



# **Financial Accountability Act 2009**

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Queensland

# Financial Accountability Act 2009

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# Financial Accountability Act 2009

**An Act to provide for accountability in the administration of the State's finances, to provide for financial administration of departments and statutory bodies, and to repeal the Financial Administration and Audit Act 1977**

## **Part 1                      Introduction**

### **Division 1                      Preliminary**

#### **1                      Short title**

This Act may be cited as the *Financial Accountability Act 2009*.

#### **2                      Commencement**

- (1) Sections 77 and 78 commence on 1 July 2009.
- (2) The remaining provisions of this Act commence on a date to be fixed by proclamation.

#### **3                      Property in public moneys and public property**

All public moneys and public property are the property of the State.

## Division 2 Interpretation

### 4 Definitions

The dictionary in schedule 3 defines particular words used in this Act.

### 5 Interpretation of words used in appropriation Act

Words used in an appropriation Act that are defined in this Act have the same meaning the words have in this Act, subject to a contrary intention in the appropriation Act.

### 6 Meaning of terms relating to *annual appropriation Act*

- (1) An *annual appropriation Act* is—
  - (a) an ordinary annual appropriation Act; or
  - (b) a parliamentary annual appropriation Act.
- (2) An *ordinary annual appropriation Act* is an Act that, for departments other than the Legislative Assembly and parliamentary service—
  - (a) authorises the Treasurer to pay from the consolidated fund an amount for the departments for a financial year; and
  - (b) appropriates for the financial year an amount to be applied to the departmental services, administered items and equity adjustment of each department.
- (3) A *parliamentary annual appropriation Act* is an Act that, for the Legislative Assembly and parliamentary service—
  - (a) authorises the Treasurer to pay from the consolidated fund an amount for the Legislative Assembly and parliamentary service for the financial year; and
  - (b) appropriates for the financial year an amount to be applied to the departmental services, administered items

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and equity adjustment of the Legislative Assembly and parliamentary service.

- (4) The ***annual appropriation Acts*** for a financial year are both—
- (a) the ordinary annual appropriation Act for the financial year; and
  - (b) the parliamentary annual appropriation Act for the financial year.

## **7 Meaning of *administered receipt* and *controlled receipt***

- (1) An ***administered receipt*** is an amount of public moneys received by a department that is not a controlled receipt.
- (2) A ***controlled receipt*** is each of the following amounts of public moneys received by a department—
- (a) a fee or charge fixed by the accountable officer of the department under this or another Act for goods or services supplied by the department;
  - (b) financial assistance for recurrent expenses granted to the State under section 96 of the Commonwealth Constitution if the grant is subject to conditions the department is responsible for complying with;
  - (c) a bequest, contribution, donation, gift or grant to the department;
  - (d) the proceeds of the disposal of an asset, or the rent under a lease of an asset, if under the prescribed requirements the proceeds must be recorded in the department's balance sheet;
  - (e) an amount that, under another Act, must be paid into a fund mentioned in this Act if—
    - (i) the accounts for the fund are part of the departmental accounts of the department; and
    - (ii) under the prescribed requirements, the amount must be recorded in the department's balance sheet;

- (f) an amount paid into the department's departmental financial institution accounts—
  - (i) under section 51(2) as interest; or
  - (ii) under section 51(5) as moneys received from an investment;
- (g) an amount received by the department as reimbursement for the cost of supplying goods or services;
- (h) an amount received by the department if, under the prescribed requirements, the amount must be recorded in the department's balance sheet as a liability;
- (i) an amount paid to the department by the Treasurer—
  - (i) under an annual appropriation Act to be applied to a departmental service or equity adjustment of the department; or
  - (ii) under a statement under section 31 to be applied to a departmental service of the department or an equity injection to the department; or
  - (iii) under an authority under section 35 for unforeseen expenditure in relation to a departmental service or equity adjustment of the department.

*Note—*

A balance sheet of a department may be referred to as a statement of financial position of the department.

- (3) Subsections (1) and (2) are subject to an annual appropriation Act for a financial year that prescribes an amount of public moneys received by a department for the financial year as—
  - (a) an administered receipt for the year; or
  - (b) a controlled receipt for the year.
- (4) In this section—

***recurrent expenses*** means all expenses, other than expenses for capital works or redeeming loans.

***rent under a lease*** includes income under a lease.

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## 8 Meaning of *department*

- (1) Each of the following is a *department*—
  - (a) a department of government under the *Public Service Act 2008*, section 14;
  - (b) an entity for which an accountable officer is appointed under section 65(2);
  - (c) an entity for which an accountable officer is prescribed under section 65(3);
  - (d) the Office of the Governor;
  - (e) the Legislative Assembly and parliamentary service.
- (2) However, a department is—
  - (a) for an ordinary annual appropriation Act—a department mentioned in subsection (1)(a), (b), (c) or (d); or
  - (b) for a parliamentary annual appropriation Act—the department mentioned in subsection (1)(e).
- (3) Subject to subsection (4), an entity is part of a department if—
  - (a) the entity—
    - (i) represents the State; or
    - (ii) is established under an Act; or
    - (iii) is established for a purpose connected with the government of the State; and
  - (b) the entity's expenditure is payable, wholly or partly, out of—
    - (i) amounts paid to the department from the consolidated fund; or
    - (ii) the controlled receipts of the department.
- (4) For this Act, an entity mentioned in subsection (1)(b) is taken not to be part of a department mentioned in subsection (1)(a) even if the entity is taken to be part of the department for other purposes.

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- (5) Expenditure is not taken to be payable as mentioned in subsection (3)(b)(i) merely because a payment in the nature of an endowment, grant in aid or subsidy may be made to the entity from amounts paid to a department from the consolidated fund.
- (6) In this section—  
*entity* does not include a corporation registered under the Corporations Act.

## 9 Meaning of *statutory body*

- (1) A *statutory body* is an entity that—
  - (a) is established under an Act; and
  - (b) has control of funds; and
  - (c) includes, or whose governing body includes, at least 1 member—
    - (i) who is appointed under an Act by the Governor in Council or a Minister; or
    - (ii) whose appointment is approved by the Governor in Council or a Minister.
- (2) However, an entity is not a statutory body for this Act if it is—
  - (a) a department; or
  - (b) a part of a department as mentioned in section 8(3); or
  - (c) a local government; or
  - (d) an entity prescribed under another Act not to be a statutory body for this Act.
- (3) If an Act that establishes an entity states that the entity is a statutory body for this Act, the entity—
  - (a) is a statutory body for this Act; and
  - (b) is not part of a department for this Act despite section 8(3).

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## **Part 2**                      **Provisions applying to Ministers**

### **Division 1**                **Objectives of government**

#### **10**      **Community objectives of government**

- (1) From time to time, the Premier must prepare and table in the Legislative Assembly a statement of the State government's broad objectives for the community.
- (2) The statement must include details of arrangements for regular reporting to the community about the outcomes the government has achieved against its objectives for the community.
- (3) The Premier must prepare and table the first statement of broad objectives within 90 days after the commencement of this section.

#### **11**      **Fiscal objectives of government**

- (1) From time to time, the Treasurer must prepare and table in the Legislative Assembly a charter of fiscal responsibility giving details of the government's fiscal objectives.
- (2) The charter must include details of the fiscal principles that support the government's fiscal objectives.
- (3) The Treasurer must report regularly to the Legislative Assembly on the outcomes the government has achieved against the objectives stated in the charter.
- (4) The Treasurer must prepare and table the first charter of fiscal responsibility within 90 days after the commencement of this section.

## **Division 2                    Ministerial offices expenses**

### **12       Report of ministerial offices expenses**

- (1) The chief executive of the department in which the *Auditor-General Act 2009* is administered must prepare—
  - (a) a report of expenditure for ministerial offices for the first 6 months of each financial year (a ***half year report***); and
  - (b) a report of expenditure for ministerial offices for each financial year (a ***full year report***).
- (2) The chief executive mentioned in subsection (1) must sign each report and certify on it that it is an accurate report of expenditure for ministerial offices for the period of the report.
- (3) The chief executive mentioned in subsection (1) must give the Premier—
  - (a) the half year report for a financial year by 15 February of the financial year; and
  - (b) the full year report for a financial year by 15 August of the next financial year.

### **13       Tabling of half year report**

The Premier must table each half year report in the Legislative Assembly within 5 sitting days after the Premier receives it.

### **14       Audit of full year report**

- (1) The Premier must, as soon as practicable after receiving a full year report, give it to the auditor-general for a report (the ***auditor-general's report***).
- (2) The auditor-general must give the auditor-general's report to the Premier by the date agreed between the Premier and the auditor-general.
- (3) The date agreed must allow the Premier to comply with section 15.



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## 15 Tabling of full year report

The Premier must table the auditor-general's report and the full year report in the Legislative Assembly by 31 August of the next financial year mentioned in section 12(3)(b).

# Part 3 Consolidated fund and Treasurer's responsibilities

## Division 1 The consolidated fund

### 16 Consolidated fund

The consolidated fund established under the *Financial Administration and Audit Act 1977* is continued in existence under this Act.

### 17 Accounts for consolidated fund

- (1) The Treasurer must keep ledger accounts for the consolidated fund (the *consolidated fund account*) consisting of—
  - (a) the Treasurer's consolidated fund operating account; and
  - (b) the Treasurer's consolidated fund investment account.
- (2) All moneys received by the Treasurer from accountable officers must be recorded as received in the Treasurer's consolidated fund operating account, including the following—
  - (a) all administered receipts;
  - (b) all moneys received as repayment of advances or loans, or payment of interest on advances or loans, from the consolidated fund;

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- (c) all moneys required under this Act, or another Act or law, to be paid into the consolidated fund;
  - (d) amounts paid by departments as equity withdrawals.
- (3) Only the following may be charged to the Treasurer's consolidated fund operating account—
- (a) moneys for expenditures authorised to be made by the Treasurer under—
    - (i) this Act; or
    - (ii) an appropriation Act; or
    - (iii) an Act that appropriates public moneys, other than an appropriation Act;
  - (b) refunds of moneys incorrectly recorded in the consolidated fund account.

## **18 Treasurer's consolidated fund bank account**

- (1) The Treasurer must keep at a bank an account for the consolidated fund (the *Treasurer's consolidated fund bank account*).
- (2) All public moneys received by the Treasurer must be paid daily to the credit of the Treasurer's consolidated fund bank account.
- (3) Moneys may be withdrawn from the Treasurer's consolidated fund bank account only for—
  - (a) recouping or advancing moneys to a departmental financial institution account under—
    - (i) an appropriation Act; or
    - (ii) another Act that appropriates the amount involved; or
    - (iii) an approval for unforeseen expenditure; or
  - (b) paying an amount to a department under section 34; or
  - (c) making an investment under section 50; or

- (d) refunding moneys incorrectly paid into the bank account.
- (4) The Treasurer has power to do all things necessary or convenient to be done for keeping the Treasurer's consolidated fund bank account.

## 19 Overdrawn accounts

- (1) This section applies if—
  - (a) the net credit balance of the Treasurer's consolidated fund bank account and all the departmental financial institution accounts is overdrawn unintentionally; and
  - (b) the overdrawing is rectified as soon as is practicable.
- (2) The overdrawing is authorised by this section and a Treasurer's approval is not needed.
- (3) This section has effect despite section 18.

### *Example of unintentional overdrawing of accounts—*

Each morning departments give the treasury department a forecast of their cash flow for the day. Officers of the treasury department add the total of the departmental forecasts to the net credit balance of the Treasurer's consolidated fund bank account and all the departmental financial institution accounts, including the treasury offset bank account, to decide the surplus or deficit of moneys on the day. If there is a surplus, it is invested. If the forecasts are incorrect because a department receives less or withdraws more on the day than the department forecast, the net credit balance may be unintentionally overdrawn.

## 20 Entries in Treasurer's consolidated fund operating account

- (1) Subsection (2) applies if the Treasurer, in a financial year, pays to a department an amount other than unforeseen expenditure from the consolidated fund.
- (2) The Treasurer must—

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- (a) enter the amount in the Treasurer's consolidated fund operating account as paid to the department as part of its vote for the financial year; and
- (b) allocate the amount entered to 1 or more of the department's headings for which the amount was paid.

*Note—*

Entries for unforeseen expenditure are dealt with under section 36.

## 21 Write-off of losses

The Treasurer may write off losses relating to the consolidated fund account.

## Division 2 Consolidated fund reporting

### 22 Quarterly statement by Treasurer

- (1) As soon as practicable after the end of each quarter of a financial year, the Treasurer must prepare a statement for the quarter (the *quarterly statement*) of—
  - (a) the amounts received in the quarter by the Treasurer (the *received amounts*) that must be recorded as received in the Treasurer's consolidated fund operating account; and
  - (b) for each department—the amounts paid by the Treasurer in the quarter from the department's vote (the *paid amounts*) from the Treasurer's consolidated fund operating account, including the amounts allocated to the department's headings (the *heading amounts*); and
  - (c) the opening and closing balances for the quarter of the Treasurer's consolidated fund bank account and Treasurer's consolidated fund investment account.
- (2) A quarterly statement must not include a controlled receipt appropriated under section 28.

- 
- (3) A quarterly statement for the second, third or fourth quarter of a financial year must also include the received amounts, paid amounts and heading amounts for the financial year up to and including the end of the quarter.
  - (4) Also, a quarterly statement must include comparative figures for—
    - (a) received amounts, paid amounts, heading amounts and quarterly balances for the corresponding quarter of the immediately preceding financial year; and
    - (b) for a quarterly statement for the second, third or fourth quarter—the cumulative received amounts, paid amounts and heading amounts for the immediately preceding financial year.
  - (5) As soon as practicable after a quarterly statement is prepared for the first, second or third quarter of a financial year, the Treasurer must make the statement publicly available.

*Example of making the statement publicly available—*

publishing the statement on the treasury department's website

- (6) If the Treasurer pays an amount from, or receives an amount into, the consolidated fund account within the further 2 weeks for the financial year to which the payment or receipt relates, the Treasurer must ensure the amount is included in—
  - (a) the quarterly statement for the fourth quarter of the financial year; and
  - (b) the consolidated fund financial report for the financial year if the received amount is—
    - (i) the return of appropriation paid in excess of the appropriation authorised for the financial year for a department; or
    - (ii) an equity withdrawal from a department for the financial year.

## **23 Consolidated fund financial report**

- (1) This section applies to the quarterly statement the Treasurer must prepare under section 22 for the fourth quarter of a financial year (the *consolidated fund financial report*).
- (2) In addition to the matters included under section 22, the Treasurer must include the following, for each department, in the consolidated fund financial report for the financial year—
  - (a) the department's vote, and the amounts for application to the department's headings, under the annual appropriation Acts for the financial year;
  - (b) any change under this Act to the department's vote or the amounts for application to 1 or more of the department's headings;
  - (c) the total amount paid to the department for the financial year and the amounts allocated to the department's headings;
  - (d) amounts paid to the department as unforeseen expenditure and particulars of the amounts;
  - (e) amounts appropriated to the department for the financial year that have lapsed under section 29(3);
  - (f) amounts written off by the Treasurer under section 21 as losses relating to the consolidated fund account.
- (3) The consolidated fund financial report must not include a controlled receipt appropriated under section 28.
- (4) The Treasurer must, under section 24, sign the consolidated fund financial report and give it to the auditor-general for a report by the auditor-general.
- (5) Within 14 days after the auditor-general returns the consolidated fund financial report to the Treasurer with the auditor-general's report, the Treasurer must table the reports in the Legislative Assembly.

## 24 Timing for giving consolidated fund financial report to auditor-general

- (1) For section 23(4), the Treasurer must sign the consolidated fund financial report and give it to the auditor-general by a date agreed between the Treasurer and the auditor-general.
- (2) The agreed date must be one that allows the audit of the consolidated fund financial report, and auditor-general's report for the consolidated fund financial report, to be completed no later than 3 months after the end of the financial year to which the consolidated fund financial report relates.
- (3) However, if the Treasurer considers there is a whole-of-government reason that makes it impracticable to give the consolidated fund financial report for the financial year to the auditor-general by the date agreed under subsection (1), the Treasurer may give it to the auditor-general by a later date agreed with the auditor-general.

*Example of a whole-of-government reason—*

complex end of financial year changes to the machinery of government

- (4) The later date must allow the audit of the consolidated fund financial report, and the auditor-general's report for the consolidated fund financial report, to be completed no later than 6 months after the end of the financial year to which the consolidated fund financial report relates.

## 25 Consolidated whole-of-government financial statements

- (1) The Treasurer must prepare, under the prescribed requirements, the following financial statements for each financial year (together the ***consolidated whole-of-government financial statements***)—
  - (a) financial statements for the whole of government;
  - (b) financial statements for the general government sector.
- (2) The consolidated whole-of-government financial statements must be prepared within 6 months after the end of each financial year or a later date agreed between the Treasurer and the auditor-general.

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- (3) The Treasurer, the under-Treasurer and the most senior officer of the department responsible for preparing the statements (the *officers*) must each sign the statements and certify on the statements whether, in the opinion of each of them, the statements have been properly drawn up, under the prescribed requirements, to present a true and fair view of—
  - (a) the financial operations and cash flows of the State for the financial year; and
  - (b) the financial position at the end of the financial year to which the statements relate.
- (4) As soon as practicable after the statements have been prepared and certified by the officers, the Treasurer must send the statements to the auditor-general for a report by the auditor-general.
- (5) Within 14 days after the auditor-general returns the statements to the Treasurer with the auditor-general's report, the Treasurer must table the statements and report in the Legislative Assembly.
- (6) In this section—

*general government sector* means the institutional sector comprising all government units and non-profit institutions controlled and mainly financed by government, as defined in Australian Accounting Standard AASB 1049.

*Editor's note—*

The standard is available on the Australian Accounting Standards Board website at <[www.aasb.gov.au](http://www.aasb.gov.au)>.

## 26 Information for preparing consolidated whole-of-government financial statements

- (1) The Treasurer may exercise a power under this section only if the Treasurer considers it is necessary to do so—
  - (a) for preparing the consolidated whole-of-government financial statements for a financial year; or
  - (b) for whole-of-government budgeting or monitoring purposes.



- 
- (2) The Treasurer may, by notice given to the accountable officer of a department or to a statutory body, ask the officer or body to give information to the Treasurer.
  - (3) The notice must state the following—
    - (a) particulars of the information that must be given;
    - (b) the date by which the information must be given.
  - (4) The accountable officer or statutory body must comply with the notice.

## **Division 3                      Appropriations**

### **27            Annual appropriation Acts**

For each financial year, the Treasurer must present to the Legislative Assembly—

- (a) a Bill for an ordinary annual appropriation Act for the financial year; and
- (b) a Bill for a parliamentary annual appropriation Act for the financial year.

### **28            Appropriation of particular controlled receipts**

- (1) A department's controlled receipts may be retained by the department.
- (2) For each financial year, the consolidated fund is appropriated for application to the departmental services, administered items and equity adjustment of the department in an amount equal to the department's controlled receipts for the financial year.
- (3) In subsection (2)—

*controlled receipts* does not include a controlled receipt mentioned in section 7(2)(i).

**29 Availability of appropriated amount for payment to departments**

- (1) The total amount appropriated for a department for a financial year under an annual appropriation Act (the *available amount*) is available for the Treasurer to pay to the department in the financial year or within the further 2 weeks.
- (2) The Treasurer may pay an amount from the available amount for a department if the payment is made for a departmental service, administered item or equity adjustment—
  - (a) delivered in the financial year or the previous financial year; or
  - (b) to be delivered in the financial year or in the next financial year.
- (3) If all of the available amount for a financial year is not paid to the department under this section in the financial year or within the further 2 weeks, the unpaid amount of the appropriation lapses at the end of the further 2 weeks.

**30 Payment of equity withdrawal under annual appropriation Act**

- (1) This section applies if, under an annual appropriation Act for a financial year, the equity adjustment of a department is an equity withdrawal.
- (2) On payment by the accountable officer of the department of the equity withdrawal to the Treasurer, the Treasurer must—
  - (a) enter the amount in the Treasurer's consolidated fund operating account to the department's vote for the financial year; and
  - (b) credit the amount to the heading in the ledger for equity adjustment.

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**31 Supply before ordinary annual appropriation Act for financial year**

- (1) This section applies if, before the enactment of the ordinary annual appropriation Act for a financial year, the Legislative Assembly authorises the payment of an amount (the *ordinary supply amount*) from the consolidated fund to departments, other than the Legislative Assembly and parliamentary service, but does not appropriate a total amount for each of the departments for the financial year.
- (2) The Treasurer must prepare a statement setting out—
  - (a) the total amount available for each of the departments from the ordinary supply amount; and
  - (b) the way the total amount available for each of the departments is to be applied.
- (3) As soon as practicable after preparing the statement, the Treasurer must give notice to the accountable officer of each of the departments about—
  - (a) the total amount available for the department from the ordinary supply amount before the enactment of the ordinary annual appropriation Act; and
  - (b) the way the total amount available for the department is to be applied.
- (4) The Treasurer may pay an amount to a department under the statement.
- (5) A payment under the statement is taken to be authorised by the ordinary annual appropriation Act for the financial year.

**32 Supply before parliamentary annual appropriation Act for financial year**

- (1) This section applies if, before the enactment of the parliamentary annual appropriation Act for a financial year, the Legislative Assembly—

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- (a) authorises the payment of an amount (the *parliamentary supply amount*) from the consolidated fund for the Legislative Assembly and parliamentary service; but
  - (b) does not appropriate the amount for the Legislative Assembly or parliamentary service for the financial year.
- (2) The Treasurer must prepare a statement setting out the amount available for the Legislative Assembly and parliamentary service from the parliamentary supply amount.
- (3) As soon as practicable after preparing the statement, the Treasurer must give notice to the Clerk of the Parliament about the amount available for the Legislative Assembly and parliamentary service from the parliamentary supply amount before the enactment of the parliamentary annual appropriation Act.
- (4) The Treasurer may pay an amount to the Legislative Assembly and parliamentary service under the statement.
- (5) A payment under the statement is taken to be authorised by the parliamentary annual appropriation Act for the financial year.

### **33 Varying the amounts of department's headings**

- (1) Subsection (2) applies if the Treasurer considers there is—
  - (a) a surplus in 1 or more of the headings of a department for a financial year; and
  - (b) a deficiency in 1 or more other headings of the department.
- (2) The Treasurer may allocate an amount to the heading or headings that are deficient from the heading or headings in surplus.
- (3) As soon as practicable after the Treasurer allocates the amount, the Treasurer must give notice to the accountable officer of the department about the surplus, deficiency and allocation of the amount.

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- (4) Subsection (2) does not authorise the Treasurer to pay more than the department's vote for the financial year.

**34 When part of vote for treasury department may be applied for headings of another department**

- (1) This section applies if—
- (a) an amount (the *Treasurer's advance*) is included in the vote for the treasury department for a financial year for purposes that may be delivered by any department; and
  - (b) the Treasurer is satisfied a particular department (the *delivering department*) is to achieve 1 or more of the purposes by delivering a departmental service, administered item or equity adjustment for which the vote for the delivering department for the financial year did not provide or sufficiently provide.
- (2) The Treasurer may pay to the delivering department a part of the Treasurer's advance that the Treasurer considers reflects the value of the service, item or adjustment to be delivered in the financial year by the delivering department.
- (3) The Treasurer may pay an amount to the delivering department even though the amount appropriated to the department under the relevant annual appropriation Act for the financial year will be exceeded.
- (4) The Treasurer must make appropriate entries for the payment in the accounts of the treasury department and the delivering department.

**35 Unforeseen expenditure**

- (1) Subsection (2) applies if the Governor in Council decides, on the recommendation of the Treasurer, during a financial year or within the further 4 weeks, that expenditure is required from the consolidated fund for the financial year for which—
- (a) there is no appropriation; or

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- (b) there is an appropriation but the making or charging of the expenditure to a department's vote would mean the amount allocated to the vote would be exceeded.
- (2) The Governor in Council may authorise the expenditure (the *unforeseen expenditure*) to be—
  - (a) made before an appropriation of an amount for the expenditure; and
  - (b) charged as unforeseen expenditure to the consolidated fund; and
  - (c) allocated, as directed by the Governor in Council, to 1 or more of the department's headings.

### **36 Entries in Treasurer's consolidated fund operating account for unforeseen expenditure**

If an amount is paid from the consolidated fund as unforeseen expenditure for a financial year, the Treasurer must, in the Treasurer's consolidated fund operating account for the financial year, enter the amount to 1 or more of the headings stated in the Governor in Council's authority for the unforeseen expenditure.

### **37 Entries by Treasurer on repayment of incorrectly paid amounts**

- (1) This section applies to an amount, or part of an amount (the *incorrectly paid amount*)—
  - (a) that was paid to a department by the Treasurer from the consolidated fund in error or by overpayment; or
  - (b) that was—
    - (i) paid to a department by the Treasurer from the consolidated fund in error or by overpayment for a non-departmental service to be delivered by a statutory body; and
    - (ii) repaid by the statutory body to the department for payment to the Treasurer.

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- (2) The accountable officer of the department must pay the Treasurer the incorrectly paid amount.
  - (3) On payment of the incorrectly paid amount to the Treasurer in the same financial year in which it was paid to the department, or within the further 2 weeks, the Treasurer must—
    - (a) credit the amount to the vote of the department for the financial year; and
    - (b) allocate the amount to the appropriate heading or headings of the department in the Treasurer's consolidated fund operating account for the year.
  - (4) On payment of the incorrectly paid amount to the Treasurer after the further 2 weeks of the financial year in which it was paid to the department, the Treasurer must enter the amount as a receipt in the Treasurer's consolidated fund operating account for the next financial year.
  - (5) On receipt of the incorrectly paid amount, the Treasurer must pay it into the consolidated fund bank account.

## **Division 4                      Approvals by Treasurer**

### **38            Definition for div 4**

In this division—

*department* includes the accountable officer of the department.

### **39            Exercise of power by department or statutory body**

- (1) This division applies if a power under this Act may be exercised by a department or a statutory body under a Treasurer's approval.
- (2) The department or statutory body may exercise the power only if—
  - (a) an approval under section 40 applies to the department or body; or

- (b) the exercise of the power is the subject of an approval under section 43.

#### **40 Treasurer's general approval**

- (1) The Treasurer may, by gazette notice, approve the exercise of powers under this Act by departments and statutory bodies (a *Treasurer's general approval*).
- (2) The Treasurer's general approval may—
  - (a) apply generally to all departments, statutory bodies, powers and matters; or
  - (b) be limited in its application to—
    - (i) particular departments, statutory bodies, powers or matters; or
    - (ii) particular classes of departments, statutory bodies, powers or matters; or
  - (c) be limited in its application by reference to stated exceptions or factors.
- (3) Also, the approval may—
  - (a) make different provision for—
    - (i) different departments, statutory bodies, powers or matters; or
    - (ii) different classes of departments, statutory bodies, powers or matters; or
  - (b) apply differently to stated exceptions or factors.
- (4) A Treasurer's general approval may apply to a department or statutory body even if the department or body was not established when the approval was given.

#### **41 Application for Treasurer's specific approval**

- (1) A department or statutory body may apply to the Treasurer for approval of the exercise of a power under this Act (a *Treasurer's specific approval*).



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- (2) The application—
    - (a) must be in writing; and
    - (b) may relate to the exercise of the power generally or in relation to a particular matter.
  - (3) If the Treasurer considers the approval should be given as a Treasurer's general approval, the Treasurer may deal with the application by giving an approval under section 40 that applies to the applicant.

#### **42 Requirement to give documents or information**

The Treasurer may, by notice to the department or statutory body, require it to give the Treasurer a document or information the Treasurer considers necessary for considering the department's or the body's application.

#### **43 Decision on application**

- (1) The Treasurer may approve all or part of the application or refuse the application.
- (2) A Treasurer's specific approval may be on written conditions the Treasurer considers appropriate.
- (3) The Treasurer must inform the applicant, in writing, of the decision and, if the application is approved, any conditions of the approval.

#### **44 Amendment or repeal of Treasurer's specific approval**

- (1) A department or statutory body may apply to the Treasurer for amendment or repeal of a Treasurer's specific approval.
- (2) The application—
  - (a) must be in writing; and
  - (b) state the reasons for the amendment or repeal.
- (3) Sections 41(3), 42 and 43 apply to the application as if it were an application for a Treasurer's specific approval.

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- (4) The Treasurer may amend or repeal a Treasurer's specific approval even if the department or statutory body does not apply for the amendment or repeal.
- (5) The amendment or repeal of a Treasurer's specific approval does not affect its previous operation.

#### **45 Register of specific approvals**

- (1) The treasury department must keep a register of all Treasurer's specific approvals granted.
- (2) Each department and statutory body granted a Treasurer's specific approval must keep a register of the approvals.

#### **46 False or misleading documents**

- (1) A person must not, under section 41 or 42, give the Treasurer a document containing information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

- (2) Subsection (1) does not apply to a person if the person, when giving the document—
  - (a) advises the Treasurer, in writing, to the best of the person's ability, how the information is false or misleading; and
  - (b) gives the correct information if the person has, or can reasonably obtain, the correct information.

#### **47 False or misleading information**

A person must not, under section 42, give the Treasurer information the person knows is false or misleading in a material particular.

Maximum penalty—50 penalty units.

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## Division 5                      Delegation by Treasurer

### 48            Delegation by Treasurer of particular powers

- (1) The Treasurer may delegate the Treasurer's powers mentioned in subsection (2) to an officer or employee of the treasury department who has the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

an officer's classification level in the public service

- (2) Subsection (1) applies to the powers of the Treasurer under sections 17, 18, 21, 23, 24, 26, 50, 51, 55, 59, 71, 77, 78, 81, 83, 84, 85, 87 and 97 to the extent it continues the application of section 46(4) of the repealed Act.
- (3) Also, the Treasurer may delegate the Treasurer's powers under—
- (a) section 21 to an accountable officer to the extent the losses relate to administered receipts of the accountable officer's department; and
  - (b) section 50 or 53(5) to either of the following who has the qualifications, experience or standing appropriate to exercise the power—
    - (i) the chief executive officer or another officer or employee of the Queensland Investment Corporation;
    - (ii) an officer or employee of the Queensland Treasury Corporation.
- (4) In this section—

*repealed Act* means the *Financial Administration and Audit Act 1977*.

## **Division 6                      Investment by Treasurer**

### **49            Treasury offset account**

- (1) The Treasurer must establish—
  - (a) in the treasury department, an account called the 'treasury offset account' for recording transactions about the matters mentioned in section 50; and
  - (b) at a financial institution, an account relating to the treasury offset account called the 'treasury offset bank account'.
- (2) For this Act—
  - (a) the treasury offset account is taken to be a departmental account; and
  - (b) the treasury offset bank account is taken to be a departmental financial institution account.

### **50            Use of accounts**

- (1) Subject to this Act, the Treasurer may—
  - (a) if the balance of the Treasurer's consolidated fund bank account and the departmental financial institution accounts is a net credit balance—
    - (i) make an investment under subsection (4) based on the balance at the time of the investment; and
    - (ii) pay moneys out of the treasury offset bank account to make the investment; or
  - (b) if the balance of the Treasurer's consolidated fund bank account is a net credit balance—
    - (i) make an investment under subsection (4) based on the balance at the time of the investment; and
    - (ii) pay moneys out of the Treasurer's consolidated fund bank account to make the investment; or

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- (c) if the balance in a departmental financial institution account is a net credit balance—
- (i) make an investment under subsection (4) based on the balance at the time of the investment; and
  - (ii) pay moneys out of the departmental financial institution account to make the investment.
- (2) However, if the balance of the Treasurer's consolidated fund bank account and the departmental financial institution accounts is a net debit balance, the Treasurer may—
- (a) arrange with the Queensland Treasury Corporation to offset the net debit balance by paying moneys into the treasury offset bank account; and
  - (b) pay all or part of the moneys mentioned in paragraph (a) from the treasury offset bank account into the Treasurer's consolidated fund bank account.
- (3) If non-public moneys are held by or given to the Treasurer for investment or as security, the Treasurer may—
- (a) pay the non-public moneys into the treasury offset bank account; and
  - (b) invest the non-public moneys and, for that purpose, pay moneys out of the treasury offset bank account.
- (4) For subsections (1) and (3), the Treasurer may make the following investments—
- (a) in securities of, guaranteed by, accepted by or endorsed by the Commonwealth or a State;
  - (b) a loan to, investment in or financial arrangement with an entity authorised by an Act or law to borrow money from the Treasurer, on the security the Treasurer considers appropriate;
  - (c) with, or on deposit with, a bank, or in securities of, guaranteed by, accepted by or endorsed by a bank;
  - (d) with, or on deposit with, the Queensland Investment Corporation or the Queensland Treasury Corporation for

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- investment in a fund of either of the corporations that the Treasurer considers appropriate;
- (e) in other securities approved by the Governor in Council;
  - (f) by deposit on the security of any of the securities in which the Treasurer is permitted by this subsection to invest;
  - (g) in other investments or financial arrangements approved by the Governor in Council.
- (5) However, if the Treasurer invests non-public moneys under subsection (3), moneys received from the investment are moneys payable to the person entitled to the non-public moneys despite section 51.

## 51 Dealing with moneys earned on investment

- (1) If moneys for an investment were paid out of the treasury offset bank account, moneys received from the investment must be paid into the treasury offset bank account and dealt with as follows—
- (a) the moneys necessary to fully recoup the treasury offset bank account for the amount paid from it for the investment must be kept in the treasury offset bank account but may be used for a further investment;
  - (b) as soon as practicable after the moneys received from the investment are paid into the treasury offset bank account, the Treasurer must identify the amount (the *investment earnings*) that exceeds the moneys recouped into the treasury offset bank account.
- (2) To the extent the moneys for the investment were, under an arrangement with the Treasurer, attributable to a departmental financial-institution account, the Treasurer must—
- (a) declare an amount from the investment earnings to be paid to the department as interest (the *departmental interest*); and

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- (b) arrange for the payment of the departmental interest from the treasury offset bank account into the departmental financial institution account.
  - (3) The Treasurer must arrange for the payment of the balance of the investment earnings, less departmental interest to be paid under subsection (2), into a departmental financial institution account of the treasury department.
  - (4) If moneys for an investment were paid out of the Treasurer's consolidated fund bank account, moneys received from the investment must be paid into the account.
  - (5) If moneys for an investment were paid out of a departmental financial institution account, other than the treasury offset bank account, moneys received from the investment must be paid into—
    - (a) for an investment made for the purpose of a fund for which a special purpose account must be established under section 69A—a special purpose financial institution account established for the special purpose account; or
    - (b) otherwise—the departmental financial institution account from which the moneys for the investment were paid.

## **52 Appropriation for investment**

If moneys are required to be paid out of the Treasurer's consolidated fund bank account for an investment that may be made by the Treasurer, the payment of the moneys out of the account for the investment is appropriated.

## **53 Corporation sole of The Treasurer of Queensland**

- (1) The corporation sole constituted by the Treasurer under the *Financial Administration and Audit Act 1977*, section 43 is continued in existence under the name The Treasurer of Queensland (the *Treasurer*).
- (2) The Treasurer —

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- (a) is a body corporate with perpetual succession; and
  - (b) has a seal; and
  - (c) may sue and be sued in the Treasurer's corporate name.
- (3) The Treasurer represents the State.
- (4) Without limiting subsection (3), the Treasurer has all the State's privileges and immunities.
- (5) The Treasurer has all the powers of an individual and may, for example—
- (a) enter into contracts; and
  - (b) acquire, hold, dispose of, and deal with, property; and
  - (c) appoint agents and attorneys; and
  - (d) engage consultants; and
  - (e) fix charges, and other terms, for services the Treasurer supplies; and
  - (f) enter into derivative transactions; and
  - (g) do anything necessary or convenient to be done in the performance of the Treasurer's functions under this or another Act.
- (6) However, the Treasurer may enter into a derivative transaction only to hedge against a risk to which the State is or will be exposed.
- (7) The Treasurer also has the powers conferred on the Treasurer by this or another Act.
- (8) The Treasurer may exercise the Treasurer's powers inside and outside Queensland.
- (9) Without limiting subsection (8), the Treasurer may exercise the Treasurer's powers outside Australia.

## **54 Limitations on investment powers**

Nothing in this Act authorises the Treasurer to invest moneys relating to a departmental account contrary to—



- (a) an Act; or
- (b) an agreement, arrangement, contract, court order, law or transaction applying to the account.

## **Division 7                      Borrowings**

### **55            Borrowings by the State**

- (1) The Treasurer may borrow amounts for the State.
- (2) Amounts may be borrowed within the State, outside the State but within Australia, or outside Australia.

### **56            Liability of department for borrowing fee**

- (1) This section applies if the Treasurer borrows amounts for the State and considers all or part of the amounts borrowed have been used by a department.
- (2) The Treasurer may, by notice given to the accountable officer of the department, declare the department liable for an amount (the *borrowing fee*).
- (3) The notice must state—
  - (a) the amount of the borrowings the Treasurer considers have been used by the department; and
  - (b) the borrowing fee for which the department is liable; and
  - (c) the date by which the borrowing fee is to be paid to the Treasurer.
- (4) An accountable officer given a notice under subsection (2) must comply with the notice.

## **Division 8                      Standards about financial and performance management**

### **57            Financial and performance management standards**

- (1) The Treasurer may make standards about the policies and principles to be observed in financial and performance management.
- (2) If the Treasurer considers it appropriate, a financial and performance management standard may include a commentary about the operation of a provision of the standard.
- (3) If the standard includes a commentary about the operation of a provision—
  - (a) the commentary is not part of the standard; and
  - (b) the commentary is not meant to be exhaustive; and
  - (c) the commentary, the provision and the other provisions of the standard are to be read together but, if the commentary and the provision are inconsistent, the provision prevails.
- (4) Each accountable officer and statutory body must comply with the provisions of a standard that apply respectively to the officer and body.
- (5) A standard is subordinate legislation.

### **58            Requirements before making a financial and performance management standard**

Before making a financial and performance management standard, the Treasurer must consult with the auditor-general and, to the extent the standard relates to planning or performance management, the Premier.

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**59 Exemption from complying with financial and performance management standard**

- (1) The Treasurer may, wholly or partly, exempt a department or statutory body from complying with a financial and performance management standard.
- (2) The exemption must—
  - (a) be in writing; and
  - (b) state—
    - (i) the day the exemption ends; or
    - (ii) the day by which the Treasurer must review the exemption to decide whether it is appropriate for the exemption to continue.
- (3) Before granting the exemption, the Treasurer must consult with the auditor-general and, to the extent the proposed exemption relates to planning or performance management, the Premier.
- (4) The Treasurer may impose conditions on the exemption.
- (5) If the exemption relates to prescribed accounting standards, the department or statutory body must disclose the extent and financial implications of noncompliance with the prescribed accounting standards in its annual financial statements.
- (6) In this section—

***prescribed accounting standards*** means the following documents published by the Australian Accounting Standards Board—

  - (a) Australian Accounting Standards;
  - (b) Statements of Accounting Concepts;
  - (c) Interpretations;
  - (d) Framework for the Preparation and Presentation of Financial Statements.

*Note—*

The documents mentioned in the definition *prescribed accounting standards* are available on the website of the Australian Accounting Standards Board at <[www.aasb.gov.au](http://www.aasb.gov.au)>.

## **Part 4 Provisions applying to departments and statutory bodies**

### **60 Application of ss 61–63**

The functions or requirements imposed by section 61, 62 or 63 on accountable officers and statutory bodies are imposed—

- (a) for each accountable officer—in relation to the accountable officer’s department; and
- (b) for each statutory body—in relation to that statutory body.

### **61 Functions of accountable officers and statutory bodies**

Accountable officers and statutory bodies have the following functions—

- (a) to achieve reasonable value for money by ensuring the operations of the department or statutory body are carried out efficiently, effectively and economically;
- (b) to establish and maintain appropriate systems of internal control and risk management;
- (c) to establish and keep funds and accounts in compliance with the prescribed requirements;
- (d) to ensure annual financial statements are prepared, certified and tabled in Parliament in accordance with the prescribed requirements;

- (e) to undertake planning and budgeting for the accountable officer's department or the statutory body that is appropriate to the size of the department or statutory body;
- (f) to perform other functions conferred on the accountable officers or statutory bodies under this or another Act or a financial and performance management standard.

## 62 Annual financial statements

- (1) Accountable officers and statutory bodies must, in the way and within the time stated in a financial and performance management standard—
  - (a) prepare annual financial statements for the department or statutory body in accordance with the prescribed requirements; and
  - (b) certify on the statements whether the statements comply in all material respects with the prescribed requirements in relation to the establishment and keeping of accounts; and
  - (c) have the statements audited as required under the *Auditor-General Act 2009*; and
  - (d) include the statements in the annual report of the department or statutory body.

- (2) In this section—

***annual financial statements*** includes final financial statements.

***department*** includes an abolished department.

***final financial statements***, for an abolished department or an abolished statutory body, means the financial statements for the final period for the department or statutory body.

***final period***, for an abolished department or an abolished statutory body, means the period stated for the department or statutory body in a financial and performance management standard.

*statutory body* includes an abolished statutory body.

### 63 Annual reports

- (1) Accountable officers and statutory bodies must, in the way and within the time stated in a financial and performance management standard—
  - (a) prepare an annual report; and
  - (b) give the report to the appropriate Minister.

*Note—*

See the *Human Rights Act 2019*, section 97, for particular information relating to human rights that must be included in an annual report.

- (2) The Minister must table the annual report in the Legislative Assembly within the time stated in the financial and performance management standard.
- (3) In this section—

*annual report* includes a final report.

*department* includes an abolished department.

*final period*, for an abolished department or an abolished statutory body, means the period stated for the department or statutory body in a financial and performance management standard.

*final report*, for an abolished department or an abolished statutory body, means a report about the operations of the department or statutory body for the final period for the department or statutory body

*statutory body* includes an abolished statutory body.

### 64 Investments gifted or bequeathed to departments or statutory bodies

- (1) A department or statutory body may divest itself of an investment gifted or bequeathed to the department or statutory body only with the Treasurer's approval.

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- (2) However, the Treasurer may exempt a statutory body from requiring the Treasurer's approval if the Treasurer is satisfied 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**

#### **65 Accountable officers generally**

- (1) The chief executive of a department of government under the *Public Service Act 2008*, section 14, is the accountable officer of the department.
- (2) The Treasurer may appoint a person to be the accountable officer of—
- (a) a public service office; or
  - (b) another entity, whether or not the entity is part of a department, if—
    - (i) the entity—
      - (A) represents the State; or
      - (B) is established under an Act; or
      - (C) is established for a purpose connected with the government of the State; and
    - (ii) the entity's expenditure is payable, wholly or partly, out of—
      - (A) amounts paid to a department from the consolidated fund; or
      - (B) the controlled receipts of a department.

- (3) A regulation may prescribe the accountable officer of an entity mentioned in the regulation.
- (4) For an entity mentioned in subsection (3)—
  - (a) subsection (1) does not apply to the chief executive of the entity even if the entity is a department of government under the *Public Service Act 2008*, section 14; and
  - (b) a person can not be appointed the accountable officer of the entity under subsection (2).

## **66 Legislative Assembly and parliamentary service**

- (1) The Clerk of the Parliament is the accountable officer of the Legislative Assembly and parliamentary service.
- (2) This section does not limit or otherwise interfere with the role of the Speaker relating to the Legislative Assembly or parliamentary service, including the role of the Speaker in relation to the Clerk of the Parliament.

## **67 Office of the Governor**

- (1) The official secretary is the accountable officer of the Office of the Governor.
- (2) This section does not limit or otherwise interfere with the role of the Governor relating to the Office of the Governor, including the role of the Governor in relation to the official secretary.

## **Division 2 Accountable officer responsibilities**

### **68 Departmental budgets**

- (1) The accountable officer of a department must—
  - (a) prepare a budget for the department for each financial year (an *annual departmental budget*); and



- (b) give the annual departmental budget to the appropriate Minister.
- (2) The appropriate Minister must table the annual departmental budget in the Legislative Assembly at the same time as the budget for the State for that financial year is tabled.

## **69 Departmental accounts**

- (1) The accountable officer of a department must establish, in accordance with the prescribed requirements, the accounts (the *departmental accounts*) necessary—
  - (a) to account, under a financial and performance management standard, for public moneys, public property, non-public moneys, other property and other resources administered or controlled by the department; and
  - (b) to produce—
    - (i) the financial statements required to be produced by this Act; and
    - (ii) other financial statements or information required to be produced by the prescribed requirements or the Treasurer.
- (2) The accounts, other than the consolidated fund account, established by the under-Treasurer for preparing the consolidated whole-of-government financial statement for a financial year are departmental accounts of the treasury department.
- (3) Subsection (1) does not apply to the extent the accounts are necessary under section 69A(2).

## **69A Special purpose accounts**

- (1) This section applies in relation to the accountable officer of a department that is responsible for administering an Act that—
  - (a) establishes a fund; and

- (b) requires accounts for the fund to be kept as special purpose accounts of the department.
- (2) The accountable officer must establish the accounts (the *special purpose accounts*) necessary—
  - (a) to account for contributions made to the fund, moneys paid from the fund and other transactions made in relation to the fund; and
  - (b) to produce the financial statements and information mentioned in section 69(1)(b), to the extent the statements or information must include matters in relation to the fund.
- (3) To remove any doubt, it is declared that special purpose accounts are not, and do not form part of, departmental accounts.

## **70 Payment of tax equivalents and dividends**

- (1) This section applies if the accountable officer of a department has entered into an arrangement with the Treasurer about a business unit within the department and, under the arrangement, the accountable officer must pay—
  - (a) an amount decided by applying the tax equivalents manual to the business unit (the *tax equivalent*); or
  - (b) an amount decided under the arrangement as a dividend (the *dividend*).
- (2) If the accountable officer has not paid the tax equivalent or dividend under the arrangement, and within the time stated in the arrangement, the Treasurer may, by notice given to the accountable officer, require the officer to pay the Treasurer the tax equivalent or dividend.
- (3) The notice must state—
  - (a) the amount of the tax equivalent or dividend; and
  - (b) when the tax equivalent or dividend must be paid to the Treasurer.

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- (4) The accountable officer must comply with the notice.
  - (5) This section does not apply to the official secretary, the Clerk of the Parliament or an accountable officer prescribed, in a regulation made under section 65(4), for an entity mentioned in the regulation.
  - (6) In this section—  
*tax equivalents manual* means the tax equivalents manual issued by the Treasurer under the *Government Owned Corporations Act 1993*, section 129.

## **71 Borrowings by accountable officers**

The accountable officer of a department may, under a Treasurer's approval, borrow amounts for the State.

## **72 Losses and special payments**

- (1) The accountable officer of a department may—
  - (a) write off losses relating to the departmental accounts of the department; and
  - (b) authorise special payments to be made from the departmental accounts.
- (2) A special payment may be made to an accountable officer only with the approval of the Governor in Council.

## **73 Recovery of moneys**

- (1) Subsection (2) applies if a loss of or deficiency in either of the following occurs—
  - (a) public moneys that have been advanced to an officer or employee of a department;
  - (b) public moneys or non-public moneys while the moneys are under the control of an officer or employee of a department.

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- (2) The loss or deficiency is a debt due to the State and may be recovered from the officer or employee by action in a court of competent jurisdiction.
- (3) It is a defence to an action for the recovery of moneys from an officer or employee (a *person*) under subsection (2) if the person proves that the loss or deficiency was not caused or contributed to by a failure by the person to fulfil any of the person's duties in relation to the moneys including the person's duties under the prescribed requirements.
- (4) For this section, public moneys or non-public moneys are taken to be under the control of an officer or employee of a department if the moneys—
  - (a) have been received by or have come into the custody of the officer or employee; and
  - (b) have not been paid to another person or to the credit of an account at a financial institution as required by the prescribed requirements.
- (5) In this section, a reference to an officer or employee of a department includes a reference to a person who has been an officer or employee of the department.

## **74 Recovery of value of property**

- (1) Subsection (2) applies if loss or destruction of or damage to public property or other property occurs while the property is in the care of an officer or employee of a department.
- (2) The value of the property lost or destroyed or the cost of repairing the damage to the property is a debt due to the State and may be recovered by action in a court of competent jurisdiction from—
  - (a) the officer or employee in whose care the property was at the time of the loss, destruction or damage; or
  - (b) any other officer or employee who by negligence or misconduct caused or contributed to the loss or destruction of or damage to the property.

- (3) It is a defence to an action for the recovery of moneys from an officer or employee (a *person*) under subsection (2) if the person proves that the loss or destruction of or damage to the property was not caused or contributed to by a failure by the person to take reasonable steps to prevent the loss, destruction or damage.
- (4) Subsection (5) applies if the negligence or misconduct of an officer or employee of a department was not the sole cause of a loss or destruction of or damage to the property.
- (5) The State may recover from the officer or employee referred to in subsection (2)(a) the amount the court considers just and equitable having regard to the contribution made by the officer or employee to the loss, destruction or damage.
- (6) For this section, public property or other property is taken to be in the care of an officer or employee of a department if the property—
  - (a) has been delivered to the officer or employee; and
  - (b) has not been returned to a person entitled to receive it on behalf of the State.
- (7) In this section, a reference to an officer or employee of a department includes a reference to a person who has been an officer or employee of the department.

## **75 Right to recover not affected**

- (1) Sections 73(2), 74(2) and 74(5) do not affect a right of the State to recover an amount from an officer or employee otherwise than under sections 73 and 74.
- (2) However, the State may not recover amounts from an officer or employee both under sections 73 and 74 and otherwise than under those sections, in relation to the same loss, deficiency, destruction or damage.

## Division 3                      Delegations

### 76            Delegations by accountable officers

- (1) An accountable officer may delegate the officer's functions under this Act to an appropriately qualified public service employee or other employee of the State.
- (2) Despite the *Public Service Act 2008*, section 103, a function delegated under subsection (1) may not be subdelegated.
- (3) In this section—

*appropriately qualified*, for an employee to whom a function may be delegated, includes having the qualifications, experience or standing appropriate for the function.

*Example of standing for an employee—*

the employee's classification or level in a department or agency

*functions* includes powers.

### 77            Chief finance officer

- (1) Each accountable officer must—
  - (a) nominate either of the following to be the person responsible for the financial administration of the department (the *chief finance officer*)—
    - (i) an appropriately qualified employee of the accountable officer's department;
    - (ii) with the approval of the Treasurer—an appropriately qualified public service employee or other employee of the State; and
  - (b) delegate to the chief finance officer the following responsibilities for the department (the *minimum responsibilities*)—
    - (i) financial resource management including the establishment, maintenance and review of financial internal controls;

- (ii) budget management;
  - (iii) preparation of financial information including annual financial statements to facilitate the discharge of the department's statutory reporting obligations;
  - (iv) provision of advice on the effectiveness of accounting and financial management information systems and financial controls in meeting the department's requirements;
  - (v) provision of advice concerning the financial implications of, and financial risks to, the department's current and projected services;
  - (vi) development of strategic options for the department's future financial management and capability.
- (2) For each financial year, the chief finance officer must give the accountable officer—
- (a) the annual financial statements mentioned in subsection (1)(b)(iii); and
  - (b) a statement about whether the financial internal controls of the department are operating efficiently, effectively and economically.
- (3) The statement must be given to the accountable officer in the way, and at the time, stated in a financial and performance management standard.
- (4) A regulation may prescribe the qualifications, experience or standing appropriate for a chief finance officer.
- (5) In this section—
- appropriately qualified*, for an employee nominated under subsection (1), means having the qualifications, experience or standing prescribed under a regulation, if any, and otherwise having the qualifications, experience or standing appropriate for carrying out the responsibilities of the chief finance officer.

*Example of standing for an employee—*

the employee's classification or level in a department or agency

## 78 Head of internal audit

- (1) Each accountable officer must—
  - (a) nominate either of the following to be the person responsible for the internal audit activities of the department (the *head of internal audit*)—
    - (i) an appropriately qualified employee of the accountable officer's department;
    - (ii) with the approval of the Treasurer—an appropriately qualified person; and
  - (b) delegate to the head of internal audit the following responsibilities for the department (the *minimum responsibilities*)—
    - (i) provision of assessment and evaluation of the effectiveness and efficiency of departmental financial and operation systems, reporting processes and activities;
    - (ii) provision of assistance in risk management and identifying deficiencies in risk management.
- (2) A regulation may prescribe the qualifications, experience or standing appropriate for a head of internal audit.
- (3) In this section—

*appropriately qualified*, for a person nominated under subsection (1), means having the qualifications, experience or standing prescribed under a regulation, if any, and otherwise having the qualifications, experience or standing appropriate for carrying out the responsibilities of head of internal audit.

*Examples of standing for a person—*

- a departmental employee's classification or level in a department or agency
- a person's level of seniority within an organisation



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## Division 4 Machinery of government changes

### 79 Availability of appropriation after redistribution of public business

- (1) This section applies if—
  - (a) after the enactment of the ordinary annual appropriation Act for a financial year, the public business of departments is redistributed; and
  - (b) because of the redistribution, a departmental service, administered item or equity adjustment relating to a department (the *transferor department*) becomes a departmental service, administered item or equity adjustment of another department (the *transferee department*).
- (2) Subsection (3) applies to the part of the transferor department's vote that—
  - (a) is attributable to the distributed service, item or adjustment; and
  - (b) has not been paid by the Treasurer to the transferor department.
- (3) The Governor in Council may, by gazette notice, decide that the part is available for payment to the transferee department for application to the distributed service, item or adjustment.
- (4) The gazette notice must state—
  - (a) the amount still available for the Treasurer to pay to the transferor department, together with the amounts still available under the department's headings; and
  - (b) the amount available for the Treasurer to pay to the transferee department, together with the amounts available under the department's headings.
- (5) No part of an appropriation for the transferor department lapses merely because of the redistribution mentioned in subsection (1).

(6) In this section—

*administered item* includes a part of an administered item.

*departmental service* includes a part of a departmental service.

*distributed service, item or adjustment* means a departmental service, administered item or equity adjustment that becomes a departmental service, administered item or equity adjustment of a transferee department under a redistribution mentioned in subsection (1).

*equity adjustment* includes a part of an equity adjustment.

## **80 Financial reporting—when redistribution of public business of department takes effect**

- (1) If the public business of a department (the *transferor department*) is redistributed on a day other than the first day of a month, this section applies for preparing annual financial statements for the transferor department or the department to which the public business is transferred.
- (2) If the transferor department is not abolished, the redistribution is taken to have happened on the first day of the month immediately after the month in which the redistribution happened.
- (3) If the transferor department is abolished—
  - (a) final financial statements for the transferor department are to be prepared as at the day the department is abolished; and
  - (b) the redistribution is taken to have happened on the day following the day on which the transferor department is abolished.

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## **Division 5                      Accounts with financial institutions**

### **81            Moneys to be kept at financial institutions**

- (1) All public moneys and non-public moneys must be kept at a financial institution.
- (2) Subsection (1) does not apply to—
  - (a) investments made under part 3, division 6 or part 5, division 6; or
  - (b) securities taken in relation to a loan or financial arrangement; or
  - (c) public moneys or non-public moneys that a department, under a Treasurer's approval, holds or transacts in a currency denomination other than Australian dollars.
- (3) This section is subject to a contrary intention in this or another Act.

### **82            Financial institution accounts**

A person must not open an account with a financial institution for the receipt or payment of public moneys or non-public moneys other than under this Act.

### **83            Departmental banking arrangements**

- (1) Each accountable officer must establish the accounts necessary for the operations of the officer's department (the *departmental financial institution accounts*) and conduct the department's banking arrangements—
  - (a) for overseas operations—with the banking institution approved by the Treasurer; and
  - (b) otherwise—with the financial institutions approved by the Treasurer.
- (2) Each accountable officer must pay all public moneys and non-public moneys received by the accountable officer to the

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credit of a departmental financial institution account of the officer's department.

- (3) Each accountable officer must, for the period and at the time decided by the Treasurer, pay to the Treasurer the amount of the administered receipts received by the department during the period.
- (4) Subsection (1) does not apply to the extent the accounts are necessary under section 83A(2).
- (5) Subsections (2) and (3) do not apply in relation to contributions made under an Act to a special purpose account.
- (6) Also, subsection (3) does not apply to an amount received from the Treasurer or an administered receipt received for another department.
- (7) An amount of public moneys may be paid from a departmental financial institution account only under subsection (3) or the prescribed requirements.
- (8) An amount of non-public moneys may be paid from a departmental financial institution account only—
  - (a) under the prescribed requirements; or
  - (b) under an agreement, arrangement, contract, court order, law or transaction under which the non-public moneys are received or become payable.

### **83A Special purpose financial institution accounts**

- (1) This section applies in relation to a department's special purpose accounts.
- (2) The accountable officer of the department must establish the accounts necessary for administering the special purpose accounts (the *special purpose financial institution accounts*), and conduct banking arrangements for the special purpose accounts, with the financial institutions approved by the Treasurer.
- (3) An amount may be paid from the special purpose financial institution accounts only if the payment is authorised under

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the Act that requires the keeping of the special purpose accounts.

- (4) To remove any doubt, it is declared that special purpose financial institution accounts are not departmental financial institution accounts.

## **84 Overdrafts**

An accountable officer must not, other than under a Treasurer's approval, arrange an overdraft for a departmental financial institution account.

## **Division 6 Derivative transactions**

### **85 When departments may enter into derivative transactions**

- (1) A department may enter into a derivative transaction under this division—
- (a) in its own name; or
  - (b) in the name of a person who, under a Treasurer's approval, has been appointed in writing by the department as its agent for this division.
- (2) The department may enter into a derivative transaction only if—
- (a) the Treasurer's approval has been given for the department to enter into the derivative transaction or derivative transactions of that type; and
  - (b) the department enters into the derivative transaction to hedge against a risk to which the department is or will be exposed.
- (3) To remove any doubt, it is declared that a department does not enter into a derivative transaction for the purposes of subsection (1) if the department merely takes over the administration of a derivative transaction entered into by another department under this section.

**86 Requirement to report to appropriate Minister about derivative transactions**

- (1) A department must give the appropriate Minister a report about each derivative transaction administered by the department.
- (2) The report must be given at the times, and contain the information, required by the prescribed requirements.
- (3) The appropriate Minister must monitor each derivative transaction administered by the department.
- (4) After a department gives a report to an appropriate Minister under subsection (1), the department must give a copy of the report to the Treasurer or an appropriately qualified employee of the treasury department.
- (5) For this section, a department administers a derivative transaction if—
  - (a) the department entered into the derivative transaction under section 85; or
  - (b) the department has taken over the administration of the derivative transaction from another department that entered into the transaction under section 85.

**Division 7 Miscellaneous**

**87 When department may invest or otherwise lend an amount**

- (1) A department may not do any of the following other than under this section—
  - (a) make an investment based on all or part of the balance in the departmental accounts of a department at the time of the investment; or
  - (b) otherwise lend an amount even if lending the amount may be for the department's purposes; or

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- (c) pay moneys out of a departmental financial institution account for making an investment or otherwise lending an amount under paragraphs (a) or (b).
- (2) Subsection (1) does not prevent a department operating a deposit and withdrawal account with a financial institution if the account—
- (a) does not include an overdraft facility; or
  - (b) includes an overdraft facility under a Treasurer's approval.
- (3) Subsection (1) does not apply to a department to the extent the department is—
- (a) doing a thing mentioned in subsection (1)—
    - (i) under a Treasurer's approval; or
    - (ii) for entering into a derivative transaction under part 5, division 6; or
  - (b) making an investment under an express power under another Act.
- (4) For subsection (3)(b), a department does not have an express power to make an investment merely because the other Act states that the department has—
- (a) the powers of a corporation or individual; or
  - (b) the power generally to enter into contracts; or
  - (c) the power to do all things necessary or convenient for, or in connection with, the performance of the department's functions.

## **88 Treasurer's approval to form, or become a member of, a company**

- (1) A department may do any of the following only under a Treasurer's approval—
- (a) form, or participate in the formation of, a company;
  - (b) become a parent entity in relation to a company;

- (c) become a member of a company.
- (2) The Treasurer may give an approval for subsection (1) only if the department has developed a business case that satisfies the Treasurer that a company is the appropriate vehicle for the purpose for which the approval is required.

### **88A Transfer of involvement in company to another department**

- (1) This section applies if—
  - (a) an approval is given for a department (the *first department*) under section 88(1); and
  - (b) because of a redistribution of public business of departments, the first department's involvement in a company becomes the responsibility of another department (the *second department*).

*Example—*

Following a machinery of government change, the second department replaces the first department as the member of a company. The second department need not comply with section 88(1), but must comply with subsections (2) and (3).

- (2) The second department must, within 4 months after the redistribution of public business of departments mentioned in subsection (1)(b), apply for a Treasurer's approval for the second department's proposed action in relation to the company.

*Examples of proposed actions—*

continue as a member of a company, wind up or sell the company

- (3) The second department may continue as a member of the company only under a Treasurer's approval.
- (4) The Treasurer may give an approval for subsection (3) only if the department has developed a business case that satisfies the Treasurer the continued membership is appropriate.



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## Part 6 Other provisions

### 89 Comments or cost estimates during election period

- (1) Subsection (2) applies to a public service employee of the treasury department (a *treasury employee*), in the treasury employee's official capacity, during the election period for a general election.
- (2) The treasury employee may not give oral or written comments or cost estimates, relating to the policy proposals of a political party or candidate for election, to anyone other than another treasury employee.
- (3) Subsection (2) applies unless the treasury employee is specifically authorised under another Act to give the comments or estimates.
- (4) This section is to be read with the *Electoral Act 1992*.

### 90 Regulation-making power

- (1) The governor in council may make regulations under this Act.
- (2) Without limiting subsection (1), a regulation may create offences and prescribe penalties of not more than 5 penalty units for the offences.

## Part 7 Repeal and transitional provisions

### Division 1 Repeal

#### 91 Repeal

The Financial Administration and Audit Act 1977, No. 10 is repealed.

## **Division 2**                      **Transitional provisions for Act No. 9 of 2009**

### **92**        **Definitions for div 2**

In this division—

*commencement* means commencement of the provision in which the term is used.

*repealed Act* means the *Financial Administration and Audit Act 1977*.

### **93**        **References to repealed Act**

In an Act or document, a reference to the repealed Act may, if the context permits, be taken to be a reference to this Act.

### **94**        **References to Treasury investment suspense account and financial institution account**

- (1) A reference in an Act or document to the Treasury investment suspense account is taken to be a reference to the treasury offset account.
- (2) A reference in an Act or document to the Treasury investment suspense financial institution account or TISFIA is taken to be a reference to the treasury offset bank account.

### **95**        **Exemptions from complying with financial management standards**

An exemption from complying with all or part of a financial management standard, granted by the Treasurer under section 46LC of the repealed Act, lapses on the commencement.

### **96**        **Continuing funds**

- (1) On the commencement—

- (a) the continuing funds mentioned in schedule 2, column 2 are closed; and
  - (b) moneys remaining in a continuing fund mentioned in column 2 are transferred to a departmental account of the department mentioned opposite the fund in schedule 2, column 1.
- (2) In this section—
- continuing fund* means a continuing fund continued in existence under section 29 of the repealed Act.

## **97 Treasurer's unclaimed moneys fund**

- (1) Until 30 June 2010—
- (a) the Treasurer's unclaimed moneys fund, kept under section 46 of the repealed Act, continues in existence under this Act; and
  - (b) despite the repeal of the repealed Act, section 46 as in force immediately before the commencement continues to apply to the fund.
- (2) On 1 July 2010—
- (a) the Treasurer's unclaimed moneys fund is closed; and
  - (b) moneys remaining in the fund are transferred to the consolidated fund.
- (3) The Treasurer may withdraw moneys transferred to the consolidated fund under subsection (2)(b) and pay them to a person who proves to the Treasurer's satisfaction that the moneys are the property of the person.

**Division 3**                      **Transitional provision for Revenue  
Amendment and Trade and  
Investment Queensland Act 2013**

**98**            **Closure of Queensland future growth fund**

On the repeal of the *Future Growth Fund Act 2006*—

- (a) the Queensland future growth fund established under that Act is closed; and
- (b) any amount remaining in the fund is transferred to the consolidated fund.

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## Schedule 2      Continuing funds

section 96

<b>Name of department</b>	<b>Continuing fund</b>
Department of Justice and Attorney-General	Crown Law Fund
Department of Public Works	Building Fund
	CITEC Fund
	Contract Management Fund
	Maintenance and Operations Fund
	Project Services Fund
	Property Management Fund
	Q-FLEET Fund
	Queensland Government Printing Office Fund
	Sales and Distribution Fund

## Schedule 3 Dictionary

### section 4

***accountable officer*** means the person who is, or is appointed as, an accountable officer under section 65, 66 or 67.

***administered items*** means items of expenditure of a department—

- (a) for non-departmental services of the department; or
- (b) for the acquisition of assets over which the department has no control but which the department administers for the State; or
- (c) for the discharge of liabilities the department undertakes to discharge for the State even though the liabilities were not incurred by the department; or
- (d) for other purposes for which the funds are merely transferred through the departmental accounts of the department even though the department is not responsible for the purposes.

***administered receipt*** see section 7(1).

***annual appropriation Act*** see section 6(1).

***annual appropriation Acts*** see section 6(4).

***annual financial statements*** means—

- (a) for a department—general purpose financial statements; and
- (b) for a statutory body—
  - (i) if the Treasurer decides the way in which the financial statements for the statutory body are to be prepared, financial statements prepared in that way; or
  - (ii) otherwise—general purpose financial statements.

**annual report** means a report prepared and given under section 63 to the appropriate Minister for a department or statutory body.

**appropriate Minister** means—

- (a) for the department comprised of the Legislative Assembly and parliamentary service—the Premier; or
- (b) for the Office of the Governor—the Premier; or
- (c) for any other department—the Minister administering the department; or
- (d) for a statutory body—the Minister administering the Act under which the statutory body is established; or
- (e) for an entity controlled by a department or statutory body—the Minister administering matters connected with the entity.

**appropriation** means an amount appropriated by an Act.

**appropriation Act** means an Act that authorises amounts to be paid from the consolidated fund to departments in a financial year.

**auditor-general** means the Queensland Auditor-General under the *Auditor-General Act 2009*.

**auditor-general's report** see section 14(1).

**chief finance officer** see section 77(1).

**consolidated fund** means the consolidated fund continued in existence under section 16.

**consolidated fund account** see section 17(1).

**consolidated fund financial report** see section 23(1).

**consolidated whole-of-government financial statements** see section 25(1).

**controlled receipt** see section 7(2).

**department**—

- (a) generally—see section 8; or
- (b) for part 3, division 4—see section 38.

***departmental accounts*** see section 69(1).

***departmental financial institution accounts*** see section 83(1).

***departmental services*** means discrete services or other products, including policy advice, delivered by a department.

***derivative transaction*** see *Statutory Bodies Financial Arrangements Act 1982*, the schedule.

***equity adjustment***, for a financial year, means either of the following—

- (a) an equity injection to a department for the financial year, including a negative amount;
- (b) an equity withdrawal from a department for the financial year, including a negative amount.

***equity injection***, to a department, means an amount provided under an annual appropriation Act to the department for increasing the State's net asset holding in the department.

***equity withdrawal***, from a department, means an amount stated in an annual appropriation Act as the equity withdrawal from the department.

***expenditure*** means—

- (a) generally, the payment of moneys; and
- (b) for ministerial offices, expenditure for the following—
  - (i) salaries and related payments;
  - (ii) administrative costs;
  - (iii) capital expenses, including depreciation.

*Examples for subparagraph (ii)—*

costs of communication, consumables, maintenance, rent, travel

***financial and performance management standard*** means a standard made under section 57.

***financial year*** means—



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- (a) for an entity for which a period is stated as its financial year by the Act under which the entity is established or another law—the period; or
- (b) otherwise—a period of 12 months beginning on 1 July.

**full year report** see section 12(1)(b).

**further 2 weeks**, for a financial year, means the 14 days after the end of the financial year.

**further 4 weeks**, for a financial year, means the 28 days after the end of the financial year.

**general purpose financial statements**, for a department or statutory body, means financial statements prepared by the department or statutory body under the prescribed accounting standards, to the extent the standards apply to the department or statutory body.

**half year report** see section 12(1)(a).

**heading**, for a department, means each of the following to which the department's vote may be applied—

- (a) departmental services of the department;
- (b) administered items of the department;
- (c) equity adjustment of the department.

**head of internal audit** see section 78(1).

**internal control** means the methods adopted within an entity to—

- (a) safeguard its assets; and
- (b) check the accuracy and reliability of its accounting information; and
- (c) secure compliance with the prescribed requirements that apply to the entity.

**ministerial offices** means the offices maintained for Ministers and their staff.

**moneys** includes—

- (a) negotiable instruments; and

(b) securities of any kind for the payment of moneys.

***moneys received from an investment*** includes—

- (a) moneys received as interest, or another form of earnings on the investment, while the investment continues; and
- (b) moneys received at the maturity of the investment or on its liquidation.

***negotiable instrument*** means an instrument ordering or authorising the payment of moneys, if the instrument may be lodged with a financial institution enabling the financial institution to collect moneys payable on the instrument and credit them to an account with the financial institution.

*Examples of negotiable instruments—*

bills of exchange, payment orders, money orders and promissory notes

***non-departmental services*** means discrete services or other products including policy advice that, under an ordinary annual appropriation Act, are delivered by a statutory body or another entity that, under section 8(3), is part of a department.

***non-public moneys*** means moneys received or held by the Treasurer, an accountable officer or other officer or employee of a department in the course of his or her official duties, but not received or held for the State.

***notice*** means written notice.

***official secretary*** means the person holding the position of official secretary of the Office of the Governor.

***ordinary annual appropriation Act*** see section 6(2).

***other property*** means property, other than public property and non-public moneys, held by the Treasurer, an accountable officer or another officer or employee of a department in the course of his or her official duties.

***other resources*** includes employees.

***parent entity*** means an entity that controls another entity.

***parliamentary annual appropriation Act*** see section 6(3).

**parliamentary service** means the parliamentary service established by the *Parliamentary Service Act 1988*, section 23.

**prescribed accounting standards** see section 59(6).

**prescribed requirements** means requirements prescribed under this Act, another Act or a financial and performance management standard.

**public moneys** means—

- (a) moneys received or held by a person for the State; and
- (b) moneys that, under this Act or another Act, are directed to be paid to, or to form part of, the consolidated fund or a departmental financial institution account, other than non-public moneys.

**public property** means all property other than public moneys and other property held by a person for or on behalf of the State.

**quarter**, of a financial year starting on 1 July of the year, means 1 of the following—

- 1 July to 30 September in the year
- 1 October to 31 December in the year
- 1 January to 31 March in the year
- 1 April to 30 June in the year.

**Queensland Investment Corporation** means QIC Limited ACN 130 539 123.

**Queensland Treasury Corporation** means the corporation sole continued in existence under the *Queensland Treasury Corporation Act 1988*, section 5.

**receive** includes collect.

**special payments** includes ex gratia expenditure and other expenditure that is not under a contract.

**special purpose accounts** see section 69A(2).

**special purpose financial institution accounts** see section 83A(2).

**statutory body** see section 9.

**Treasurer** means—

- (a) as an individual—the Minister who administers this Act;  
or
- (b) otherwise—the corporation sole continued in existence under section 53.

**Treasurer's approval** means an approval of the Treasurer under part 3, division 4.

**Treasurer's consolidated fund bank account** see section 18(1).

**Treasurer's consolidated fund investment account** means the account by that name mentioned in section 17(1)(b).

**Treasurer's consolidated fund operating account** means the account by that name mentioned in section 17(1)(a).

**Treasurer's general approval** see section 40(1).

**Treasurer's specific approval** see section 41(1).

**treasury department** means the department in which this Act is administered.

**treasury offset account** means the account established under section 49(1)(a).

**treasury offset bank account** means the account established under section 49(1)(b).

**under-Treasurer** means the chief executive of the treasury department.

**unforeseen expenditure** see section 35(2).

**vote**, for a department, means the total amount appropriated for the department by an annual appropriation Act adjusted, if necessary, to take account of an amount paid under section 34.