

STATUTORY BODIES FINANCIAL ARRANGEMENTS AMENDMENT BILL 1996

EXPLANATORY NOTES

GENERAL OUTLINE

Policy objectives of the Bill

The primary objective of the Bill is to promote efficiency and effectiveness of government by improving and streamlining the framework for the management and regulation of the exercise of financial powers by the State's statutory bodies, without derogating from Parliamentary legislative power.

The specific objectives of the Bill are to clarify uncertainties as to statutory bodies' financial powers, to standardise and update the range and description of the powers, to centralise the powers in one Act, to simplify the cumbersome approval processes for the exercise of the powers and to clarify the position regarding guarantees for statutory bodies' obligations under financial arrangements.

Reasons for the Bill

The *Statutory Bodies Financial Arrangements Act 1982* (the "*SBFA Act*") was introduced to establish the Queensland Government Development Authority (now Queensland Treasury Corporation) and to empower the Governor in Council to vest various financial powers in a statutory body in circumstances where its authorising Act provided only limited or outdated borrowing and investment powers.

However, many statutory bodies still derive their financial powers, in whole or part, from their authorising Acts. Consequently, a statutory body's power to borrow, invest or enter into other financial arrangements could be derived from its authorising Act, the *SBFA Act* or a combination of both.

This partially decentralised and fragmented legislative framework has led to the ad hoc, and often inconsistent, development and use of statutory bodies' financial powers. As the interaction between the *SBFA Act* and statutory bodies' authorising Acts often is unclear, uncertainties about statutory bodies' powers to enter into financial arrangements arise regularly. These uncertainties usually necessitate legal advice to clarify the position, which results in delays in arranging the legislative approvals for the arrangements.

The current legislation also is causing difficulties because:

- the range of financial arrangements which statutory bodies may undertake is not uniform and, in many cases, has not kept pace with market practice;
- modern financial products such as derivatives are not appropriately dealt with and regulated;
- the legislative approvals required by statutory bodies to enter into financial arrangements are not uniform and, in many cases, are both time consuming and administratively cumbersome (often requiring an application regulation, the Treasurer's sanction for negotiations, the Treasurer's approval and Governor in Council approval), resulting in further delays for statutory bodies wishing to enter into financial arrangements;
- the manner in which the current *SBFA Act* allows financial powers to be applied for statutory bodies, in conjunction with the definition of "financial arrangement" can, in some cases, inadvertently require a statutory body to obtain Governor in Council approval for minor transactions such as the lease or purchase of a photocopier;
- it does not clearly provide for either the Governor in Council or the Treasurer to delegate their approval powers or provide general approvals in appropriate cases, resulting in further inefficiencies;

- there is no clear delineation of the intention that guarantees of statutory bodies' obligations under financial arrangements should only be given under the *SBFA Act* by the Treasurer; and
- it does not clearly deal with the State guarantee of statutory bodies' loans from Queensland Treasury Corporation ("QTC"), which previously has been assumed to exist.

As a result of the inefficiencies and approval delays caused by the existing legislation, statutory bodies often experience difficulty in negotiating borrowing arrangements because lending institutions are reluctant to hold interest rate offers or funding commitments open for extended periods while approvals are obtained. Similarly, in relation to investment powers, statutory bodies often miss opportunities to undertake investments at attractive interest rates because of the time required to arrange the necessary approvals.

Ways in which policy objectives will be achieved by the Bill

The policy objectives will be achieved by amending the *SBFA Act* and the authorising Acts of Queensland's statutory bodies in order to:

- centralise statutory bodies' financial powers in the *SBFA Act* by replacing any relevant financial powers in their authorising Acts with a cross-reference to the *SBFA Act*;
- categorise and standardise the financial powers and enable allocation of relevant and appropriate powers to statutory bodies;
- update and refine the range and description of financial arrangements dealt with in the *SBFA Act* to accord with current market practice;
- simplify the administrative procedures required for approval of such financial arrangements by replacing existing cumbersome approval requirements with a single stage approval process (comprising, in most cases, the approval of the Treasurer);
- clarify the manner in which a State guarantee may be given for the obligations of a statutory body under a financial arrangement; and
- confirm the State guarantee of loans provided by QTC to statutory bodies.

As the current difficulties arise as a result of the ad hoc and often inconsistent conferral of financial powers in a large number of Acts, the amendment of the legislation as proposed in the Bill is the most appropriate way, from a mechanical perspective, to resolve the difficulties.

The primary objective of streamlining the regulatory framework and approval processes for the exercise of statutory bodies' financial powers is achieved in part by enabling the Governor in Council to deal with matters by regulation and also by placing approval power for financial arrangements with the Treasurer.

In the context of the rapid rate of product innovation and diversification in the finance industry, the availability of a prompt mechanism such as a regulation to deal with particular matters relating to statutory bodies' financial arrangements is central to the objectives of the Bill and the overall effectiveness of the legislative scheme. The regulation power is not inconsistent with the current *SBFA Act* and is considered essential to facilitate the efficient operation of the legislation and the timely provision of approvals for financial arrangements. As a regulation is subject to disallowance by Parliament, the regulation power is considered reasonable and appropriate.

Similarly, the power to be given to the Treasurer to approve financial arrangements is considered essential for the efficient operation of the legislation. In this context, Parliament already entrusts the Treasurer with the management of the economy and finances of the State. Statutory bodies are created by statute for the purposes of the Government and their financial arrangements directly affect State finances. The approval of the arrangements are an important part of an integrated system designed to ensure the prudent and efficient management of State finances. The approval decisions apply only to government bodies and are dependent on a range of changing government and market factors which necessarily extend beyond matters directly related to any particular financial arrangement. In these circumstances, the approval power to be given to the Treasurer is considered reasonable and appropriate.

Alternative way of achieving the policy objectives

The objective of simplifying and streamlining the approval processes for statutory bodies' financial arrangements necessitates the regulation power and the placing of approval power with the Treasurer. As the Treasurer is

entrusted with the management of State finances, it is not considered appropriate to place the approval power elsewhere.

The objective of centralising statutory bodies' financial powers in one Act necessitates removing the existing powers from their authorising Acts and providing substituted powers in an Act such as the *SBFA Act*.

The only feasible alternative to amending the *SBFA Act* is to repeal the existing *SBFA Act* and replace it with a new Act.

However, this alternative is not favoured for the following reasons:

- The *SBFA Act* already contains the basic structure suitable for the desired legislative outcome.
- Departments, statutory bodies and the parties with whom they deal are familiar with the functions and purpose of the *SBFA Act*. It is considered preferable to take advantage of this familiarity by continuing the regulation of statutory bodies' financial powers under the same Act.
- The repeal of the *SBFA Act* would include the repeal of sections 4 and 4A, which constitute the Queensland Government Development Authority (now QTC). Legal advice suggests it would be unwise to repeal these provisions as this may trigger a technical default by QTC under existing contractual arrangements governed by foreign law.

Administrative cost to government of implementing the Bill

Implementing the Bill is not expected to produce any significant costs to government. Rather, the amendments should streamline the administration of the borrowing and investment powers of statutory bodies, which will provide increased efficiency in the operations and activities of statutory bodies in relation to financial transactions.

Consistency with fundamental legislative principles

The Bill generally is consistent with fundamental legislative principles. There are a number of sections which enable matters to be dealt with by regulation, for example, sections 5(3), 6(1)(k), 23(b), 32(4), 42(2), 44(1)(f), 45(e), 77 and 87. Also, the Bill vests power to approve financial arrangements in the Treasurer and contains a number of sections (ie.

sections 21(3), 27, 36(3) and 72) which allow the Treasurer to give directions in certain cases or to require a statutory body to provide information necessary for considering the body's approval application.

In view of the objectives of the Bill, it is considered that reliance upon Parliament's right to disallow regulations is the most appropriate means by which to streamline the legislation dealing with statutory bodies' powers to enter into financial arrangements while still maintaining Parliamentary oversight. The exercise of powers conferred in this legislation often involves complex financial arrangements which in turn may involve a myriad of financial products and processes. Competition in the finance industry and the consequent rapid rate of innovation regarding these products and processes prevents legislators from comprehensively determining and predicting the nature of the available financial arrangements in the future. It also is important to recognise the central role of the Treasurer in the management of State finances, in which financial arrangements by statutory bodies are included as an integral part.

Accordingly, there is a reliance in the amended Act on the need and ability to update its application by the use of subordinate legislation and for certain matters regarding financial arrangements to be delegated to the executive (eg the Treasurer). This is appropriate and acceptable because Parliament's sitting times do not permit timely consideration and assessment of technical matters regarding financial arrangements.

The use of subordinate legislation is essential to ensure that the objectives of the Bill are maintained and that an efficient means is provided to enable people with the requisite expertise to have input into the making and refining of the law. This is not denying the role of Parliament or failing to give it sufficient regard because ultimately, all subordinate legislation may be subject to a disallowance motion under part 6 of the *Statutory Instruments Act 1992* and Standing Order 37A of the Standing Rules and Orders of the Queensland Legislative Assembly.

In view of the objectives of the Bill, Parliament's disallowance power for regulations and the Treasurer's integral role in the management of State finances, the provisions mentioned above are not considered to constitute inappropriate delegations of legislative power.

Consultation

The Bill has been drafted by the Office of Parliamentary Counsel.

Extensive consultation on the Bill, including the consequential amendments, has been undertaken with all administering departments, and through the administering departments, with the majority of statutory bodies.

The Department of Justice has been consulted regarding compliance with fundamental legislative principles and is satisfied, subject to the above discussions, that the relevant provisions are not inconsistent with the principles.

Consultation also was undertaken with government instrumentalities such as the Queensland Audit Office, the National Competition Policy Implementation Unit of Queensland Treasury and the Parliamentary Commissioner for Administrative Investigations and with representative bodies such as the Local Government Association.

The consultation has revealed support for the Bill.

NOTES ON PROVISIONS

Clause 1 provides that the short title of the Act is the *Statutory Bodies Financial Arrangements Amendment Act 1996*.

Clause 2 provides for the Act to commence on a day to be proclaimed.

Clause 3 states that the Act amends the *SBFA Act*.

Clause 4 replaces section 3 of the *SBFA Act* with new sections 2 to 3B.

New section 2 explains the object of the *SBFA Act*.

New section 3 states that the *SBFA Act* binds the Crown.

New section 3A states that the dictionary in the schedule defines particular words used in the *SBFA Act*.

New section 3B is a clarifying provision which provides that a reference in the *SBFA Act* to a statutory body's members is, in the case of a body without members, a reference to the person or entity that makes its

decisions or controls its funds as mentioned in section 5(2)(c) of the *SBFA Act*.

Clause 5 inserts in the *SBFA Act* after section 4A, new part 2A “Entities to Which Act Applies” comprising new sections 5 and 6, and new part 2B “Powers Under this Act and Relationship with Other Acts” comprising new sections 7 to 14.

NEW PART 2A—ENTITIES TO WHICH ACT APPLIES

New section 5 provides that the *SBFA Act* applies to statutory bodies and sets out what is a statutory body for the purposes of the *SBFA Act*.

New section 6 lists various entities that are not statutory bodies for the purposes of the *SBFA Act*.

NEW PART 2B—POWERS UNDER THIS ACT AND RELATIONSHIP WITH OTHER ACTS

New section 7 provides that a statutory body may only exercise a power under the *SBFA Act* if the exercise of the power is consistent with the body’s functions.

New section 8 provides that the general banking powers given under part 4 are additional to a statutory body’s powers under other parts of the *SBFA Act*, its authorising Act or another Act. The conferral of the part 4 powers is not intended to limit these other powers of a statutory body.

New section 9 provides that any borrowing powers given to a statutory body under part 5 are additional to its powers under other parts of the *SBFA Act* and its express borrowing powers under its authorising Act or another Act. In view of the objectives of the Bill, the conferral of express borrowing power in a statutory body’s authorising Act will be rare. Where a statutory body has no express borrowing power under its authorising Act

or another Act, its borrowing powers are limited to any powers conferred under part 5. The section clarifies that a statutory body cannot rely upon a general competence power (for example, the power of a natural person) under its authorising Act in order to borrow. Accordingly, part 5 is the sole source of a statutory body's borrowing powers, unless it has express borrowing powers in another Act, in which case the part 5 powers are additional to those express powers.

New section 10 provides that any investment powers given to a statutory body under part 6 are additional to its powers under other parts of the *SBFA Act* and its express investment powers under its authorising Act or another Act. In view of the objectives of the Bill, the conferral of express investment power in a statutory body's authorising Act will be rare. Where a statutory body has no express investment power under its authorising Act or another Act, its investment powers are limited to any powers conferred under part 6. The section clarifies that a statutory body cannot rely upon a general competence power (for example, the power of a natural person) under its authorising Act in order to invest. Accordingly, part 6 is the sole source of a statutory body's investment powers unless it has express investment powers in another Act, in which case the part 6 powers are additional to those express powers.

New section 11 provides that the powers given to a statutory body under part 7 are additional to its powers under other parts of the *SBFA Act*, its authorising Act or another Act. However, the section clarifies that part 7, division 1 is the sole source of a statutory body's powers, under the *SBFA Act*, to enter into a derivative transaction and that a statutory body cannot rely upon a general competence power (for example, the power of a natural person) under its authorising Act in order to enter into a derivative transaction. The section confirms that a statutory body may not enter into a derivative transaction under part 7, division 1 contrary to a restriction contained in another Act.

New section 12 permits a statutory body acting as a trustee or holding property subject to a condition to observe the terms of the trust or the condition and confirms that the *SBFA Act* does not affect the powers given to the body under the trust.

New section 13 preserves the future effect of the *SBFA Act*, subject to subsequent Acts which expressly provide otherwise.

New section 14 requires statutory bodies to observe conditions precedent and pass appropriate resolutions before undertaking financial arrangements.

Clause 6 replaces section 16 of the *SBFA Act* with new sections 15 and 16.

New Division 1—Guarantees by Treasurer about obligations of statutory bodies

New section 15 provides that a State guarantee of a statutory body’s obligations under a financial arrangement may be given only under new section 16 and deems conflicting provisions in other Acts to be amended appropriately. However, the section does not affect an Act which itself guarantees anything.

New section 16 provides that the Treasurer may, on the State’s behalf, guarantee a statutory body’s obligations under a financial arrangement and describes the manner in which a guarantee may be given. A guarantee may apply generally or specifically and must be in writing, but may be given by gazette notice.

Clause 7 effects minor amendments to section 18 of the *SBFA Act* for conformity with current drafting styles and principles.

Clause 8 replaces sections 19 to 21 and parts 4 to 6 of the *SBFA Act* with new sections 19 to 30, new part 4 “General Banking Powers” comprising new section 31, new part 5 “Borrowing Powers” comprising new sections 32 to 41, new part 6 “Investment Powers” comprising new sections 42 to 52, new part 7 “Derivative Transactions, Funds Managers and Other Financial Arrangements” comprising new sections 53 to 61, new part 8 “Other Provisions About Financial Arrangements” comprising new sections 62 to 68, new part 9 “Approvals by Treasurer” comprising new sections 69 to 75, new part 10 “Miscellaneous” comprising new sections 76 to 78 and new part 11 “Transitional Provisions” comprising new sections 79 to 86.

New section 19 provides that a State guarantee may include a waiver of immunity from proceedings and other provisions and essentially is a redraft, in current styles, of sections 16(5) and 16(6) of the current *SBFA Act*.

New Division 2—Miscellaneous provisions about guarantees

New section 20 provides that a guarantee is not affected by the transfer of the principal obligation from one statutory body to another and essentially is a redraft, in current styles, of section 19 of the current *SBFA Act*.

New section 21 makes general provision for a State guarantee of statutory bodies' loans from QTC. The terms of the guarantee are those approved by the Treasurer by gazette notice.

New Division 3—Consequences if payment required under guarantee

New section 22 provides that new division 3 applies if, under a guarantee given by the Treasurer under new section 16 or 21, the Treasurer is required to make a payment or incurs expenses in performing the obligations of a statutory body under a financial arrangement.

New section 23 entitles the Treasurer to recover from the statutory body an amount paid under a guarantee plus interest and costs.

New sections 24 to 30 set out the way in which amounts to which the Treasurer is entitled under section 23 may be recovered. The sections have substantially the same effect as section 20 of the current *SBFA Act*, except that the Treasurer's power to appoint a receiver to a statutory body is replaced by provisions allowing a regulation, or, in urgent cases as an interim measure, the Treasurer, to appoint a suitable person to a statutory body. The provisions explain the effect an appointment has on the powers of the members of the statutory body. The provisions repeat the remedies available to the Treasurer under the current *SBFA Act*, namely, debt recovery action in the courts and recourse to the creditor's securities.

NEW PART 4—GENERAL BANKING POWERS

New section 31 enables all statutory bodies to operate a deposit and withdrawal account for the purposes of their day to day operations. The account may, with the Treasurer's approval, include an overdraft facility.

NEW PART 5—BORROWING POWERS

New Division 1—Interpretation

New section 32 defines inclusively what is a borrowing for the purposes of the *SBFA Act*. The definition relies on the general meaning of the term “borrow”, but is extended to expressly include certain transactions and exclude others. The section enables a regulation to be made to prescribe that a particular type of transaction is, or is not, a borrowing for the purposes of the *SBFA Act*.

New Division 2—Power to borrow

New section 33 enables borrowing power to be allocated to statutory bodies by regulation.

New section 34 requires a statutory body with borrowing power to obtain the Treasurer’s approval before borrowing.

New Division 3—Creation of encumbrances over property and income

New section 35 requires a statutory body to obtain the Treasurer’s approval before creating an encumbrance over its property or income.

New section 36 deals with the ranking of encumbrances created by a statutory body. The section is based on section 28 of the current *SBFA Act* and provides that all encumbrances created by a statutory body over its income rank equally and that encumbrances created over property rank according to law. Income encumbrances would include charges over income and revenue and debentures, bonds and inscribed stock secured over income and revenue. The section enables the Treasurer to make directions regarding alternate ranking for income encumbrances. Under new section 83, the provisions regarding the ranking of income encumbrances do not apply to encumbrances created before commencement of the Bill.

New Division 4—Creditor remedies

New sections 37 to 40 make provision for a creditor to recover unpaid amounts owing under a debenture, bond or inscribed stock issued by a statutory body which does not represent the Crown. The sections have substantially the same effect as sections 40 to 42 of the current *SBFA Act* and allow the creditor, upon giving the required notices, to apply to the Supreme Court for the appointment of a receiver or to institute debt recovery action in the courts. The receiver may be appointed only to collect the statutory body's income or revenue and, for that purpose, may exercise the body's powers.

New section 41 is based on section 43 of the current *SBFA Act* and allows debentures, bonds or inscribed stock to contain provisions giving creditors alternate recovery remedies which may operate in lieu of sections 37 to 40.

NEW PART 6—INVESTMENT POWERS***New Division 1—Categories of investment powers***

New section 42 enables one of three categories of investment power to be allocated to a statutory body by regulation, in which case the body may undertake the investments permitted under the category, without requiring further approval.

New section 43 provides that investments within a category of investment power must be undertaken within Australia and in Australian currency.

New Division 2—Particulars of categories

New section 44 lists the investments allowed under category 1 investment power. The investments may be made either at call or for a fixed term not exceeding 1 year in a range of conservative investments which may be added to by regulation.

New section 45 lists the investments allowed under category 2 investment power. The investments include those allowed under category 1 investment power, but in certain cases allow the investments to be made for a fixed term not exceeding 3 years. The permitted range of investments may be added to by regulation.

New section 46 lists the investments allowed under category 3 investment power. The investments include those allowed under category 2 investment power, but extend to investments which may be made by a trustee under the *Trusts Act 1973*, regardless of term.

New Division 3—Duties of statutory body when investing

New section 47 requires a statutory body to use its best endeavours to invest in a prudent and appropriate manner and to keep records to show it has done so. The section is based on provisions contained in the *SBFA (Investment) Order 1993* made under the current *SBFA Act*.

New section 48 makes provision for the safe custody of investment documents and is a redraft of section 48(2) of the current *SBFA Act*.

New Division 4—Secured investments

New sections 49 to 51 deal with matters relating to the valuation of security provided under secured investments and are based on provisions in the *SBFA (Investment) Order 1993* made under the current *SBFA Act*. Section 51 enables a regulation to be made dealing with valuation requirements and the action to be taken if a security is devalued.

New Division 5—Rated investment arrangements

New section 52 deals with matters relating to rated investments and is based on provisions in the *SBFA (Investment) Order 1993* made under the current *SBFA Act*. If an investment is down-graded, the statutory body either must liquidate it or obtain the Treasurer's approval to continue it.

NEW PART 7—DERIVATIVE TRANSACTIONS, FUNDS MANAGERS AND OTHER FINANCIAL ARRANGEMENTS

New Division 1—Derivative transactions

New section 53 provides that a statutory body may enter into a derivative transaction under the *SBFA Act* only if it is allocated appropriate power by regulation and has obtained the Treasurer's approval.

New section 54 provides that a statutory body may enter into a derivative transaction under the *SBFA Act* only to hedge against a risk associated with a physical market position.

New section 55 requires a statutory body which enters into a derivative transaction under the *SBFA Act* to provide periodic reports to the Treasurer about the transaction. The section allows reports to be given in summary form in appropriate cases, subject to the Treasurer's approval.

New section 56 requires a statutory body which enters into a derivative transaction under the *SBFA Act* to provide a copy of each periodic report to the Minister which administers the body's authorising Act.

New section 57 requires the Minister which administers a statutory body's authorising Act to monitor any derivative transactions entered into by the body.

New Division 2—Appointment of funds managers

New sections 58 and 59 set out the circumstances in which a statutory body may appoint a suitable person to manage the investment of its funds. The body must have investment power under part 6 and must obtain the Treasurer's approval of the appointment.

New section 60 provides that for the purpose of managing a statutory body's funds, an appointed funds manager may, subject to any conditions of the appointment, enter into any financial arrangement or derivative transaction that it may lawfully enter into under, for example, its memorandum of association.

New Division 3—Other financial arrangements

New section 61 empowers statutory bodies to enter into other financial arrangements not specifically dealt with under parts 4 to 6, with the approval of the Treasurer.

**NEW PART 8—OTHER PROVISIONS ABOUT
FINANCIAL ARRANGEMENTS*****New Division 1—Documents for financial arrangements under this Act***

New section 62 empowers a statutory body to sign any document necessary for an approved financial arrangement, but requires the body to obtain the Treasurer's approval for a document which creates an encumbrance over the body's income or property.

New sections 63 and 64 describe specific contractual provisions which may be contained in a document relating to a financial arrangement entered into by a statutory body. The sections are redrafts of provisions appearing in section 33 of the current *SBFA Act*.

New Division 2—Matters about trusts

New section 65 empowers a trustee to invest trust funds with a statutory body under a financial arrangement guaranteed by the Treasurer and is a redraft of section 29 of the current *SBFA Act*.

New section 66 is a redraft of section 30 of the current *SBFA Act* and absolves a statutory body which enters into a financial arrangement with a trustee from the need to consider whether the trustee is acting properly under the trust.

New Division 3—Other parties to financial arrangements

New section 67 is based on section 31 of the current *SBFA Act* and provides certain protection for a person who enters into a financial arrangement with a statutory body by absolving the person from responsibility for the misapplication of moneys received by the statutory body or the unauthorised execution of security documents.

New section 68 is based on section 45 of the current *SBFA Act* and provides that a person who enters into a financial arrangement with a statutory body otherwise than in accordance with the *SBFA Act* or another Act has no remedy or right to recover money from the body in respect of the arrangement. The section does not limit the person's remedies or rights to recover the money from another person and does not apply if the person receives a document from the statutory body stating that any approvals required for the arrangement under the *SBFA Act* or its authorising Act have been obtained.

NEW PART 9—APPROVALS BY TREASURER***New Division 1—Application***

New section 69 requires a statutory body to have the Treasurer's approval under either division 2 (General approvals) or division 3 (Specific approvals) before exercising a power under the *SBFA Act* which may be exercised only with the Treasurer's approval.

New Division 2—General Approvals

New section 70 enables the Treasurer to issue general approvals where required for the exercise of statutory bodies' powers.

New Division 3—Specific Approvals

New sections 71 to 74 enable the Treasurer, on application by a statutory body, to give a specific approval where required for the exercise of a power. The Treasurer may require the body to provide relevant information and may impose conditions on the approval. Statutory bodies are required to keep a register of these approvals.

New Division 4—Offences in relation to certain documents

New section 75 makes it an offence to knowingly provide a document containing false or misleading information to the Treasurer in relation to an application for approval of a financial arrangement. A complaint for an offence under the section doesn't need to distinguish between whether the document was false or misleading.

NEW PART 10—MISCELLANEOUS

New section 76 enables the delegation of the Treasurer's powers under the *SBFA Act*. The power to give a guarantee may be delegated only to another Minister. All other powers may be delegated to another Minister or the chief executive of a department. The ability to delegate in appropriate circumstances is intended to facilitate the efficient operation of the *SBFA Act*.

New section 77 is a redraft on section 38 of the current *SBFA Act* and enables stamp duty exemptions to be given by regulation, in relation to financial arrangements entered into by a statutory body.

New section 78 provides a general regulation-making power for the purposes of the *SBFA Act*.

NEW PART 11—TRANSITIONAL PROVISIONS

New section 79 contains definitions of terms used in the transitional provisions in part 11.

New section 80 contains a general transitional and saving provision to preserve the effect of existing approvals given under the current *SBFA Act* or a statutory body's authorising Act. The section provides that any existing financial arrangement entered into by a statutory body under its authorising Act or the current *SBFA Act*, remains valid in accordance with its terms as if the relevant provisions of the authorising Act or the current *SBFA Act* continued to apply. The operation of the section extends to State guarantees given under Acts other than the current *SBFA Act* or its predecessor, the *Local Bodies' Loans Guarantee Act 1923* for the obligations of statutory bodies under financial arrangements. The general intention of the section is to preserve existing approvals and financial arrangements. Any future financial arrangements must be entered into under the amended *SBFA Act*, unless the subject of an existing approval under a body's authorising Act or the current *SBFA Act*.

New section 81 provides that any guarantee given by the Treasurer under the current *SBFA Act* or its predecessor, the *Local Bodies' Loans Guarantee Act 1923*, in respect of the obligations of a statutory body is taken to be a guarantee given under section 16 of the amended *SBFA Act*.

New section 82 provides that certain existing loans by QTC to statutory bodies are taken to be guaranteed for the State, by the Treasurer. The conditions of the guarantee are to be prescribed by regulation, but both the existence and the conditions of the guarantee are subject to an express provision in any document relating to the loan and signed before the commencement.

New section 83 is a transitional provision which provides that the ranking provisions in section 36 do not apply to debentures, bonds or inscribed stock or charges over income issued or created by a statutory body before commencement of the Bill. These securities rank according to the law applicable at the date of issue or creation. The section is based on section 28(4) of the current *SBFA Act*.

New section 84 provides that where, prior to commencement of the Bill, a statutory body has appointed a funds manager under its authorising Act,

the appointment is taken to be an appointment under section 59 of the amended *SBFA Act*, subject to the same conditions as the original appointment. The section expires one year after commencement of the Bill. Accordingly, if it is intended that the appointment will continue, it would require re-approval under the amended *SBFA Act* within that year.

New section 85 provides that the amendment of the *SBFA Act* or a statutory body's authorising Act will not place the body in breach of contract or default, and will not release another party from an obligation, in respect of an existing financial arrangement. Also, if it is a requirement under a financial arrangement to obtain a person's consent, or give a person notice, in order to give effect to a matter dealt with in the transitional provisions, the requirement is taken to have been satisfied.

New section 86 enables a regulation to be made providing for a transitional matter not sufficiently dealt with by new part 11. The operation of the section, and any regulation made under it, is subject to time limitations.

Clause 9 provides for the schedule of the Bill to amend the Acts mentioned in it.

The schedule contains consequential and other minor amendments to statutory bodies' authorising Acts. The consequential amendments generally involve replacing any provisions conferring financial powers with a provision which confirms or declares that the body is a statutory body under the *SBFA Act*. Other minor amendments to authorising Acts are explained below.

1. In the *Architects Act 1985*, section 25(1)(b) has been amended to reflect amendments to the *Corporations Law*, which provide for companies to have only one director and omit the term "principal executive officer".
2. In the *City of Brisbane Act 1924*, part 4 division 7 has been omitted as the division dealt with the Trustees of the City of Brisbane Debt Redemption Fund, which has ceased to exist.
3. In the *Community Services (Aborigines) Act 1984*, section 53A(1) has been replaced as the sections mentioned in paragraphs (a) and (c) of the section no longer exist in the form contemplated. An equivalent amendment has been made to section 51A(1) of the *Community Services (Torres Strait) Act 1984*.

4. In the *Fruit Marketing Organisation Act 1923*, sections 4(2)(c), 9A, and 20, which dealt with the former cannery board, have been omitted and sections 2 and 11A have been amended to omit references to the cannery agreement and the cannery board. The cannery board converted to a company in 1991 and is no longer subject to the Act. Section 8(3), which dealt with matters relating to a fruit cannery which no longer exists, has been omitted. Sections 13 and 13A, which dealt with matters relating to the divestiture by the Committee of Direction of Fruit Marketing of its fruit and vegetable trading and transport operations, have been omitted. These sections have served their purpose and are redundant. Also, sections 8A(3)(f) and (g), which cross-reference section 13, have been omitted.
5. In the *Government Owned Corporations Act 1993*, section 157(1) has been omitted as it is sufficiently covered by section 115(1)(g) when read with section 150 and is a declaratory provision enacted for completeness in relation to sections 156 and 157(2) which have been omitted.
6. In the *Primary Producers' Organisation and Marketing Act 1926*, section 18B(8), which deals with pricing schemes implemented by the former Cotton Marketing Board, has been omitted as it is redundant. Section 27B(3) has been omitted as the reference to the cannery board is redundant and the State councils, marketing boards and subsidiary bodies constituted under the Act have been declared to be statutory bodies under the amended *SBFA Act*.
7. In the *Queensland Law Society Act 1952*, section 36H(1) has been amended to clarify that the grants committee administers the grants fund on behalf of the Queensland Law Society (“QLS”). The QLS is declared to be a statutory body in relation to the grants fund. Section 36Q has been amended to provide that in investing moneys in the grants fund, the grants committee may exercise the powers of the QLS. These amendments have been made in order to make the provisions consistent with provisions in the Act dealing with other funds.
8. In the *Queensland Treasury Corporation Act 1988*, the definition of “statutory body” has been amended to correspond with proposed new section 6 of the *SBFA Act*. Section 26 has been

amended to replace references to provisions of the former *Companies (Queensland) Code*. Section 39 has been omitted to reflect the repeal of the *Money Lenders Act 1916*. New section 19AA, which deals with a specific way QTC may provide financial accommodation to statutory bodies, has been inserted. This section previously appeared as sections 22(5) and (6) of the current *SBFA Act*.