

Queensland



**STATUTORY BODIES
FINANCIAL ARRANGEMENTS
AMENDMENT ACT 2003**

Act No. 12 of 2003

Queensland



STATUTORY BODIES FINANCIAL ARRANGEMENTS AMENDMENT ACT 2003

TABLE OF PROVISIONS

Section	Page
1 Short title	4
2 Commencement	4
3 Act amended	4
4 Amendment of s 9 (Statutory bodies' borrowing powers under pt 5 and other Acts)	4
5 Amendment of s 10 (Statutory bodies' investment powers under pt 6 and other Acts)	4
6 Amendment of s 11 (Relationship of pt 7 to other parts of Act and other Acts)	4
7 Insertion of new s 11A	5
11A Relationship of pt 7A with other parts of this Act and other Acts	5
8 Amendment of s 31 (General banking powers for day-to-day operations)	6
9 Amendment of s 35 (Treasurer's approval before creating encumbrance etc.)	6
10 Amendment of s 44 (Category 1 investment power)	6
11 Amendment of s 45 (Category 2 investment power)	6
12 Amendment of s 49 (Division applies to secured investments)	7
13 Amendment of pt 7 hdg (Derivative transactions, funds managers and other financial arrangements)	7
14 Amendment of s 60 (Management of statutory body's funds by funds manger)	7
15 Replacement of pt 7, div 3 and insertion of new pt 7A	7
<i>Division 3—Type 1 financial arrangements</i>	
60A Statutory body may enter into a type 1 financial arrangement	7

PART 7A—POWER FOR TYPE 2 FINANCIAL ARRANGEMENTS

61	Application of pt 7A	8
61A	Statutory body may enter into a type 2 financial arrangement with Treasurer's approval.....	8
16	Amendment of s 70 (Approval may be general in nature)	8
17	Insertion of new pt 11, div 1, hdg	9
18	Amendment of s 79 (Interpretation for pt 11).....	9
19	Amendment of s 80 (Existing arrangements, existing authorities and guarantees under other Acts)	9
20	Amendment of s 85 (No automatic default for existing arrangements)	9
21	Insertion of new pt 11, div 2	10
	<i>Division 2—Transitional provisions for Statutory Bodies Financial Arrangements Amendment Act 2003</i>	
86	Definitions for div 2.....	10
87	Approval before commencement for arrangement that is a type 1 financial arrangement	10
88	Approval before commencement for arrangement that is a type 2 financial arrangement.....	11
89	Approval on condition under s 70 before commencement	11
22	Amendment of schedule (Dictionary).....	11

Queensland



Statutory Bodies Financial Arrangements Amendment Act 2003

Act No. 12 of 2003

An Act to amend the *Statutory Bodies Financial Arrangements Act 1982*

[Assented to 9 April 2003]

The Parliament of Queensland enacts—

1 Short title

This Act may be cited as the *Statutory Bodies Financial Arrangements Amendment Act 2003*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

3 Act amended

This Act amends the *Statutory Bodies Financial Arrangements Act 1982*.

4 Amendment of s 9 (Statutory bodies' borrowing powers under pt 5 and other Acts)

Section 9(1), 'express'—
omit.

5 Amendment of s 10 (Statutory bodies' investment powers under pt 6 and other Acts)

Section 10(1), 'express'—
omit.

6 Amendment of s 11 (Relationship of pt 7 to other parts of Act and other Acts)

(1) Section 11(1), 'A statutory'—
omit, insert—
'Subject to subsection (5), a statutory'.
(2) Section 11(4)—
renumber as section 11(7).

(3) Section 11(2) and (3)—

omit, insert—

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

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

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

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

- (a) the powers of a body corporate 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 its functions.

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

- (a) the power to enter into derivative transactions, other than its powers under part 7, division 1; and
- (b) the power to appoint a funds manager, other than its powers under part 7, division 2; and
- (c) the power to enter into a type 1 financial arrangement, other than its powers under part 7, division 3.’.

7 Insertion of new s 11A

After section 11—

insert—

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

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

8 Amendment of s 31 (General banking powers for day-to-day operations)

After section 31(1)—

insert—

‘Example of a deposit and withdrawal account necessary or convenient for a statutory body’s day-to-day operations—

A statutory body may have a deposit and withdrawal account with a cheque book facility. It may be necessary or convenient for the statutory body’s day-to-day operations to use the facility and pay for items by drawing a cheque.’.

9 Amendment of s 35 (Treasurer’s approval before creating encumbrance etc.)

Section 35(2)(b), after ‘division 3’—

insert—

‘or part 7A’.

10 Amendment of s 44 (Category 1 investment power)

Section 44(1)(d)—

omit, insert—

‘(d) investment arrangements, managed or offered by QIC or QTC, prescribed under a regulation for this paragraph;’.

11 Amendment of s 45 (Category 2 investment power)

Section 45(b)(iv)—

omit, insert—

‘(iv) investment arrangements, managed or offered by QIC or QTC, prescribed under a regulation for this subparagraph;’.

12 Amendment of s 49 (Division applies to secured investments)

Section 49, ‘or 45(b)(iii)’—

omit, insert—

‘, 45(b)(iii) or 46(1)(a) or (c)’.

13 Amendment of pt 7 hdg (Derivative transactions, funds managers and other financial arrangements)

Part 7, heading, ‘OTHER’—

omit, insert—

‘TYPE 1’.

14 Amendment of s 60 (Management of statutory body’s funds by funds manger)

(1) Section 60(1), before ‘financial arrangement’—

insert—

‘type 1 financial arrangement, type 2’.

(2) Section 60(2), ‘, or derivative transaction,’—

omit.

15 Replacement of pt 7, div 3 and insertion of new pt 7A

Part 7, division 3—

omit, insert—

‘Division 3—Type 1 financial arrangements

‘60A Statutory body may enter into a type 1 financial arrangement

‘A statutory body may, with the Treasurer’s approval, enter into a type 1 financial arrangement.

‘PART 7A—POWER FOR TYPE 2 FINANCIAL ARRANGEMENTS

‘61 Application of pt 7A

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

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

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

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

- (a) a type 2 financial arrangement necessary for, or incidental to, the exercise of another power under this Act; and
- (b) a type 2 financial arrangement not otherwise allowed under this Act, including, for example—
 - (i) an investment for more than 3 years; and
 - (ii) an investment other than in Australian money; and
 - (iii) an investment undertaken outside Australia; and
 - (iv) a loan by a statutory body.

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

Example for subsection (3)—

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

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

(1) Section 70(4)—

renumber as section 70(5).

(2) Section 70—

insert—

‘(4) The approval may be on conditions the Treasurer considers necessary or desirable.’.

17 Insertion of new pt 11, div 1, hdg

Part 11, before section 79—

insert—

‘Division 1—Transitional provisions for Statutory Bodies Financial Arrangements Amendment Act 1996’.

18 Amendment of s 79 (Interpretation for pt 11)

(1) Section 79, heading, ‘pt 11’—

omit, insert—

‘div 1’.

(2) Section 79(1), ‘In this part’—

omit, insert—

‘In this division’.

19 Amendment of s 80 (Existing arrangements, existing authorities and guarantees under other Acts)

Section 80(6) and (7), ‘this part’—

omit, insert—

‘this division’.

20 Amendment of s 85 (No automatic default for existing arrangements)

Section 85(2), ‘this part’—

omit, insert—

‘this division’.

21 Insertion of new pt 11, div 2

Part 11, after section 85—

insert—

‘Division 2—Transitional provisions for Statutory Bodies Financial Arrangements Amendment Act 2003

‘86 Definitions for div 2

‘In this division—

“**commencement**” means the commencement of this section.

“**pre-amended Act**” means the *Statutory Bodies Financial Arrangements Act 1982* before the commencement.

‘87 Approval before commencement for arrangement that is a type 1 financial arrangement

‘(1) This section applies to a Treasurer’s approval for section 61 of the pre-amended Act, as that approval was in force immediately before the commencement, to the extent the approval authorised a statutory body to enter into an arrangement that, if the statutory body were to enter into the arrangement after the commencement, would be a type 1 financial arrangement.

‘(2) The approval continues to have effect, and may be dealt with, after the commencement as if it were a Treasurer’s approval for section 60A.

‘(3) An arrangement entered into before the commencement under the approval continues to have effect, and may be dealt with, after the commencement as if it were a type 1 financial arrangement.

‘(4) If the approval provided that a further arrangement may be entered into that is a type 1 financial arrangement, the further arrangement—

- (a) may be entered into under the approval after the commencement;
and
- (b) is to be dealt with as if it were a type 1 financial arrangement.

‘88 Approval before commencement for arrangement that is a type 2 financial arrangement

‘(1) This section applies to a Treasurer’s approval for section 61 of the pre-amended Act, as that approval was in force immediately before the commencement, to the extent the approval authorised a statutory body to enter into an arrangement that, if the statutory body were to enter into the arrangement after the commencement, would be an arrangement that is not a type 1 financial arrangement.

‘(2) The approval continues to have effect, and may be dealt with, after the commencement as if it were a Treasurer’s approval for section 61A.

‘(3) An arrangement entered into before the commencement under the approval continues to have effect, and may be dealt with, after the commencement as if it were a type 2 financial arrangement.

‘(4) If the approval provided that a further arrangement may be entered into, other than an arrangement that would be a type 1 financial arrangement, the further arrangement—

(a) may be entered into under the approval after the commencement;
and

(b) is to be dealt with as if it were a type 2 financial arrangement.

‘(5) Subsections (3) and (4) apply even if the arrangement mentioned in either of those subsections is not a financial arrangement under this Act.

‘89 Approval on condition under s 70 before commencement

‘An approval under, or purportedly under, section 70 that was given before the commencement and stated it was subject to a condition is, and always was, as valid as if it had been given after the commencement.’.

22 Amendment of schedule (Dictionary)

(1) Schedule, definition “financial arrangements”—

omit.

(2) Schedule—

insert—

‘ **“financial arrangement”** means—

- (a) a type 1 financial arrangement; or
- (b) a type 2 financial arrangement; or
- (c) a derivative transaction; or
- (d) the appointment of a funds manager.

“type 1 financial arrangement” means an arrangement that provides for, relates to, is directed towards or includes 1 or more of the following—

- (a) entering into or performing a deferred payment arrangement if the payment period is more than 3 years;
- (b) entering into a joint venture, partnership or trust;
- (c) forming, or participating in forming, a corporation;
- (d) acquiring, consolidating, dealing with, disposing of, holding or issuing bonds, debentures, inscribed stock, shares, stock or other securities of any statutory body or corporation;
- (e) entering into an arrangement, covenant, guarantee, promise or undertaking to meet liabilities or obligations incurred by or to a person, whether or not the person is a party to the arrangement, covenant, guarantee, promise or undertaking;
- (f) underwriting an issue of debentures, shares or other securities;
- (g) entering into another arrangement prescribed under a regulation as a type 1 financial arrangement.

“type 2 financial arrangement” means an arrangement, other than a type 1 financial arrangement, that provides for, relates to, is directed towards or includes 1 or more of the following—

- (a) borrowing an amount;
- (b) lending an amount;
- (c) investing an amount;
- (d) taking land or an interest in land;
- (e) acquiring, consolidating, dealing with, disposing of or holding buildings or other structures, for providing infrastructure or other facilities for the public or part of the public, including, for example, entertainment centres, light rail systems, port terminals, sporting stadiums, toll roads, transport infrastructure and waste treatment facilities;

- (f) granting or taking a lease, or letting or taking on hire for a period, a building, equipment, land, machinery, plant or other property, including a finance lease, as lessee, lessor, hirer, owner or tenant;
- (g) granting financial accommodation by or to a person, whether or not the person is a party to the arrangement;
- (h) accepting, discounting, drawing, endorsing or issuing a bill of exchange, promissory note, payment order or other negotiable instrument, other than a cheque within the meaning of the *Cheques Act 1986* (Cwlth), section 5(1) or 10;
- (i) holding property as a trustee or agent;
- (j) acquiring, consolidating, dealing with, disposing of, holding or reissuing foreign currency;
- (k) entering into another arrangement prescribed under a regulation as a type 2 financial arrangement.’.