

# Public Authorities (Financial Arrangements) Regulation 2005

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New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**
  - [Statute Law \(Miscellaneous Provisions\) Act \(No 2\) 2012 No 95](#) (not commenced — to commence on 4.1.2013)
  - [Forestry Act 2012 No 96](#) (not commenced — to commence on 1.1.2013)

### Authorisation

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# Public Authorities (Financial Arrangements) Regulation 2005



New South Wales

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# Public Authorities (Financial Arrangements) Regulation 2005



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Public Authorities (Financial Arrangements) Regulation 2005*.

### 2 Commencement

This Regulation commences on 1 September 2005.

**Note—**

This Regulation replaces the *Public Authorities (Financial Arrangements) Regulation 2000* which is repealed on 1 September 2005 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definitions

(1) In this Regulation:

**approved form**, when used in connection with any instrument given to or issued by an authority, means a form approved by the authority.

**authorised officer**, in relation to any matter, means:

- (a) an employee of an authority who is authorised in writing by the authority in relation to that matter, or
- (b) an employee of a registry who is so authorised, or
- (c) an officer of the Public Service who is authorised in writing by the Treasurer in relation to the matter.

**business day** means:

- (a) in relation to a registry—a day on which the registry is open for business, or
- (b) in any other case—a day on which banks are open for business.

**death certificate** means a certificate certifying the registration of the relevant death

and issued under the *Births, Deaths and Marriages Registration Act 1995*, or (if the death occurred elsewhere than in New South Wales) under a similar law of the jurisdiction in which death occurred.

**duly certified copy**, in relation to a document, means a copy of the document that is certified by a legal practitioner or a justice of the peace as being a true copy.

**inscribed stock register** means a register established by an authority for purposes relating to the inscription of stock.

**joint owner** of inscribed stock means a person, alive or deceased, whose name is registered in an authority's inscribed stock register as being one of a number of joint owners (however described) of the authority's inscribed stock.

**owner** of inscribed stock means the person named as the owner of the stock in the inscribed stock register of the authority that issued the stock.

**registrar** for an authority means a person (including a corporation) appointed by the authority to be the registrar of stock, assistant registrar of stock, deputy registrar of stock or assistant deputy registrar of stock at the registry of the authority.

**registry** of an authority means a registry established for the inscription of stock and issue of debentures of the authority.

**the Act** means the *Public Authorities (Financial Arrangements) Act 1987*.

(2) Notes included in this Regulation do not form part of this Regulation.

#### **4 Authorities included in definition of "authority"**

- (1) The entities listed in Part 1 of Schedule 1 are prescribed as being within the definition of **authority** in section 3 (1) of the Act.
- (2) The prescribing of any such entity is subject to any limitation specified in Part 1 of Schedule 1 in relation to that authority.

#### **5 Entities excluded from definition of "authority"**

- (1) The entities listed in Part 2 of Schedule 1 are prescribed as not being within the definition of **authority** in section 3 (1) of the Act.
- (2) The prescribing of any such entity is subject to any limitation specified in Part 2 of Schedule 1 in relation to that authority.
- (3) The exclusion of an entity from the definition of **authority** in section 3 (1) of the Act does not affect any guarantee relating to a financial arrangement that was entered into under the Act by the entity, or any other right or liability that arose under any such financial arrangement, before the exclusion of that entity from that definition.

- (4) An entity that is prescribed as not being within the definition of **authority** in section 3 (1) of the Act for the purposes of a provision of the Act that confers or imposes any function on an authority is also prescribed as not being within the definition of **authority** in section 3 (1) of the Act for the purposes of section 2B of the Act in relation to the exercise of that function by the entity.

## **6 Entities excluded from definition of “controlled entity”**

The entities listed in Part 3 of Schedule 1 are prescribed as not being within the definition of **controlled entity** in section 3 (1) of the Act.

## **Part 2 Securities**

### **Division 1 Preliminary**

#### **7 Application of Part**

This Part applies to inscribed stock issued within Australia only.

#### **8 Loan certificates**

- (1) A loan certificate issued by an authority must be in an approved form.
- (2) An authority’s registrar must keep a register of loan certificates in which the registrar must enter, in respect of each loan certificate issued by the authority:
- (a) the number and date of issue of the certificate, and
  - (b) the amount of the loan, and
  - (c) particulars of the certificate holder, and
  - (d) particulars of the terms of the loan.

#### **9 Establishment of registry**

An authority that issues securities must establish a registry at such place or places as the authority may from time to time determine.

#### **10 Business hours of registry**

A registry:

- (a) if it is established at a bank, must be open during the normal banking hours of the bank, or
- (b) if it is established at an institution other than a bank or at the office of the authority, must be open during the ordinary business hours of the institution or the authority.

## **Division 2 Purchase of securities**

### **11 Application to purchase certain securities**

- (1) Application to purchase inscribed stock or debentures of an authority by public tender must be made in an approved form and in accordance with the conditions contained in a prospectus for the issue of the stock or debentures that accompanies the form of application.
- (2) Application to purchase inscribed stock or debentures or loan certificates of an authority otherwise than by public tender must be made in an approved form.
- (3) An application for the purchase of an authority's stock on a joint account must set out the names in the order in which they are to appear in the inscribed stock register of the authority.
- (4) An authority's registrar must not issue any debentures of the authority unless overdue interest coupons are detached, cancelled and forwarded to an authorised officer of the authority, together with particulars of the debentures from which they were detached.

### **12 Inscription of stock**

- (1) For the inscription of stock, an authority's registrar must, at each registry for the authority, keep an inscribed stock register in an approved form and must enter in that register:
  - (a) the name of each owner of stock inscribed at the registry, and
  - (b) the amount of stock owned, and
  - (c) the date of issue, and
  - (d) particulars of the terms of the loan (including any conditions restricting the transfer of the stock).
- (2) Except with the approval of an authority, stock of the authority must be inscribed only in amounts of \$100 or multiples of \$100.

### **13 Record of debentures**

- (1) An authority's registrar must keep a record of debentures of the authority showing:
  - (a) the serial number, denomination and date of issue or receipt of each debenture, and
  - (b) whether the debentures were sold to the public, issued in exchange for stock or other debentures, or issued for other purposes.
- (2) As soon as practicable after the end of each month, an authority's registrar must



provide an authorised officer of the authority with such particulars relating to transactions in debentures during that month as the authorised officer requires.

#### **14 Trusts**

- (1) Trusts are not to be recognised for the purposes of this Regulation and executors, administrators and trustees must not be registered in an inscribed stock register as such, but in their individual names without reference to any trusteeship.
- (2) The person whose name is registered in an inscribed stock register as the owner of any stock is taken to be the owner of the stock, and has power to dispose of and transfer the stock and give effectual receipts for any money paid to the person by way of consideration for the disposal or transfer.
- (3) Subject to the provisions of this Regulation relating to the disposal and transfer of inscribed stock and notice of trusts, equitable interests may be enforced against the owners of inscribed stock in the same manner as in respect of any other personal property.

#### **15 Stock owned by corporation**

- (1) An authority's stock may be inscribed in the name of a corporation, but the authority's registrar must first be furnished with a copy of the certificate of incorporation or other instrument evidencing establishment of the corporation, together with a certified specimen of the seal of the corporation and a duly authenticated copy of any articles of association, regulations or other documents governing the affixing of the seal.
- (2) Transactions by a corporation in respect of an authority's stock may be effected by any person on behalf of the corporation if a power of attorney authorising that person to act for the corporation has been executed and the authority's registrar acts under clause 41.
- (3) An authority's stock may be inscribed in the name of a friendly society or trade union that the authority's registrar is satisfied is registered under the laws of any State or of the Commonwealth or any of its Territories, or any branch of a friendly society or trade union so registered, subject to the registrar having been first supplied by the friendly society, trade union or branch with a certificate in an approved form that contains the names and signatures of the 2 or more persons appointed by the friendly society, trade union or branch concerned for the purposes of subclause (4).
- (4) Certificates, receipts and other documents relating to stock inscribed in the name of a friendly society, trade union or branch may be issued only to such person as the friendly society, trade union or branch appoints in that behalf.
- (5) No transactions in relation to stock inscribed under subclause (3) may be effected unless they are authorised by the persons appointed or purporting to be so appointed

by the friendly society, trade union or branch in an approved form.

#### **16 Change of name**

- (1) If the name of the owner, jointly or otherwise, of an authority's stock is changed and the authority's registrar is notified of the changed name in writing signed by the owner of the stock and accompanied by a certified copy of any deed poll or marriage certificate evidencing the change of name, the registrar must make the necessary alteration in the inscribed stock register of the authority.
- (2) Notification of an alteration must be given in the approved form.

#### **17 Mistake in inscription of stock**

In the event of an authority's stock being inscribed incorrectly owing to a mistake in a request for inscription or transfer of the stock, the inscription may be corrected if a statutory declaration by the purchaser or transferee, explaining how the mistake arose, is lodged with the registrar.

#### **18 Specimen signature**

An authority's registrar must take such steps as are necessary to immediately secure specimen signatures of all owners of securities that are not redeemable by the bearer.

#### **19 Inspection of inscribed stock register**

On satisfying an authority's registrar as to the owner's identity, an owner of the authority's stock (whether in a sole account or joint account) may, during the business hours of the registry, inspect the owner's account of the stock in the inscribed stock register of the authority.

#### **20 Certificate of ownership of stock**

- (1) An authority's registrar must, on a request made in an approved form, issue a certificate in an approved form of the ownership of stock.
- (2) A request under this clause may be signed by, and the certificate issued to, a person on behalf of the owner if the registrar so approves.

### **Division 3 Surrender, transfer and transmission of securities**

#### **21 Surrender of stock certificates**

In addition to allotment letters, receipts and other relevant registry documents, an authority's registrar may require stock certificates to be surrendered in support of any subsequent operation by the owner or the owner's attorney on stock inscribed in the books of the registry of the authority.

## **22 Transfer of stock**

- (1) Transfer of an authority's stock may be made from one person to another by means of an approved form.
- (2) A transfer of an authority's stock must be executed by both the transferor and the transferee, each of whom must be notified by the authority's registrar, in an approved form, of the completion of the transaction.
- (3) An authority may issue inscribed stock subject to conditions restricting the transfer of the stock, and the power of the owner of the inscribed stock to transfer the stock is subject to any such conditions.

## **23 Transmission otherwise than on death**

- (1) A person on whom an owner's (including a joint owner's) interest in inscribed stock has devolved by operation of law (otherwise than as a result of the owner's death) may apply to the registrar of the relevant authority to be registered as the owner of the inscribed stock.
- (2) Such an application must be made in the approved form and must be accompanied by:
  - (a) in the case of bankruptcy, an office copy of the relevant sequestration order, or
  - (b) in any other case, the relevant vesting order.
- (3) On registering the applicant as the owner of the inscribed stock, the authority's registrar must forward to the applicant a notice to that effect in an approved form.

## **24 Transmission on death otherwise than to surviving joint owner**

- (1) A person on whom an owner's (other than a joint owner's) interest in inscribed stock has devolved by operation of law as a result of the owner's death may apply to the registrar of the relevant authority to be registered as the owner of the inscribed stock.
- (2) Such an application must be made in the approved form and must be accompanied by:
  - (a) a probate copy of the deceased owner's will, or
  - (b) letters of administration of the deceased owner's estate.
- (3) The registrar may waive the requirement for documents referred to in subclause (2) if instead the applicant:
  - (a) provides each of the following documents:
    - (i) an original or a duly certified copy of the relevant death certificate or, where there is no such certificate, such other evidence of the deceased owner's

- death as may be acceptable to the registrar,
- (ii) if there is a relevant will, an original or a duly certified copy of the will,
  - (iii) a statutory declaration made by the applicant in accordance with subclause (4),
  - (iv) any other document the registrar may require, and
- (b) if the face value of the inscribed stock exceeds \$10,000, provides security to the satisfaction of the registrar against any liability that the authority may incur as a consequence of the transmission of the stock in accordance with the application.
- (4) A statutory declaration referred to in subclause (3) (a) (iii) must state the following:
- (a) that the applicant knew the deceased owner,
  - (b) that the deceased owner lived under the name specified in the declaration,
  - (c) that the deceased owner lived at the address specified in the declaration,
  - (d) that the applicant is not aware of any claim against the estate of the deceased owner that remains unsatisfied,
  - (e) that the applicant does not intend to apply for a grant of probate or letters of administration in respect of the estate of the deceased owner.
- (5) On registering the applicant as the owner of the inscribed stock, the authority's registrar must forward to the applicant a notice to that effect in an approved form.

## **25 Transmission on death to surviving joint owner**

- (1) A person on whom a joint owner's interest in inscribed stock has devolved by operation of law as a result of the joint owner's death may apply to the registrar of the relevant authority to be registered as the owner of the inscribed stock.
- (2) Such an application must be made in the approved form and must be accompanied by the following:
  - (a) an original or a duly certified copy of the relevant death certificate or, where there is no such certificate, such other evidence of the deceased owner's death as may be acceptable to the registrar,
  - (b) any other document the registrar may require.
- (3) On registering the applicant as the owner of the inscribed stock, the authority's registrar must forward to the applicant a notice to that effect in an approved form.

## **26 Verification of signatures**

An authority's registrar may require the signatures of persons who claim transmission of the authority's stock under clause 23, 24 or 25 to be verified to the registrar's satisfaction by a statutory declaration by a disinterested person approved by the registrar.

## **27 Transfer of stock—close of books**

- (1) A transfer of an authority's stock must not be registered during any period in which the books of the authority are closed for transfers of the stock concerned.
- (2) An authority may close its books for transfers of inscribed stock during such periods as it determines from time to time and may do so for different periods for different inscribed stock.

## **28 Striking of balance for payments**

The balance for payments on inscribed stock is to be struck on a day determined by the authority that issued the stock.

## **Division 4 Payments**

### **29 Payments on stock**

- (1) Payments on inscribed stock issued by an authority are to be made:
  - (a) to the owner of the stock or, if there is more than one owner registered in relation to the stock, to the owner whose name appears first on the inscribed stock register, and
  - (b) in such manner as is determined from time to time by the authority.
- (2) Interest on debentures issued by an authority is to be paid:
  - (a) in the case of debentures issued with coupons attached, on presentation of the coupons at a place designated on the coupons, or
  - (b) in the case of debentures issued without coupons attached, in accordance with the terms of the debentures.

### **30 Payments to order**

Payments on inscribed stock may be made by the registrar of the authority that issued the stock to and in favour of any person if a direction in an approved form is given for the purpose:

- (a) by the owner of the stock, or
- (b) if there is more than one owner registered in relation to the stock, by the owner whose name appears first on the inscribed stock register.

### **31 Variation of instructions**

Directions in relation to payments on inscribed stock (unless withdrawn in writing) remain in force even though the stock may have been added to, partly sold or withdrawn.

### **32 Change of address**

A change of address of a person to whom payments are to be made by an authority must be notified at once in writing to the authority's registrar.

### **33 Legal disability of joint owner of stock**

Payments on stock inscribed in the name of a person of diminished legal incapacity (such as a minor or mentally ill person) jointly with the names of other persons of full legal capacity may be made as directed by those other persons, and without the concurrence of the person of diminished legal incapacity, on sufficient proof of that person's incapacity being lodged with the registrar of the authority that issued the stock.

### **34 Minority of sole owner of stock**

Payments on inscribed stock and debentures in the name of a minor otherwise than in a joint account may be made (at the discretion of the registrar of the authority that issued the stock or debentures) to the guardian of the minor and the receipt of the guardian is a valid discharge.

## **Division 5 Miscellaneous**

### **35 Form of debentures**

Debentures must be in an approved form.

### **36 Debentures not collected personally**

- (1) If necessary, arrangements may be made by an authority's registrar for the delivery through a bank or other channel of debentures or loan certificates that cannot be handed personally to the owner at the authority's registry.
- (2) A receipt must be obtained and attached to the relevant application, together with any relevant allotment letter, official receipt or other relevant registry document required by the registrar in exchange for the debentures or loan certificates.

### **37 Stock exchanged for debentures**

- (1) On application made in an approved form for the issue of debentures or loan certificates of an authority in exchange for inscribed stock of the authority, the authority's registrar must debit the account concerned in the inscribed stock register, and issue debentures of the same currency and rate of interest, and for the amount of stock debited.

- (2) A receipt in an approved form must be given for debentures or loan certificates handed over at a registry.
- (3) A notification of the issue of debentures or loan certificates of an authority in exchange for stock of the authority must be given in an approved form to the person in whose name the stock is inscribed.

### **38 Certain exchanges prohibited**

Debentures or loan certificates must not be issued in exchange for inscribed stock if the stock is inscribed in the name of a person of diminished legal incapacity (such as a minor or mentally ill person) jointly with other persons of full legal capacity.

### **39 Exchange of debentures**

On application in an approved form, debentures of an authority may be surrendered at a registry for the authority in exchange for other debentures of the same amount, of the same currency and bearing the same rate of interest.

### **40 Debentures exchanged for stock**

- (1) On application in an approved form for the inscription of stock in exchange for debentures or loan certificates, an authority's registrar:
  - (a) must inscribe stock of the same currency and rate of interest as, and for the same amount as, the debentures or loan certificates surrendered, and
  - (b) must forward a notification of inscription, in accordance with an approved form, to the person in whose name the stock is inscribed, and
  - (c) must issue a receipt, in an approved form, for the surrendered debentures or loan certificates.
- (2) A debenture of an authority surrendered under this clause with interest coupons attached must, after cancellation, be forwarded by the registrar to an authorised officer of the authority.

### **41 Registrar to be satisfied as to power of attorney**

- (1) An authority's registrar may only act on a power of attorney if:
  - (a) a copy of the power of attorney attested by the Registrar-General, or verified by a person approved by the registrar, has been lodged with the registrar, and
  - (b) the registrar is satisfied that the power of attorney has been properly sealed and executed and duly stamped, that the signatures to it are genuine and that the powers contained in it have not been revoked.
- (2) If the registrar is not satisfied as to any matter referred to in subclause (1) (b), the

registrar:

- (a) must cause a notice of dealing, in an approved form, to be forwarded to the owner of the stock concerned at the owner's registered address, and
- (b) must not act further in the case until satisfied that the matter is in order.

#### **42 Inspection of power of attorney**

A power of attorney under which it is proposed to deal with an authority's stock must be left at a registry for the authority for scrutiny at least 2 business days before it is to be acted on, and must be entered in a register kept by the authority.

#### **43 Execution under seal**

A form required under this Regulation to bear the seal of a corporation must be sealed and witnessed in accordance with the articles of association, regulations or other relevant documents of the corporation, and an authority's registrar may require proof that any document has been so sealed.

#### **44 Registrar to take certain precautions**

If a party to a transaction is not personally known to an authority's registrar, or if the registrar is doubtful as to the genuineness of a signature, or for any other reason the registrar is not satisfied as to the genuineness of a transaction, the registrar:

- (a) must cause a notice of dealing, in an approved form, to be forwarded to the party, and
- (b) must not register the transaction until satisfied that the matter is in order.

#### **45 Short term securities—promissory notes, bank bills of exchange**

- (1) If an authority obtains financial accommodation by the issue of a promissory note or bank bill of exchange, the promissory note or bank bill of exchange:
  - (a) must comply with the *Bills of Exchange Act 1909* of the Commonwealth, and
  - (b) may be issued in a denomination determined by the authority, and
  - (c) must specify a point of payment at maturity, and
  - (d) must specify a serial number, its date of issue and its maturity date, and
  - (e) must be signed by 2 authorised officers of the authority.
- (2) If there is a paying agent for a promissory note or bank bill of exchange issued by an authority, an authorised officer of the authority must inform the paying agent of its amount, serial number and maturity date and of the names of the authorised officers who signed it.



- (3) An authority that issues a promissory note or bank bill of exchange must enter in a register of negotiable securities the following details:
  - (a) its face value,
  - (b) its selling price,
  - (c) its serial number,
  - (d) the date of its issue,
  - (e) if relevant, the name of the acceptor.
- (4) On the return to an authority of a promissory note or bank bill of exchange issued by it and paid at maturity, 2 authorised officers of the authority:
  - (a) must check it against the register of negotiable securities, and
  - (b) must destroy it or witness its destruction, and
  - (c) must note its destruction in that register.

#### **46 Security**

- (1) A person who prints a document for issue by an authority must, as soon as practicable after it is printed, provide the authority with a return specifying the serial number of the document.
- (2) A person having custody of:
  - (a) printing plates to be used for the production of negotiable securities to be issued by an authority, or
  - (b) any documents to be so issued,must keep them in an adequately secured area.
- (3) Settlement of a sale or purchase of negotiable securities of an authority must not be effected outside the security area of the authority unless 2 authorised officers of the authority are present.
- (4) An authority must cause a copy to be kept of each negotiable security issued by it.

#### **47 Secrecy**

- (1) No person (other than a person immediately engaged in the work of an authority's registry, an accredited officer of the Auditor-General or a person duly authorised in writing by the authorised officer of the authority) is to be given access to any of the books, forms or other records used or kept for the purposes of this Regulation.

- (2) A person must not divulge any information coming to his or her knowledge in the course of his or her duties, except as authorised by this Regulation or the authorised officer of the authority or as required by law.

#### **48 Procedure**

In all matters relating to procedure and the duties of an authority's registrar, the directions of an authorised officer of the authority must be followed.

### **Part 3 Investment powers**

#### **49 Investment powers of authorities**

For the purposes of section 24 of the Act:

- (a) an authority referred to in Schedule 2 is declared to have, in respect of all or specified funds of or under the control of the authority, the investment powers described in Part 2 of Schedule 4 to the Act, and
- (b) an authority referred to in Schedule 3 is declared to have, in respect of all or specified funds of or under the control of the authority, the investment powers described in Part 3 of Schedule 4 to the Act, and
- (c) an authority referred to in Schedule 4 is declared to have, in respect of all or specified funds of or under the control of the authority, the investment powers described in Part 4 of Schedule 4 to the Act.

#### **50 Additional investment powers**

- (1) For the purposes of clause 2 (c) of Schedule 4 to the Act, the investments specified in Part 1 of Schedule 5 are prescribed as investments that are authorised for an authority so specified.
- (2) For the purposes of clause 3 (f) of Schedule 4 to the Act, the investments referred to in Part 2 of Schedule 5 are prescribed as investments that are authorised for an authority so specified.
- (3) For the purposes of clause 4 (1) (i) of Schedule 4 to the Act, the investments referred to in Part 3 of Schedule 5 are prescribed as investments that are authorised for an authority so specified.

#### **51 Prescribed rating agencies**

For the purposes of Schedule 4 to the Act, the following are prescribed rating agencies:

- (a) Standard & Poor's (Australia) Pty Ltd,
- (b) Moody's Investors Service, Inc,

(c) Fitch Australia Pty Ltd.

## 52 Eligible entities

For the purposes of the definition of **eligible entity** in clause 1 of Schedule 4 to the Act, the following ratings are prescribed:

- (a) “AAA”, “AA+”, “AA”, “AA–”, “A+” or “A” given by Standard & Poor’s (Australia) Pty Ltd,
- (b) “Aaa”, “Aa1”, “Aa2”, “Aa3”, “A1” or “A2” given by Moody’s Investors Service, Inc,
- (c) “AAA”, “AA+”, “AA”, “AA–”, “A+” or “A” given by Fitch Australia Pty Ltd,
- (d) in the case of an entity that had a rating prescribed by paragraph (a), (b) or (c) at the time that a particular investment was made with the entity, and only in respect of any such investment with that entity—any other rating given to the entity by a prescribed rating agency, but only for a period of 3 months after the entity has ceased to have a rating prescribed by paragraph (a), (b) or (c).

## 53 Eligible ratings

For the purposes of the definition of **eligible rating** in clause 1 of Schedule 4 to the Act, the following ratings are prescribed:

- (a) “AAA”, “AA+”, “AA”, “AA–”, “A+”, “A”, “A1+” or “A1” given by Standard & Poor’s (Australia) Pty Ltd,
- (b) “Aaa”, “Aa1”, “Aa2”, “Aa3”, “A1”, “A2” or “Prime–1” given by Moody’s Investors Service, Inc,
- (c) “AAA”, “AA+”, “AA”, “AA–”, “A+”, “A”, “F1+” or “F1” given by Fitch Australia Pty Ltd,
- (d) in the case of an investment that had a rating prescribed by paragraph (a), (b) or (c) at the time the investment was made, and only in respect of such an investment—any other rating given to the investment by a prescribed rating agency, but only for a period of 3 months after the investment has ceased to have a rating prescribed by paragraph (a), (b) or (c).

## Part 4 Miscellaneous

### 54 Statutory guarantee

- (1) Any financial accommodation obtained by an authority from the Treasury Corporation (otherwise than in a form specified in section 22A (1) (a) or (b) of the Act) is prescribed for the purposes of section 22A (1) (c) of the Act.
- (2) This clause applies to financial accommodation whenever obtained.

### 55 (Repealed)

## 55A Joint ventures

- (1) **Activities that are joint ventures** For the purposes of section 22K of the Act (but subject to subclause (2)), an activity of a commercial nature that:
- (a) is entered into for the purposes of profit or gain, and
  - (b) is carried on jointly by an authority and another person, and
  - (c) involves a range of technical, managerial and financial resources or other assets in the form of jointly controlled operations, assets and entities (either within or outside of Australia, or both),
- is prescribed as an activity that is within that section.
- (2) **Excluded activities** For the purposes of section 22K of the Act, the following activities are prescribed as not being within that section (but only if the activity is carried on in New South Wales or is related to an activity carried on in New South Wales):
- (a) an activity carried on by 2 or more authorities but with no other person involved,
  - (b) an activity carried on by an authority and an agency of the Commonwealth or of another State or Territory but with no other person involved.

## 56 Savings provision

Any act, matter or thing that, immediately before the repeal of the [Public Authorities \(Financial Arrangements\) Regulation 2000](#), had effect under that Regulation is taken to have effect under this Regulation.

## Schedule 1 Definitions of “authority” and “controlled entity”

(Clauses 4, 5 and 6)

### Part 1 Entities included in definition of “authority”

Ambulance Service of New South Wales

Anabranh Water (being the board of management for the Great Anabranh of the Darling River Private Water Supply and Irrigation District, constituted by a proclamation published in Gazette No 142 of 25 November 2005 at pages 9809-9810), but only for the purposes of Part 3 of the Act

Aus Health International Pty Limited

Clinical Excellence Commission

Cobbora Holding Company Pty Limited and any subsidiary of Cobbora Holding Company Pty Limited

Commissioner of Police, but only for the purposes of Part 2A of the Act

Crown Solicitor’s Office

Director-General of the Department of State and Regional Development, but only for the purposes of Part 3 of the Act

Health Administration Corporation

HealthQuest

Lands Administration Ministerial Corporation

Local health district constituted under the *Health Services Act 1997*

Minister administering the *Environmental Planning and Assessment Act 1979* (a corporation)

Minister administering the *Heritage Act 1977* (a corporation)

Minister administering the *Tweed River Entrance Sand Bypassing Act 1995*, but only for the purposes of functions exercised in connection with the carrying into effect of that Act

Ministerial Corporation for Industry

NSW Businesslink Pty Limited

NSW Self Insurance Corporation

Registry of Births, Deaths and Marriages

SRA Locomotive Securities Limited

State Contracts Control Board

Statutory health corporation constituted under the *Health Services Act 1997*

TAFE Commission

Talamba Pty Limited

Trustee of the Home Purchase Assistance Fund

Water Administration Ministerial Corporation

## **Part 2 Entities excluded from definition of “authority”**

Agricultural industry services committee constituted by the *Agricultural Industry Services Act 1998*

New South Wales Aboriginal Land Council

New South Wales Treasury Corporation, but only for the purposes of section 25 of the Act

Rice Marketing Board, but only for the purposes of Part 2C of the Act

SAS Trustee Corporation, but only for the purposes of section 25 of the Act

## **Part 3 Entities excluded from definition of “controlled entity”**

Agricultural industry services committee constituted by the *Agricultural Industry Services Act 1998*

Rice Marketing Board

## **Schedule 2 Authorities having Part 2 investment powers**

(Clause 49 (a))

Building Insurers' Guarantee Corporation

Central Coast Local Health District

Country Energy

Director-General of the Department of State and Regional Development, in respect of money held in the Retail Leases Security Bonds Trust Account and the Retail Leases Security Bonds Interest Account established under Division 5 of Part 2A of the [Retail Leases Act 1994](#)

Fair Trading Administration Corporation

Forestry Commission

Freight Rail Corporation

Health Administration Corporation

Hunter Water Corporation

Mine Subsidence Board

Minister administering the [Environmental Planning and Assessment Act 1979](#) (a corporation)

Nepean Blue Mountains Local Health District

New South Wales Land and Housing Corporation

Newcastle Port Corporation

Northern Sydney Local Health District

Port Kembla Port Corporation

Public Transport Ticketing Corporation

Rail Corporation New South Wales

Rail Infrastructure Corporation

Rental Bond Board

Roads and Traffic Authority

Royal Alexandra Hospital for Children

South Western Sydney Local Health District

Sporting Injuries Committee

State Rail Authority

Sydney Local Health District

Sydney Ports Corporation

Transport Infrastructure Development Corporation

Trustee of the Home Purchase Assistance Fund

Western Sydney Local Health District

Waste Recycling and Processing Corporation

### **Schedule 3 Authorities having Part 3 investment powers**

(Clause 49 (b))

Delta Electricity (except for such funds in respect of Delta Electricity as are referred to in Schedule 4) and any subsidiary of Delta Electricity (except for such funds in respect of such a subsidiary as are referred to in Schedule 4)

Electricity Tariff Equalisation Ministerial Corporation

EnergyAustralia (except for such funds in respect of EnergyAustralia as are referred to in Schedule 4)

Eraring Energy (except for such funds in respect of Eraring Energy as are referred to in Schedule 4) and any subsidiary of Eraring Energy (except for such funds in respect of such a subsidiary as are referred to in Schedule 4)

Integral Energy Australia

Lifetime Care and Support Authority of New South Wales, in respect of any funds for which an approved funds manager is engaged by the Authority as referred to in section 25 of the Act to act in relation to the management of those funds

Macquarie Generation (except for such funds in respect of Macquarie Generation as are referred to in Schedule 4) and any subsidiary of Macquarie Generation (except for such funds in respect of such a subsidiary as are referred to in Schedule 4)

New South Wales Lotteries Corporation

Sydney Water Corporation (except for such funds in respect of Sydney Water Corporation as are referred to in Schedule 4)

TransGrid

### **Schedule 4 Authorities having Part 4 investment powers**

(Clause 49 (c))

Cobbara Holding Company Pty Limited (in respect of such funds of or under that authority's control as are determined by the Treasurer) and any subsidiary of that authority (in respect of such funds of or under the control of the subsidiary as are determined by the Treasurer)

Delta Electricity (in respect of such funds of or under the control of Delta Electricity as are determined by the Treasurer) and any subsidiary of Delta Electricity (in respect of such funds of or under the control of the subsidiary as are determined by the Treasurer)

EnergyAustralia, in respect of such funds of or under the control of EnergyAustralia as are determined by the Treasurer

Eraring Energy (in respect of such funds of or under the control of Eraring Energy as are determined by the Treasurer) and any subsidiary of Eraring Energy (in respect of such funds of or under the control of the subsidiary as are determined by the Treasurer)

Liability Management Ministerial Corporation, in respect of money in the General Government Liability Management Fund that is not immediately required for the purposes of the Fund

Macquarie Generation (in respect of such funds of or under the control of Macquarie Generation as are determined by the Treasurer) and any subsidiary of Macquarie Generation (in respect of such funds of or under the control of the subsidiary as are determined by the Treasurer)

NSW Self Insurance Corporation

Residual Business Management Corporation

SAS Trustee Corporation

Sydney Water Corporation, in respect of such funds of or under the control of Sydney Water Corporation as are determined by the Treasurer

Treasury Corporation

Trustees of the Parliamentary Contributory Superannuation Fund, in respect of any funds for which an approved funds manager is engaged by the authority as referred to in section 25 of the Act to act in relation to the management of those funds

WorkCover Authority

Workers' Compensation (Dust Diseases) Board

## **Schedule 5 Authorities having additional investment powers**

(Clause 50)

### **Part 1 Additional powers for authorities having Part 1 investment powers**

#### **1 Authorities generally**

The following additional investments are prescribed in respect of any authority that is authorised to exercise the investment powers described in Part 1 of Schedule 4 to the Act:

Investment in an Hour-Glass investment facility of the Treasury Corporation (being a unit trust scheme within the meaning of the [Duties Act 1997](#)).



## 2 Sydney Harbour Foreshore Authority

The following additional investments are prescribed in respect of the Sydney Harbour Foreshore Authority:

Investment, made on terms and conditions approved by the Treasurer, in connection with the operations of the Australian Technology Park.

## 3 Anabranch Water

(1) The following additional investments are prescribed in respect of Anabranch Water, but only if the investments are made on the advice of an appropriately licensed financial adviser and are made in connection with the Great Darling Anabranch pipelined water supply system:

- (a) direct or indirect investments in shares, property or fixed interest securities,
- (b) investments in cash management trusts.

(2) In this clause, **Anabranch Water** means the board of management for the Great Anabranch of the Darling River Private Water Supply and Irrigation District, constituted by a proclamation published in Gazette No 142 of 25 November 2005 at pages 9809–9810.

## 4 Department of Finance and Services

The following additional investments are prescribed in respect of the Department of Finance and Services:

- (a) investment of \$1 in one share in PSMA Australia Limited (ACN 089 912 710),
- (b) investment, made on terms and conditions approved by the Treasurer, in National E-Conveyancing Development Limited (ACN 140 677 792) of up to \$12,000,000.

## 5 TELCO

The following additional investment is prescribed in respect of the New South Wales Government Telecommunications Authority:

Investment in 2,800,000 shares in Smart Internet Technology CRC Pty Limited (ACN 096 139 427).

## 6 Delta Electricity Australia Pty Ltd

The following additional investment is prescribed in respect of Delta Electricity Australia Pty Ltd (ACN 074 408 923):

Investment, made on terms and conditions approved by the Treasurer, in connection with the Sunshine Electricity Joint Venture.

## **7 Department of Education and Training**

The following additional investments, not exceeding a total investment of \$5,000,000, are prescribed in respect of the Department of Education and Training:

- (a) investments in the equity, whether as shares or otherwise, of a corporation, whether or not incorporated in Australia, made on terms and conditions approved by the Treasurer,
- (b) investments, where the funds to be invested are subject to a trust, as approved by the trustee of the trust and made on terms and conditions approved by the Treasurer,
- (c) investments, where the funds to be invested are a deposit received in respect of a contract or a tender, as authorised or permitted by the contract or the tender.

## **8 TAFE Commission**

The following additional investments, not exceeding a total investment of \$5,000,000, are prescribed in respect of the TAFE Commission:

- (a) investments in the equity, whether as shares or otherwise, of a corporation, whether or not incorporated in Australia, made on terms and conditions approved by the Treasurer,
- (b) investments, where the funds to be invested are subject to a trust, as approved by the trustee of the trust and made on terms and conditions approved by the Treasurer,
- (c) investments, where the funds to be invested are a deposit received in respect of a contract or a tender, as authorised or permitted by the contract or the tender.

## **9 Public Trustee**

The following additional investments are prescribed in respect of the Public Trustee:

Any investment in bonds that have an eligible rating and that are issued by an authorised deposit-taking institution or by an eligible entity.

## **10 Department of Primary Industries**

The following additional investments are prescribed in respect of the Department of Primary Industries:

- (a) investment, made on terms and conditions approved by the Treasurer, in Australian Co-operative Foods Limited (ABN 65 010 308 068),
- (b) investment, made on terms and conditions approved by the Treasurer, in Norco Co-operative Ltd,
- (c) investment, made on terms and conditions approved by the Treasurer, in Ricegrowers' Co-operative Limited (ABN 55 007 481 156),

- (d) investment, made on terms and conditions approved by the Treasurer, in the Rice Marketing Board.

### **11 Landcom**

The following additional investments are prescribed in respect of Landcom:

- (a) investment, made on terms and conditions approved by the Treasurer, in connection with a joint venture relating to property development at Little Bay, and
- (b) investment, made on terms and conditions approved by the Treasurer, in connection with a joint venture relating to property development at Green Square Town Centre.

### **12 Cancer Council**

The following additional investments are prescribed in respect of the New South Wales Cancer Council:

- (a) any investment in a unit trust scheme within the meaning of the *Duties Act 1997*,
- (b) in the case of funds of or under the control of the Council comprising property the subject of a gift, devise or bequest to the Council—investment in such manner as will enable the property to be retained by the Council in the form that the property was gifted, devised or bequeathed,
- (c) investment in such manner as may be necessary to enable the Council to act as provided by section 11 (3) of the *New South Wales Cancer Council Act 1995*.

### **13 Cancer Institute (NSW)**

The following additional investments are prescribed in respect of the Cancer Institute (NSW):

- (a) investment in a unit trust scheme within the meaning of the *Duties Act 1997*,
- (b) in the case of funds of or under the control of the Institute comprising property the subject of a gift, devise or bequest to the Institute—investment in such manner as will enable the property to be retained by the Institute in the form that the property was gifted, devised or bequeathed,
- (c) investment in such manner as may be necessary to enable the Institute to act as provided by section 16 (3) of the *Cancer Institute (NSW) Act 2003*.

### **13A Treasurer**

The following additional investments are prescribed in respect of the Treasurer:

- (a) direct or indirect investments in shares, or options over shares, in Reliance Rail Holdings Pty Limited (ACN 111 280 169), Reliance Rail Pty Limited (ACN 111 280 427) and Reliance Rail Finance Pty Limited (ACN 120 380 805),

- (b) direct or indirect investments in units or notes, or options over units or notes, in the Reliance Rail Holding Trust and the Reliance Rail Trust.

### **13B Transport for NSW**

The following additional investments are prescribed in respect of Transport for NSW:

- (a) investment of \$1 in the company with the ACN of 156 211 906,
- (b) direct or indirect investment in Metro Transport Sydney Pty Limited (ACN 082 564 510), Sydney Light Rail Company Pty Limited (ACN 064 062 933), Pyrmont Light Rail Company Pty Limited (ACN 065 183 913), Light Rail Construction Company Pty Limited (ACN 067 246 897), Metro Transport Security Company Pty Limited (ACN 106 690 144) and SLR Corporate Development Pty Limited (ACN 078 272 938).

## **Part 2 Additional powers for authorities having Part 2 investment powers**

### **14 Rental Bond Board**

The following additional investments are prescribed in respect of the Rental Bond Board:

- (a) inscribed stock issued out of a trust managed by RESIMAC Limited for the provision of residential accommodation,
- (b) deposits with or loans to the Trustee for the time being of the Home Purchase Assistance Fund (within the meaning of the *Housing Act 2001*),
- (c) investments in a residential accommodation unit trust (within the meaning of section 7C of the *Landlord and Tenant (Rental Bonds) Act 1977*),
- (d) investments in any scheme approved by the Minister for Housing for the provision of residential accommodation.

### **15 Land and Housing Corporation**

The following additional investments are prescribed in respect of the New South Wales Land and Housing Corporation:

- (a) investments in property acquired under the restructuring scheme as defined in the *HomeFund Restructuring Act 1993*,
- (b) investments in RESIMAC Limited property mortgages,
- (c) deposits with the Home Purchase Assistance Fund as defined in the *Housing Act 2001*,
- (d) investment, made on terms and conditions approved by the Treasurer, in connection with a joint venture relating to property development at 46–48 Ocean Street, Bondi.

## **16 Roads and Traffic Authority**

The following additional investment is prescribed in respect of the Roads and Traffic Authority:

Investment, made on terms and conditions approved by the Treasurer, in shares in ARRB Group Limited.

## **16A Sydney Ports Corporation**

The following additional investment is prescribed in respect of the Sydney Ports Corporation:

Investment in the nature of a loan to the Sydney Harbour Foreshore Authority of the deferred proceeds of sale to that Authority of land comprising Lots 3 and 5 in DP 876514.

## **16B Forestry Commission**

The following additional investment is prescribed in respect of the Forestry Commission:

Investment, made on terms and conditions approved by the Treasurer, in TEPCO Forests Australia Pty Ltd (ACN 091 040 783).

## **Part 3 Additional powers for authorities having Part 3 investment powers**

### **17 Delta Electricity**

The following additional investment is prescribed in respect of Delta Electricity:

Investment, made on terms and conditions approved by the Treasurer, in Delta Electricity Australia Pty Ltd (ACN 074 408 923).

### **18 TransGrid**

The following additional investments are prescribed in respect of TransGrid:

- (a) investment of \$1 in one share in Energy Industries Superannuation Scheme Pty Limited (ACN 077 947 285),
- (b) investment of \$50,000 in 250,000 shares in Geodynamics Limited (ACN 095 006 090).