

Queensland



**STATUTORY BODIES
FINANCIAL ARRANGEMENTS
AMENDMENT BILL 2002**

Queensland



STATUTORY BODIES FINANCIAL ARRANGEMENTS AMENDMENT BILL 2002

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2002

A BILL

FOR

An Act to amend the Statutory Bodies Financial Arrangements Act 1982

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	The Parliament of Queensland enacts—	1
Clause 1	Short title	2
	This Act may be cited as the <i>Statutory Bodies Financial Arrangements Amendment Act 2002</i> .	3 4
Clause 2	Commencement	5
	This Act commences on a day to be fixed by proclamation.	6
Clause 3	Act amended	7
	This Act amends the <i>Statutory Bodies Financial Arrangements Act 1982</i> .	8
Clause 4	Amendment of s 9 (Statutory bodies' borrowing powers under pt 5 and other Acts)	9 10
	Section 9(1), 'express'—	11
	<i>omit.</i>	12
Clause 5	Amendment of s 10 (Statutory bodies' investment powers under pt 6 and other Acts)	13 14
	Section 10(1), 'express'—	15
	<i>omit.</i>	16
Clause 6	Amendment of s 11 (Relationship of pt 7 to other parts of Act and other Acts)	17 18
	(1) Section 11(1), 'A statutory'—	19
	<i>omit, insert—</i>	20
	'Subject to subsection (5), a statutory'.	21
	(2) Section 11(4)—	22
	<i>renumber</i> as section 11(7).	23

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(3) Section 11(2) and (3)— 1

omit, insert— 2

‘(2) If there is no express power in the body’s authorising Act or another Act to enter into a derivative transaction, the body’s power to enter into a derivative transaction is limited to part 7, division 1. 3
4
5

‘(3) If there is no express power in the body’s authorising Act or another Act to appoint a funds manager, the body’s power to appoint a funds manager is limited to part 7, division 2. 6
7
8

‘(4) If there is no express power in the body’s authorising Act or another Act to enter into a type 1 financial arrangement, the body’s power to enter into the type 1 financial arrangement is limited to part 7, division 3. 9
10
11

‘(5) Subsections (2) to (4) apply to the body even though its authorising Act or another Act states the body has— 12
13

(a) the powers of a body corporate or individual; or 14

(b) the power generally to enter into contracts; or 15

(c) the power to do all things necessary or convenient for, or in connection with, the performance of its functions. 16
17

‘(6) A statutory body’s powers under this Act must not be construed as including— 18
19

(a) the power to enter into derivative transactions, other than its powers under part 7, division 1; and 20
21

(b) the power to appoint a funds manager, other than its powers under part 7, division 2; and 22
23

(c) the power to enter into a type 1 financial arrangement, other than its powers under part 7, division 3.’. 24
25

Clause 7 Insertion of new s 11A 26

After section 11— 27

insert— 28

‘11A Relationship of pt 7A with other parts of this Act and other Acts 29

‘A statutory body’s powers under part 7A are additional to its powers under the other parts of this Act, its authorising Act or another Act.’. 30
31

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Clause 8	Amendment of s 31 (General banking powers for day-to-day operations)	1 2
	After section 31(1)—	3
	<i>insert—</i>	4
	<i>‘Example of a deposit and withdrawal account necessary or convenient for a statutory body’s day-to-day operations—</i>	5 6
	A statutory body may have a deposit and withdrawal account with a cheque book facility. It may be necessary or convenient for the statutory body’s day-to-day operations to use the facility and pay for items by drawing a cheque.’	7 8 9
Clause 9	Amendment of s 35 (Treasurer’s approval before creating encumbrance etc.)	10 11
	Section 35(2)(b), after ‘division 3’—	12
	<i>insert—</i>	13
	‘or part 7A’.	14
Clause 10	Amendment of s 44 (Category 1 investment power)	15
	Section 44(1)(d)—	16
	<i>omit, insert—</i>	17
	‘(d) investment arrangements, managed or offered by QIC or QTC, prescribed under a regulation for this paragraph;’.	18 19
Clause 11	Amendment of s 45 (Category 2 investment power)	20
	Section 45(b)(iv)—	21
	<i>omit, insert—</i>	22
	‘(iv) investment arrangements, managed or offered by QIC or QTC, prescribed under a regulation for this subparagraph;’.	23 24

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Clause 12	Amendment of s 49 (Division applies to secured investments)	1
	Section 49, ‘or 45(b)(iii)’—	2
	<i>omit, insert—</i>	3
	‘, 45(b)(iii) or 46(1)(a) or (c)’.	4
Clause 13	Amendment of pt 7 hdg (Derivative transactions, funds managers and other financial arrangements)	5
	Part 7, heading, ‘OTHER’—	6
	<i>omit, insert—</i>	7
	‘TYPE 1’.	8
Clause 14	Amendment of s 60 (Management of statutory body’s funds by funds manger)	10
	(1) Section 60(1), before ‘financial arrangement’—	11
	<i>insert—</i>	12
	‘type 1 financial arrangement, type 2’.	13
	(2) Section 60(2), ‘, or derivative transaction,’—	14
	<i>omit.</i>	15
Clause 15	Replacement of pt 7, div 3 and insertion of new pt 7A	16
	Part 7, division 3—	17
	<i>omit, insert—</i>	18
	<i>‘Division 3—Type 1 financial arrangements</i>	19
	‘60A Statutory body may enter into a type 1 financial arrangement	20
	‘A statutory body may, with the Treasurer’s approval, enter into a type 1 financial arrangement.	21
		22
		23

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**‘PART 7A—POWER FOR TYPE 2 FINANCIAL
ARRANGEMENTS** 1
2

‘61 Application of pt 7A 3

‘This part applies to a statutory body if the statutory body does not have power to enter into a particular type 2 financial arrangement under another part of this Act, its authorising Act or another Act. 4
5
6

‘61A Statutory body may enter into a type 2 financial arrangement with Treasurer’s approval 7
8

‘(1) The statutory body may, with the Treasurer’s approval, enter into a type 2 financial arrangement. 9
10

‘(2) Without limiting subsection (1), the type 2 financial arrangement that the statutory body may be approved to enter into may include— 11
12

(a) a type 2 financial arrangement necessary for, or incidental to, the exercise of another power under this Act; and 13
14

(b) a type 2 financial arrangement not otherwise allowed under this Act, including, for example— 15
16

(i) an investment for more than 3 years; and 17

(ii) an investment other than in Australian money; and 18

(iii) an investment undertaken outside Australia; and 19

(iv) a loan by a statutory body. 20

‘(3) Parts 4, 5 and 6 do not limit the type 2 financial arrangements for which the Treasurer’s approval may be given for subsection (1). 21
22

Example for subsection (3)— 23

The Treasurer may approve of a statutory body borrowing money even though the body is not prescribed under a regulation as a body that may borrow money under part 5.’. 24
25

Clause 16 Amendment of s 70 (Approval may be general in nature) 26

(1) Section 70(4)— 27

renumber as section 70(5). 28

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	(2) Section 70—	1
	<i>insert</i> —	2
	‘(4) The approval may be on conditions the Treasurer considers necessary or desirable.’.	3 4
Clause 17	Insertion of new pt 11, div 1, hdg	5
	Part 11, before section 79—	6
	<i>insert</i> —	7
	‘Division 1—Transitional provisions for Statutory Bodies Financial Arrangements Amendment Act 1996’.	8 9
Clause 18	Amendment of s 79 (Interpretation for pt 11)	10
	(1) Section 79, heading, ‘pt 11’—	11
	<i>omit, insert</i> —	12
	‘div 1’.	13
	(2) Section 79(1), ‘In this part’—	14
	<i>omit, insert</i> —	15
	‘In this division’.	16
Clause 19	Amendment of s 80 (Existing arrangements, existing authorities and guarantees under other Acts)	17 18
	Section 80(6) and (7), ‘this part’—	19
	<i>omit, insert</i> —	20
	‘this division’.	21
Clause 20	Amendment of s 85 (No automatic default for existing arrangements)	22 23
	Section 85(2), ‘this part’—	24
	<i>omit, insert</i> —	25
	‘this division’.	26

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Clause 21	Insertion of new pt 11, div 2	1
	Part 11, after section 85—	2
	<i>insert—</i>	3
	<i>‘Division 2—Transitional provisions for Statutory Bodies Financial Arrangements Amendment Act 2002</i>	4
		5
	‘86 Definitions for div 2	6
	‘In this division—	7
	“commencement” means the commencement of this section.	8
	“pre-amended Act” means the <i>Statutory Bodies Financial Arrangements Act 1982</i> before the commencement.	9 10
	‘87 Approval before commencement for arrangement that is a type 1 financial arrangement	11 12
	‘(1) This section applies to a Treasurer’s approval for section 61 of the pre-amended Act, as that approval was in force immediately before the commencement, to the extent the approval authorised a statutory body to enter into an arrangement that, if the statutory body were to enter into the arrangement after the commencement, would be a type 1 financial arrangement.	13 14 15 16 17 18
	‘(2) The approval continues to have effect, and may be dealt with, after the commencement as if it were a Treasurer’s approval for section 60A.	19 20
	‘(3) An arrangement entered into before the commencement under the approval continues to have effect, and may be dealt with, after the commencement as if it were a type 1 financial arrangement.	21 22 23
	‘(4) If the approval provided that a further arrangement may be entered into that is a type 1 financial arrangement, the further arrangement—	24 25
	(a) may be entered into under the approval after the commencement; and	26 27
	(b) is to be dealt with as if it were a type 1 financial arrangement.	28

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‘88 Approval before commencement for arrangement that is a type 2 financial arrangement	1 2
‘(1) This section applies to a Treasurer’s approval for section 61 of the pre-amended Act, as that approval was in force immediately before the commencement, to the extent the approval authorised a statutory body to enter into an arrangement that, if the statutory body were to enter into the arrangement after the commencement, would be an arrangement that is not a type 1 financial arrangement.	3 4 5 6 7 8
‘(2) The approval continues to have effect, and may be dealt with, after the commencement as if it were a Treasurer’s approval for section 61A.	9 10
‘(3) An arrangement entered into before the commencement under the approval continues to have effect, and may be dealt with, after the commencement as if it were a type 2 financial arrangement.	11 12 13
‘(4) If the approval provided that a further arrangement may be entered into, other than an arrangement that would be a type 1 financial arrangement, the further arrangement—	14 15 16
(a) may be entered into under the approval after the commencement; and	17 18
(b) is to be dealt with as if it were a type 2 financial arrangement.	19
‘(5) Subsections (3) and (4) apply even if the arrangement mentioned in either of those subsections is not a financial arrangement under this Act.	20 21
 ‘89 Approval on condition under s 70 before commencement	 22
‘An approval under, or purportedly under, section 70 that was given before the commencement and stated it was subject to a condition is, and always was, as valid as if it had been given after the commencement.’	23 24 25
 Clause 22 Amendment of schedule (Dictionary)	 26
(1) Schedule, definition “financial arrangements”— <i>omit.</i>	27 28
(2) Schedule— <i>insert—</i>	29 30
‘ “financial arrangement” means—	31

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|---|----------------------------------|
| (a) a type 1 financial arrangement; or | 1 |
| (b) a type 2 financial arrangement; or | 2 |
| (c) a derivative transaction; or | 3 |
| (d) the appointment of a funds manager. | 4 |
| “type 1 financial arrangement” means an arrangement that provides for, | 5 |
| relates to, is directed towards or includes 1 or more of the following— | 6 |
| (a) entering into or performing a deferred payment arrangement if
the payment period is more than 3 years; | 7
8 |
| (b) entering into a joint venture, partnership or trust; | 9 |
| (c) forming, or participating in forming, a corporation; | 10 |
| (d) acquiring, consolidating, dealing with, disposing of, holding or
issuing bonds, debentures, inscribed stock, shares, stock or other
securities of any statutory body or corporation; | 11
12
13 |
| (e) entering into an arrangement, covenant, guarantee, promise or
undertaking to meet liabilities or obligations incurred by or to a
person, whether or not the person is a party to the arrangement,
covenant, guarantee, promise or undertaking; | 14
15
16
17 |
| (f) underwriting an issue of debentures, shares or other securities; | 18 |
| (g) entering into another arrangement prescribed under a regulation
as a type 1 financial arrangement. | 19
20 |
| “type 2 financial arrangement” means an arrangement, other than a | 21 |
| type 1 financial arrangement, that provides for, relates to, is directed | 22 |
| towards or includes 1 or more of the following— | 23 |
| (a) borrowing an amount; | 24 |
| (b) lending an amount; | 25 |
| (c) investing an amount; | 26 |
| (d) taking land or an interest in land; | 27 |
| (e) acquiring, consolidating, dealing with, disposing of or holding
buildings or other structures, for providing infrastructure or other
facilities for the public or part of the public, including, for
example, entertainment centres, light rail systems, port terminals,
sporting stadiums, toll roads, transport infrastructure and waste
treatment facilities; | 28
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|-----|--|------------------|
| (f) | granting or taking a lease, or letting or taking on hire for a period,
a building, equipment, land, machinery, plant or other property,
including a finance lease, as lessee, lessor, hirer, owner or tenant; | 1
2
3 |
| (g) | granting financial accommodation by or to a person, whether or
not the person is a party to the arrangement; | 4
5 |
| (h) | accepting, discounting, drawing, endorsing or issuing a bill of
exchange, promissory note, payment order or other negotiable
instrument, other than a cheque within the meaning of the
<i>Cheques Act 1986</i> (Cwlth), section 5(1) or 10; | 6
7
8
9 |
| (i) | holding property as a trustee or agent; | 10 |
| (j) | acquiring, consolidating, dealing with, disposing of, holding or
reissuing foreign currency; | 11
12 |
| (k) | entering into another arrangement prescribed under a regulation
as a type 2 financial arrangement.’. | 13
14 |