reports and table these in Parliament in the manner and within the timeframes set out in the Financial and Performance Management Standard.

Proposed section 64 provides that the Treasurer's approval is required for a department or statutory body to divest itself of an investment gifted or bequeathed to the agency. However, the Treasurer may exempt a statutory body from requiring the Treasurer's approval if the Treasurer is satisfied that the statutory body has appropriate procedures in place for divesting itself of the investment.

Part 5 Provisions applying only to departments

Division 1 Accountable officers

Proposed section 65 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 in specified circumstances. If the entity to which an accountable officer is

appointed 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.

The clause also provides that a regulation can specify the appointment of a category of independent office-holders to be accountable officers of their offices.

Proposed sections 66 and 67 create the Clerk of the Parliament as the accountable officer for the accounts relating to the Legislative Assembly and the parliamentary service and the Official Secretary as the accountable officer for the Office of the Governor. The purpose of the clause is to reinforce the 'separation of powers' doctrine in relation to the role of the Governor and the Speaker.

Division 2 Accountable officer responsibilities

Proposed section 68 provides that accountable officers must prepare an annual budget for their department and give the budget to the appropriate Minister, who must table it in Parliament at the same time as the budget for the State is tabled.

Proposed section 69 provides that each accountable officer must keep accounts for their department to account for public and other moneys, public and other property, and any other resources which are either controlled or administered by the department. These accounts must be able to be used to produce financial statements or any other information required to be produced by the prescribed requirements (e.g. the Financial and Performance Management Standard) or the Treasurer. The proposed section also provides that the accounts kept by the Under Treasurer for the preparation of the section 25 whole-of-Government statements, other than the consolidated fund accounts, are departmental accounts of the Treasury department.

Proposed section 70 provides 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 Official Secretary, the Clerk of the Parliament or an accountable officer of a body mentioned in a regulation made under clause 65.

Proposed section 71 permits accountable officers to borrow amounts for the State from the Queensland Treasury Corporation, but only under a ‘Treasurer’s approval’.

Proposed section 72 provides that accountable officers can approve special payments and the write-offs of losses from the controlled accounts of the department. A special payment can only be paid to an accountable officer after approval from the Governor in Council.

Proposed sections 73, 74 and 75 provide that in instances where a departmental officer or employee is overpaid (e.g. salary or travel advance overpayments) or where there is a loss or deficiency in moneys under the control of a departmental officer or employee, then the loss or deficiency is a debt due to the State which may be recovered through court action.

The proposed sections also provide that where there is a loss, destruction or damage to property while in the care of a departmental officer or employee, then the value of lost/destroyed/damaged property or the cost of repairing the property, is a debt due to the State which may be recovered through court action. However, if the loss/destruction/damage was not caused by failure of the officer or employee to take reasonable steps to prevent the loss, then the debt may not be pursued.

Division 3 Delegations

Proposed section 76 has the purpose of extending the power of an accountable officer to delegate his or her functions to an appropriately qualified public service employee or other employee of the State. This provision operates, for example, where a department is working in partnership with a statutory body and the accountable officer needs to delegate his or her powers to officers in the statutory body. As employees of the State are covered by the Queensland government indemnity policy entitled ‘Whole of Government guideline for the grant of indemnities and legal assistance to state employees’, a condition for the operation of this provision is that the statutory body represents the State, as set out in its enabling legislation.

The term “appropriately qualified”, for this section, means an employee with qualifications, experience or standing appropriate for the delegated function.

A delegation made by an accountable officer may not be subdelegated.

Proposed section 77 provides that every accountable officer must nominate an officer to assume the responsibilities of the department's chief finance officer. It is expected that the officer nominated will generally be an officer within the accountable officer's department. However, in circumstances where the department's finance function has been outsourced to another public sector entity, the accountable officer, subject to the Treasurer's approval, may nominate an appropriately qualified public service employee or other employee of the State who is not employed in the accountable officer's department to perform this function.

The accountable officer must delegate the responsibilities to an officer with qualifications, experience or standing appropriate to the position. The section also provides that a regulation may specify the minimum qualifications, experience or standing applicable to the role.

The proposed section outlines the following as the minimum responsibilities of this position:

- financial resource management (i.e. profit and loss, and balance sheet management), including the establishment, maintenance and review of financial internal controls
- budget management, including monitoring actual performance against budget
- the preparation of financial information to facilitate the discharge of statutory reporting obligations of the agency, for example, the preparation of annual financial statements required by section 62
- the provision of advice on the effectiveness of accounting and financial management information systems and financial controls in meeting the requirements of the agency, for example, advising on the implementation of new accounting packages
- the provision of advice concerning the financial implications of, and financial risks to, the agency's current and projected services, for example, the budgetary impacts of commencing new capital projects
- the development of strategic options for the future financial management and capability of the agency, for example, being aware of emerging issues that may impact the finance area of the agency, such as the introduction of new accounting standards, and making recommendations as to any new processes necessary to comply with the changing requirements.

Given that part of the role of the chief finance officer is the establishment, maintenance and review of internal controls, the proposed section provides that the chief finance officer is required to provide a statement to the accountable officer on whether financial controls are operating efficiently, effectively and economically. In providing the statement, the chief finance officer must comply with the timeframes and other requirements outlined in the Financial and Performance Management Standard and associated relevant policies.

Proposed section 78 provides that every accountable officer must nominate an officer as the head of the department's internal audit function, who is responsible for the internal audit activities of the department. It is expected that the officer nominated will generally be an officer within the accountable officer's department. However, in circumstances where the department's internal audit function has been outsourced to another public sector entity, the accountable officer, subject to the Treasurer's approval, may nominate an appropriately qualified public service employee or other employee of the State who is not employed in the accountable officer's department to perform this function.

The accountable officer must delegate the responsibilities to an officer with qualifications, experience or standing appropriate to the position. The proposed section also provides that a regulation may specify the minimum qualifications, experience or standing applicable to the role.

The proposed section outlines the following as the minimum responsibilities of this position:

- providing independent assessment and evaluation of the effectiveness and efficiency of agency financial and operation systems, reporting processes and activities
- providing assistance with and identifying deficiencies in risk management systems.

The Financial and Performance Management Standard contains further requirements with respect to the responsibility for the accountable officer to establish an internal audit function, the charter of the internal audit function, planning by the internal audit function, preparation and consideration of internal audit reports, and the relationship of internal audit with the external auditors (i.e. the Queensland Audit Office, or the delegates of this Office).

Division 4 Machinery of government changes

Proposed section 79 provides for how unspent appropriation will be reallocated when there is a redistribution of the public business amongst departments. The clause provides that the Governor in Council may, by Gazette notice, determine how the unspent appropriations are to be reallocated to a department's headings (departmental services, administered items and equity injection) and how any residual allocations for the remainder of the year are to be divided between the departments that have lost functions and departments that have gained functions.

Proposed section 80 outlines the effective date for the transfer of functions following the transfer of public business.

Where there is a machinery of Government change which occurs part way through a month and the transferor department is not abolished, for the purposes of financial reporting, the change will take effect from the beginning of the month following the month in which the change occurs. This acknowledges the operational difficulties which exist with accounting systems of departments which are principally designed for, and focus on, end of month reporting.

Where the machinery of Government changes result in the transferor department being abolished (i.e. through Gazette notice), the receiving department is to assume the responsibilities of the transferor department on the day following the abolition of the transferor department. That is, functions cannot be undertaken by an entity that does not legally exist.

Division 5 Accounts with financial institutions

Proposed section 81 provides that all public moneys and other moneys must be kept at a financial institution, unless this or another Act or law provides otherwise. The exceptions to this are investments authorised by this Act, securities taken in respect of a loan or financial arrangement, or public or other moneys held or transacted in a currency other than Australian dollars (where approved by the Treasurer).

Proposed section 82 provides that a person may not open an account with a bank or other financial institution to transact public or other moneys, except in accordance with the requirements of this Act.

Proposed section 83 provides that each accountable officer must establish and conduct banking arrangements necessary for the operations of their department with the financial institutions approved by the Treasurer or, in the case of overseas operations, at a banking institution approved by the Treasurer. All receipts of public and other moneys are to be paid daily, or at other intervals specified by the accountable officer, into the departmental financial institution account. Administered receipts must be forwarded to the Treasurer at intervals directed by the Treasurer.

Public moneys can only be paid from a departmental account to forward administered receipts or if permitted under prescribed requirements. Other moneys can only be paid from a departmental account if permitted under prescribed requirements or under an agreement, arrangement, contract, court order, law or transaction under which the other moneys are received or become payable.

Proposed section 84 provides that an accountable officer must not arrange an overdraft with respect to any departmental financial institution account, except under a Treasurer's approval.

Division 6 Derivative transactions

Proposed section 85 provides for a department to enter into derivative transactions if the Treasurer has given approval for entering that type of arrangement and the department only enters into the transaction to hedge against a risk to which the department is or will be exposed.

Proposed section 86 provides for the appropriate Minister to monitor the derivative transactions entered into by a department. The Financial and Performance Management Standard provides that departments must give the Minister a report each month containing the prescribed details. A copy of the report must also be given to the Treasurer.

Division 7 Miscellaneous

Proposed section 87 specifies that only the Treasurer can approve the investment of funds contained in departmental financial institution accounts. Subsection (2) is designed to allow departments to be able to operate normal operating account facilities.

The general prohibition however is subject to the specific investment powers that individual bodies have by virtue of their own legislation. It is also subject to the power to enter into derivative transactions controlled by section 86.

Proposed section 88 requires the Treasurer's approval for a department to establish, become a member of, or otherwise become a parent to, a company. In applying for the Treasurer's approval, the department must prepare a business case demonstrating the need for a company structure.

Part 6 Other provisions

Proposed section 89 provides that, unless specifically authorised under another Act, during an election period, Treasury employees may not comment to, provide advice to, or provide cost estimates to anyone except another Treasury employee in relation to policy proposals of any political party or candidate for election.

Proposed section 90 provides for the making of regulations under this Act.

Part 7 Repeal and transitional provisions

Division 1 Repeal

Proposed section 91 repeals the *Financial Administration and Audit Act 1977*.

Division 2 Transitional provisions

Proposed section 92 provides the definitions for terms used in this division.

Proposed section 93 provides that a reference in an Act or document to the Financial Administration and Audit Act is taken to be a reference to the Financial Accountability Act.

Proposed section 94 provides that a reference in any Act or document to the Treasury investment suspense account (TISA) is to be taken to be a reference to the treasury offset account. Similarly, a reference in any Act or document to the Treasury investment suspense financial institution account (TISFIA) is a reference to the treasury offset bank account.

Proposed section 95 provides that all existing Treasurer's approvals exempting departments and statutory bodies from complying with sections of the Financial Management Standard (approvals from section 46LC of the repealed *Financial Administration and Audit Act 1977*) will expire on the commencement of this Act. Any department or statutory body that considers any existing approvals remain necessary will need to reapply under the Act. This will provide agencies and the Treasurer with the opportunity to assess whether existing approvals are still considered necessary or appropriate in the current environment.

Proposed section 96 provides that any continuing fund (from section 29 of the repealed *Financial Administration and Audit Act 1977*) that has not been closed is deemed to be a departmental account of the associated department as contained in Schedule 2.

Proposed section 97 provides that until 30 June 2010, the Treasurer's unclaimed moneys fund (kept under section 46 of the repealed *Financial Administration and Audit Act 1977*) continues in existence. On 1 July 2010, the Treasurer's unclaimed moneys fund is closed, and any moneys remaining in the fund are to be transferred to the consolidated fund. The funds will remain accessible should a claim be received. From 1 July 2010, all unclaimed moneys will be forwarded to the Public Trust Office, where the new 'Queensland Unclaimed Moneys Fund' will be managed.

Part 8 Amendment of Government Owned Corporations Act 1993

Division 1 Preliminary

Proposed section 98 provides that Part 8 amends the *Government Owned Corporations Act 1993* (GOC Act).

Division 2 Amendments other than amendments of schedule 4

Proposed section 99(1) omits section 93(1) and inserts a new section 93(1) indicating that this section applies to a GOC subsidiary that is not a prescribed GOC subsidiary under section 155.

Proposed section 99(2) provides a definition of a prescribed GOC subsidiary.

Proposed section 100 omits section 118 and inserts a new section 118 which replaces the reference to the *Financial Administration and Audit Act 1977* with the *Financial Accountability Act 2009*. This proposed section also provides for a regulation to apply provisions relating to the preparation of annual reports to GOCs and prescribed GOC subsidiaries.

Proposed section 100 also defines the term “prescribed GOC subsidiary” to be a GOC subsidiary under a regulation for this section and notes the remaining provisions of the *Financial Accountability Act* do not apply to GOCs.

Proposed section 101 amends section 132 by replacing the reference to the “*Financial Administration and Audit Act 1997*” with the “*Financial Accountability Act 2009*”.

Proposed section 102 omits the current section 155 and inserts a new section 155 clarifying the definition of a prescribed GOC subsidiary.

Proposed section 103 omits Schedule 3. The content of Schedule 3 is now incorporated in either the body of the GOC Act, the GOC Regulation and/or the *Auditor-General Act 2009*.

Division 3 Amendments of schedule 4

Proposed sections 104 to 135 (other than proposed section 124) amend Schedule 4 sections 1 to 157 by: (1) omitting “GOC subsidiary” and inserting “prescribed GOC subsidiary”; and/or (2) omitting “A GOC subsidiary” and inserting “A prescribed GOC subsidiary”. These amendments are terminology changes only and clarify the distinction between a GOC subsidiary as defined by the *Corporations Act 2001* (Commonwealth) and a prescribed GOC subsidiary prescribed under a regulation under section 155 of the GOC Act.

Proposed section 124 amends Schedule 4, section 118 by replacing the heading “Application of *Financial Administration and Audit Act*” with the “Application of *Financial Accountability Act 2009*”.

Part 9 Amendment of other Acts

Proposed section 136 provides that Schedule 1 amends the Acts it mentions.

Schedule 1

Proposed Schedule 1 contains a number of consequential and minor amendments to other Acts.

Schedule 2

Proposed Schedule 2 contains a list of the continuing funds that have not been closed in accordance with the repealed *Financial Administration and Audit Act 1977*, which are now deemed to be departmental accounts of their associated departments, as provided for in section 96.

Schedule 3

Proposed Schedule 3 contains a dictionary that defines terms used in the Bill.

© State of Queensland 2009