

# TREASURER'S DIRECTIONS

## PART 2 - ACCOUNTING FRAMEWORK AND FINANCIAL REPORTING

### Section 4 - Financial Interests, Contingencies, Guarantees and Indemnities

**Authorities:** *Financial Management Act*

Section

3. Interpretation
9. Treasurer's Annual Financial Statement
13. Duties of Accountable Officers
34. Guarantees and indemnities

**Defined Terms** - *Refer to Part 1 Section 2*

- Accountable Officer
- Agency
- contingent liability
- employee
- entity
- guarantee
- indemnity

#### OVERVIEW

In addition to its prescribed reporting requirements, the Government provides detailed information on particular assets and liabilities. This Section addresses the information and reporting requirements with regard to contingent liabilities including guarantees and indemnities, and financial interests in companies, corporations, joint ventures and trusts, of the Territory or an Agency.

#### STATEMENT OF INTENT

2.4.1 This Section provides a framework and minimum control requirements regarding recording and reporting of contingent liabilities including guarantees and indemnities, and financial interests in companies, corporations, joint ventures and trusts of the Territory or an Agency, to assist Government in managing its potential exposures.

## REQUIREMENTS FOR ACCOUNTING AND PROPERTY MANUALS - *refer Part 3 Section 1*

- 2.4.2 Accountable Officers are responsible for incorporating in their Agency's accounting and property manual, procedures and appropriate controls relating to:
- identification and reporting of financial interests in companies, corporations, joint ventures and trusts;
  - entities in which the Territory or the Agency has a controlling interest; and
  - identification and reporting of contingent liabilities, including those arising from the granting of guarantees and indemnities.

## FINANCIAL INTEREST

- 2.4.3 A financial interest is any financial relationship where there is, or is intended to be a degree of ownership or control of an entity (ie acquisition of voting shares, both minority and controlling interests, or active participation on the board) where that interest is held directly by the Territory, an Agency, or by an employee on behalf of the Territory or an Agency.
- 2.4.4 For the purposes of this section, corporation refers to any body with a separate legal identity and includes such entities as statutory corporations, body corporates and incorporated associations. Statutory corporations which are Agencies for the purposes of the Act are excluded.
- 2.4.5 Accountable Officers shall ensure that Cabinet approval is obtained prior to the acquisition of a financial interest.
- 2.4.6 Agencies shall maintain details, as outlined in Appendix A, for inclusion in the Register of Companies, Corporations, Joint Ventures and Trusts, of all such entities in which the Territory or the Agency has a financial interest.
- 2.4.7 Accountable Officers shall provide to Northern Territory Treasury by 31 January each year, full details of any financial interests in companies, corporations, joint ventures and trusts.
- 2.4.8 An updated Register of Companies, Corporations, Joint Ventures and Trusts will be provided to the Northern Territory Public Accounts Committee on an annual basis.
- 2.4.9 Accountable Officers shall provide to Northern Territory Treasury the value of the initial investment and the market value or equity holding as at 30 June each year of any investments in corporations, trusts, joint ventures or similar entities of the Territory or the Agency on an annual basis as requested (*refer Part 2 Section 3 of these Directions*).

## CONTROLLING INTEREST

- 2.4.10 A controlling interest of the Territory or an Agency, being the capacity of the Territory to influence the activities of an entity, arises if an Agency or a Minister:
- (a) controls the composition of the board or other governing body of the entity;
  - (b) is able to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of the entity;
  - (c) holds more than one-half of the equity in the entity (excluding any part of that equity carrying no right to participate beyond a specified amount in a distribution of either profits or capital); or
  - (d) controls the entity by virtue of statute.
- 2.4.11 Accountable Officers shall ensure that the guidelines at Appendix B for controlling interests in entities are followed.

## CONTINGENT LIABILITIES, GUARANTEES AND INDEMNITIES

- 2.4.12 The Treasurer's agreement is required under section 34 of the Act for the granting of any guarantee or indemnity by the Territory or an Agency.
- 2.4.13 Agencies shall maintain details, as specified in Appendix C, of any contingent liability including any guarantee or indemnity granted by the Territory or the Agency, for inclusion in the Register of Contingent Liabilities
- 2.4.14 Accountable Officers shall provide full details, in accordance with the guidelines set out in Appendix C, of all contingent liabilities of the Territory or an Agency on an annual basis as requested by Northern Territory Treasury (*refer Part 2 Section 3 of these Directions*).

**GUIDELINES FOR THE REGISTER OF  
COMPANIES, CORPORATIONS, JOINT VENTURES AND TRUSTS**

Details required for inclusion in the Register of Companies, Corporations, Joint Ventures and Trusts are as follows:

- NATURE OF ENTITY*
- (a) Nature of entity (eg company, corporation, joint venture or trust);
  - (b) classification of entity, where applicable (eg proprietary company/statutory corporation/body corporate/incorporated association/unit trust); and
  - (c) documents evidencing legal status of the entity (eg company search, Certificate of Incorporation, Memorandum and Articles of Association, Trust Deed, Joint Venture Agreement, Constitution, applicable legislation).
- IDENTIFICATION*
- (a) Name of entity;
  - (b) Australian Company Number or Australian Registered Body Number or Incorporation Number, where applicable;
  - (c) registered office (location and address);
  - (d) principal place of business and other business locations; and
  - (e) principal activities.
- EQUITY*
- (a) Details of all equity interests including value, extent and type of interest held (eg number and class of shares at par value), names, and addresses of equity holders; and
  - (b) details of Territory or Agency interest, including Cabinet's approval for such investment, name of the Agency, name and position of any employee representing the Territory or the Agency, and the extent of the Territory's or the Agency's risk exposure in terms of any expressed or implied guarantee or indemnity.

## APPENDIX A

- GOVERNING BOARD*
- (a) Names, addresses, dates of birth and dates of appointment of the members of the entity's board or other governing committee (eg directors, members, trustees); and
  - (b) names and addresses of the Chief Executive Officer, Managing Director, Company Secretary and/or Public Officer.

*OPERATIONAL  
INFORMATION*

- (a) Annual returns, where applicable;
- (b) financial statements, audited where applicable;
- (c) auditor's report, where applicable;
- (d) any government and other guarantees or indemnities;
- (e) any charges and encumbrances (eg mortgages over property, bills of sale); and
- (f) details of any winding up action (such as the appointment of a liquidator) or other external administration (eg appointment of a receiver).

**GUIDELINES FOR CONTROLLING INTERESTS IN ENTITIES**

Controlling interests of the Territory or an Agency shall be undertaken in accordance with the following:

*APPROVAL* Cabinet approval shall be obtained for the creation or acquisition of a controlling interest in an entity.

*STATEMENT OF OBJECTS*

- (a) Any entity in which a controlling interest is held shall create a document to be known as the Statement of Objects which specifies the purposes (objectives, charter) of that entity;
- (b) the Statement of Objects and any amendments thereto shall be submitted to Cabinet by the relevant Minister for approval; and
- (c) the Statement of Objects shall contain a limitations clause, the effect of which is to restrict the powers of the entity, such that these do not exceed the powers of the relevant Minister.

*FINANCIAL REPORTING*

- (a) Company: a company including a corporate trustee, in which a controlling interest is held, shall produce financial statements in accordance with the requirements of Corporations Law;
- (b) Corporation or Trust: a corporation, unincorporated trustee and board of trustees of a trust shall prepare financial statements in accordance with Australian Accounting Standards, or as otherwise determined by the Treasurer;
- (c) Joint Venture: an Agency or the Territory as party to a joint venture shall prepare financial statements in accordance with Australian Accounting Standards, or as otherwise determined by the Treasurer;
- (d) where an entity in which a controlling interest is held, produces an annual report, that annual report should be tabled in Parliament by the relevant Minister; where an annual report is not tabled in Parliament, audited financial statements of the entity shall be included in the annual report of the relevant Agency; and

## APPENDIX B

- (e) financial statements of an entity in which a controlling interest is held, shall include any additional financial or related information deemed by the relevant Minister to be necessary for reporting to Parliament, however a Minister shall not be required to report to Parliament, matters which he/she considers to be commercially confidential.

### *AUDIT*

- (a) Any entity in which a controlling interest is held shall appoint an auditor;
- (b) under section 28 of the *Audit Act*, the relevant Minister may appoint the Auditor-General as auditor; Cabinet approval shall be obtained for this appointment; and
- (c) in performing audits of entities in which a controlling interest is held, the Auditor-General shall take into consideration the requirements of these guidelines, in relation to financial reporting.

### *STATUTORY RECORDS*

Appropriate statutory records and registers shall be maintained for any entity in which a controlling interest is held.

### *OTHER REQUIREMENTS*

- (a) Where equity in an entity is held by an employee on behalf of the Territory or an Agency, the equity shall be held in trust for the relevant Minister; and
- (b) where the Territory or an Agency has the capacity to make appointments to the board or other governing body of an entity, such appointments shall be approved by the relevant Minister.

**GUIDELINES FOR THE REGISTER OF CONTINGENT LIABILITIES**

Details required for inclusion in the Register of Contingent Liabilities are as follows:

<i>IDENTIFICATION</i>	(a) Description of the contingent liability; and (b) where applicable, original amount, type (guarantee, indemnity or other contingent liability), relevant legislation, approval (by and date), expiry date, source documentation (file references).
<i>BENEFICIARIES</i>	Details of beneficiaries (name and address) where applicable.
<i>AGENCY</i>	Name of responsible Agency and contact officer.
<i>VALUE</i>	Estimated value of contingent liability as at the end of the relevant financial year.
<i>ADDITIONAL INFORMATION</i>	(a) Terms and conditions of the contingent liability; (b) circumstances in which an actual and quantifiable liability will arise; (c) form of security, if any; and (d) expiry date, if known.
<i>DISCHARGE OF LIABILITY</i>	Details of discharge of the contingent liability (date, manner).