





# **Financial Framework Legislation Amendment Act (No. 1) 2007**

**No. 166, 2007**

***An Act to amend the *Financial Management and  
Accountability Act 1997*, and for related purposes***

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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## ***An Act to amend the *Financial Management and Accountability Act 1997*, and for related purposes***

*[Assented to 25 September 2007]*

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Financial Framework Legislation  
Amendment Act (No. 1) 2007*.

## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	25 September 2007
2. Schedule 1, items 1 to 8	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
3. Schedule 1, item 9	The day on which this Act receives the Royal Assent.	25 September 2007
4. Schedule 1, item 10	At the same time as the provision(s) covered by table item 2.	
5. Schedule 1, items 11 and 12	The day on which this Act receives the Royal Assent.	25 September 2007
6. Schedule 1, items 13 to 16	At the same time as the provision(s) covered by table item 2.	
7. Schedule 1, items 17 and 18	The day on which this Act receives the Royal Assent.	25 September 2007
8. Schedule 1, item 19	At the same time as the provision(s) covered by table item 2.	
9. Schedule 1, item 20	The day on which this Act receives the Royal Assent.	25 September 2007
10. Schedule 1, item 21	At the same time as the provision(s) covered by table item 2.	
11. Schedule 1, item 22	The day on which this Act receives the Royal Assent.	25 September 2007

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## Schedule 1—Amendments

### *Auditor-General Act 1997*

#### **1 Section 52**

Repeal the section.

### *Financial Management and Accountability Act 1997*

#### **2 At the end of subsection 20(1)**

Add:

Note: See section 32A for when the crediting or debiting of an amount takes effect.

#### **3 At the end of subsection 21(1)**

Add:

Note 3: See section 32A for when the crediting or debiting of an amount takes effect.

#### **4 Subsection 28(1)**

Repeal the subsection (not including the note), substitute:

(1) This section applies if:

- (a) an amount is received by the Commonwealth; and
- (b) some or all of the amount is required or permitted to be repaid; and
- (c) apart from this section there is no appropriation for the repayment.

Note: The heading to section 28 is replaced by the heading “**Repayments by the Commonwealth**”.

#### **5 Subsection 28(3)**

Repeal the subsection.

#### **6 Section 30**

Repeal the section, substitute:

### **30 Repayments to the Commonwealth**

If:

- (a) an amount is paid by the Commonwealth; and
  - (b) an appropriation is debited as a result of the payment; and
  - (c) some or all of the amount is repaid to the Commonwealth;
- the appropriation is increased by an amount equal to the amount repaid.

Note: See section 32A for when the increase takes effect.

### **7 Subsections 30A(1) to (6)**

Repeal the subsections, substitute:

#### *Recoverable GST on acquisitions*

(1) If:

- (a) a payment in respect of an acquisition is made in reliance on a limited appropriation; and
- (b) a GST qualifying amount has arisen or does arise for that acquisition;

then the appropriation is increased by the amount of the GST qualifying amount.

Note: See section 32A for when the increase takes effect.

#### *Recoverable GST on importations*

(2) If:

- (a) a payment of GST on an importation is made in reliance on a limited appropriation; and
- (b) a GST qualifying amount has arisen or does arise for that importation;

then the appropriation is increased by the amount of the GST qualifying amount.

Note: See section 32A for when the increase takes effect.

### **8 Section 31**

Repeal the section, substitute:

### 31 Relevant Agency receipts

- (1) This section applies if an Agency receives an amount of a kind prescribed by the regulations for the purposes of this section.
- (2) The amount specified in the most recent departmental item for the Agency is taken to be increased by an amount equal to the amount received by the Agency.

Note: See section 32A for when the increase takes effect.

- (3) In this section:

*departmental item* means a departmental item in an Appropriation Act.

### 9 Section 32

Repeal the section, substitute:

### 32 Transfer of Agency functions

- (1) This section applies if a function of an Agency (the *transferring Agency*) is transferred to another Agency, either because the transferring Agency is abolished or for any other reason.

*Adjustments to appropriations*

- (2) The Finance Minister may determine that one or more Schedules to one or more Appropriation Acts are amended in a specified way. The amendment must be related to the transfer of function.
- (3) Each Appropriation Act concerned has effect as if the Schedule concerned were amended in accordance with the determination.

*No change in overall appropriation*

- (4) A determination under subsection (2) cannot result in a change in the total amount appropriated.

*Transfer of function between Departments of the Parliament*

- (5) If the transfer of function is between Departments of the Parliament, the Finance Minister must not make a determination under subsection (2) unless it is in accordance with a written recommendation of the Presiding Officers.

*No extension of time limits*

- (6) A determination under subsection (2) does not have the effect of extending any time limit that applies to an appropriation.

*Legislative Instruments Act*

- (7) A determination under subsection (2) is a legislative instrument, but neither section 42 (disallowance) nor Part 6 (sunsetting) of the *Legislative Instruments Act 2003* applies to the determination.
- (8) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a determination under subsection (2) of this section may be expressed to take effect before the day it is registered under that Act (including before the day on which it is made).
- (9) Nothing in subsection (8) authorises expenditure under an appropriation that did not exist at the time of the expenditure.

**10 After Division 3 of Part 4**

Insert:

**Division 3A—Recording of amounts in accounts and records**

**32A Recording of amounts in accounts and records**

*Special Accounts*

- (1) The crediting of an amount to a Special Account, or the debiting of an amount from a Special Account, takes effect at the time an entry connected with the crediting or debiting is made in the accounts and records of the Agency concerned.

*Repayments to the Commonwealth*

- (2) The increase to an appropriation in accordance with section 30 takes effect at the time an entry recording the repayment concerned is made in the accounts and records of the Agency concerned.

*Recoverable GST*

- (3) The increase to an appropriation in accordance with subsection 30A(1) or (2) takes effect at the time an entry recording the GST qualifying amount is made in the accounts and records of the Agency concerned.

*Relevant Agency receipts*

- (4) The increase to an amount in accordance with subsection 31(2) takes effect at the time an entry recording the receipt of the amount mentioned in subsection 31(1) is made in the accounts and records of the Agency concerned.

**11 After subsection 53(1)**

Insert:

(1AA) If:

- (a) the Chief Executive delegates a power or function to a person; and
- (b) the power or function is not one that has been delegated to the Chief Executive under section 62 or 62A;

the Chief Executive may give directions to the person in relation to the exercise of that power or the performance of that function. The person must comply with any such directions.

**12 Subsection 53(2)**

Repeal the subsection, substitute:

- (2) If the Chief Executive is subject to directions in relation to the exercise of a power, or the performance of a function, delegated to the Chief Executive under section 62 or 62A, then:
- (a) the Chief Executive must give corresponding directions to the second delegate; and
  - (b) the Chief Executive may give other directions (not inconsistent with those corresponding directions) to the second delegate in relation to the exercise of that power or the performance of that function.

**13 Saving—agreements for “net appropriations”**

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- (1) Despite the amendment made by item 1, section 52 of the *Auditor-General Act 1997* (as in force immediately before the commencement of that item) continues to apply after that commencement in relation to agreements entered into before that commencement.
- (2) Despite the amendment made by item 8, section 31 of the *Financial Management and Accountability Act 1997* (as in force immediately before the commencement of that item) continues to apply after that commencement in relation to agreements entered into before that commencement.

#### **14 Application—repayments by the Commonwealth**

The amendment made by item 4 applies in relation to amounts received by the Commonwealth before or after the commencement of that item.

#### **15 Application—repayments to the Commonwealth**

The amendment made by item 6 applies in relation to amounts paid by the Commonwealth before or after the commencement of that item.

#### **16 Application—recoverable GST**

The amendment made by item 7 applies in relation to payments that occur after the commencement of that item.

#### **17 Saving—transfer of Agency functions**

Despite the amendment made by item 9, section 32 of the *Financial Management and Accountability Act 1997* (as in force immediately before the commencement of that item) continues to apply after that commencement in relation to a change in function that occurred before that commencement.

#### **18 Transitional—directions to delegates**

A direction in force under subsection 53(2) of the *Financial Management and Accountability Act 1997* immediately before the commencement of this item continues in force after that commencement as if it were a direction given under that subsection after that commencement.

### ***Legislative Instruments Act 2003***

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**19 Subsection 44(2) (table item 19)**

Omit “agreements made under section 31,”.

**20 Subsection 44(2) (table item 19)**

Omit “directions given under section 32,”.

**21 Subsection 54(2) (table item 17)**

Omit “agreements made under section 31,”.

**22 Subsection 54(2) (table item 17)**

Omit “directions given under section 32,”.

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*[Minister’s second reading speech made in—  
House of Representatives on 10 May 2007  
Senate on 21 June 2007]*

(47/07)

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