

Parliament of Tasmania

LEGISLATIVE COUNCIL GOVERNMENT ADMINISTRATION COMMITTEE "A"

SHORT INQUIRY PROCESS REPORT

ON

THE OPERATIONS AND APPLICATION OF THE FINANCIAL MANAGEMENT ACT 2016

Members of the Committee Inquiry:

Hon Ruth Forrest MLC (Chair) Hon Luke Edmunds MLC (Deputy Chair) Hon Mike Gaffney MLC Hon Dean Harriss MLC Hon Nick Duigan MLC Hon Josh Willie MLC

2023

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ABBREVIATIONS

ABS	Australian Bureau of Statistics
ATA	Agency Trust Account
CGRG	Commonwealth's Grants Rules Guidelines
FMA	Financial Management Act 2016
GBE	Government Business Enterprise
GGS	General Government Sector
PFC	Public Financial Corporations
PNFC	Public Non-Financial Corporations
PGPA Act	Public Government, Performance and Accountability Act 2013 (Cth)
RAF	Request for Additional Funding
RER	Revised Estimates Report
SDTF	Special Deposits and Trust Fund
SER	Supplementary Estimates Report
SES	Supplementary Estimates Statement
SIP	Short Inquiry Process
SOC	State Owned Company
TAFR	Treasurer's Annual Financial Report
TECA	Treasurer's Expenditure Control Authority
TI	Treasurer's Instructions

2 SHORT INQUIRY OVERVIEW

- 2.1 On 15 December 2022, the Government Administration Committee 'A' resolved to initiate an Inquiry into the operations and application of the *Financial Management Act 2016* (FMA).
- 2.2 The Committee resolved to accept the following as SIP terms of reference:
 - 1. To review and report upon the Financial Management Act 2016, with particular reference to the:
 - a. operation;
 - b. application;
 - c. efficacy;
 - d. financial decision making; and
 - e. timeliness and regularity of disclosures under the Financial Management Act 2016;
 - 2. The ability of Parliament to undertake regular and timely scrutiny of Public Non-Financial Corporations (PNFC's); and
 - 3. Any other matter incidental thereto.
- 2.3 At its meeting on 15 December 2022 the Legislative Council Government Administration Committee "A" agreed to the following resolution in accordance with Sessional Order 5 (16):

"That for the purposes of the Committee inquiring into the operations and application of the *Financial Management Act 2016*, leave be granted for the following Member to join the Committee: The Hon. Josh Willie MLC as substitute for the Hon. Sarah Lovell MLC."

2.4 The Membership of the Committee is:

Hon Ruth Forrest MLC (Chair) Hon Luke Edmunds MLC (Deputy Chair) Hon Nick Duigan MLC Hon Mike Gaffney MLC Hon Dean Harriss MLC Hon Josh Willie MLC

- 2.5 This Report should be read in conjunction with the attached documents.
- 2.6 The Minutes of the Committee are attached as Appendix A.

- 2.7 The Committee considered it timely to review the *Financial Management Act 2016*, given Tasmania's financial management framework has undergone significant reform since the early 1990s. The key reforms include:
 - implementation of whole-of-government accrual budgeting and reporting;
 - improving the efficiency and accountability of government businesses, including the introduction of guidelines to support good corporate governance practices;
 - introduction of the *Charter of Budget Responsibility Act 2007* to provide a framework to improve fiscal policy outcomes by requiring a fiscal strategy statement based on principles of sound fiscal management and regular reports of the Government's fiscal performance;
 - introduction of the *Audit Act 2008* to strengthen and modernise the role of Tasmania's Auditor-General;
 - introduction of quarterly reporting through the *Financial Management and Audit Amendment Act 2012*; and
 - introduction of the *Charter of Budget Responsibility Amendment Act 2015,* to strengthen the principles of sound fiscal management.
- 2.8 The *Financial Management Act 2016* (FMA) commenced on 1 July 2019. The FMA was a significant reform that was introduced with the aim of modernising and streamlining the financial management of the State's General Government Sector. The FMA replaced the *Public Account Act 1986* and the remaining provisions of the *Financial Management and Audit Act 1990*. The objective of the FMA is to improve the efficiency, effectiveness and transparency of government financial management in Tasmania's General Government Sector. ¹

https://www.treasury.tas.gov.au/Documents/Tasmanias%20Financial%20Management%20Framework %20Booklet.pdf

3 FINDINGS

The Committee makes the following key findings:

- 1. The *Financial Management Act 2016* is fundamentally robust and fit for purpose.
- 2. There is a broad legislative framework within which the *Financial Management Act 2016* operates.
- 3. The *Financial Management Act 2016* specifically excludes Government Business Enterprises (GBEs) and State Owned Companies (SOCs) from the operation of the Act in Section 6 of the Act.
- 4. The *Government Business Enterprises Act 1995* (GBE Act), *Corporations Act 2001* (where applicable), and various principal acts of the entities govern their financial reporting and accountability frameworks.
- 5. The GBE Act has the provision to issue Treasurer's Instructions to GBEs. In addition, the principal acts of the SOCs also require them to comply with the Treasurer's Instructions in the GBE Act.
- 6. The Tasmanian Government Businesses Governance Framework Guide (Framework Guide), issued in October 2008, outlines the governance frameworks for GBEs and SOCs including the Government's role as owner.
- 7. The financial reporting requirements for subsidiaries of GBEs, are not clear under the relevant legislation.
 - a) The Tasmanian Audit Office has been in discussion with the Department of Treasury and Finance as to whether Tier 1 financial statements, and any associated audit requirements for subsidiaries of GBEs, are required.
- 8. The use of the word 'account' in the *Financial Management Act 2016* is confusing. Despite the definition, the word account appears to refer to ledger accounts as well as the Public Account in some sections of the Act.
- 9. The Supplementary Estimates Statement presents the supplementary estimates of all expenditure from the Public Account that is authorised under sections 20, 21, 22 and 30 of the *Financial Management Act 2016*.
- 10. The provision of enhanced and detailed explanations related to expenditure reported in the Supplementary Estimates Statement would assist Parliament in its role of scrutiny of this Report.
- 11. The Department of Health has, when requested, provided Legislative Council Estimates Committee A with estimated outcome information at Revenue from Appropriation by Output level.
- 12. Previous Treasurers' Instructions provided more detail than the principles based Treasurers' Instructions prepared under the *Financial Management Act 2016*.
- 13. The Treasurer's Instructions have been identified by the Department of Treasury and Finance as an area for review and improvement.

- 14. Research findings into matters of transparency, and accountability in financial reporting suggest legislation, such as the *Financial Management Act 2016*, needs to do more than merely increase the obligations on the Government to provide fiscal information and include consideration of how, and in what form, that information is to be disclosed.
- 15. No Australian jurisdictions include references to ethics in their financial management acts.
- 16. Ex gratia payments are made in all Australian jurisdictions.
- 17. Clear guidance is needed in the identification of ex gratia payments made under the *Financial Management Act 2016.*
- 18. There is a need for greater transparency and public scrutiny of ad hoc grant based election commitments.

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Hon Ruth Forrest MLC Committee Chair 25 August 2023

4 **RECOMMENDATIONS**

The Committee makes the following recommendations:

- 1. The Government consider amendments to the *Financial Management Act 2016* to:
 - a. Provide detailed explanations related to expenditure reported in the Supplementary Estimates Statements, including:
 - i. The use of the Transfer provisions;
 - ii. Rollovers;
 - iii. Treasurer's Reserve; and
 - iv. Variations to Special Purpose Payments and other Commonwealth Funding;
 - b. Include specific provisions in the Act to specify additional information required to accompany Supply and Supplementary Appropriation Bills (similar to section 19 which deal with ordinary annual Appropriation Bills);
 - c. Require the Supplementary Estimates Statements be prepared quarterly including a nil return if applicable;
 - d. Include an annual reconciliation on the use of the Treasurer's Reserve;
 - e. Clarify the definition and application of the term 'account';
- 2. The Government undertake a review of the Treasurers' Instructions to provide a greater level of explicit detail where appropriate.
- 3. The Government provide increased guidance in relation to the identification of ex gratia payments.
- 4. The Treasurer instruct all Agencies to annually:
 - a. present statements of estimated receipts, expenditure, and opening and closing balances for Agency Special Purpose Accounts; and
 - b. provide estimated outcome information to Treasury for inclusion in Agency Budget Chapters (Budget Paper 2) at a revenue by appropriation output group level and revenue by expenditure output group level, noting that these would be unaudited amounts.
- 5. To enhance transparency, the Government review the management and reporting of Specific Purpose Accounts, particularly:
 - a. the volume of transactions;
 - b. variations in transactions; and

- c. the purposes of balances.
- 6. The Government ensure comprehensive and transparent annual financial reporting of all subsidiaries of Government Business Enterprises and State Owned Companies.
- 7. During election periods, political parties and candidates be required to disclose grant commitments at the time of the commitment and the likely funding source, then subsequently demonstrate policy rationale for grant based election commitments.
- 8. The Government consider the proposed amendments and other suggestions made by key stakeholders (attached as Appendix H).

5 CONDUCT OF INQUIRY

- 5.1 The Committee resolved at its first meeting to advertise in the three daily regional newspapers on 11 February 2023 with a closing date for submissions of 17 March 2023.
- 5.2 On 19 December 2022, the Committee wrote to the Treasurer advising of the commencement of the Inquiry.
- 5.3 On 17 January 2023, the Committee wrote to Rod Whitehead, Auditor-General and Professor Richard Eccleston, University of Tasmania, advising of the commencement of the Inquiry.
- 5.4 In addition, the Committee wrote to targeted individuals and organisations to invite participation in the Inquiry through the provision of verbal or written evidence, including:
 - Office of the Australian Accounting Standards Board (AASB);
 - Chartered Professional Accountants Tasmania (CPA Tas);
 - Commonwealth Parliamentary Association (CPA);
 - Australian Institute of Company Directors Tasmania (AICD);
 - Institute of Public Accountants (Tas Division);
 - University of Melbourne (School of Government); and
 - Australian National University (Corporate Governance).
- 5.5 The Committee received two formal submissions.
- 5.6 On 21 March 2023, the Committee resolved to revert the Inquiry to a Short Inquiry Process (SIP) given the specialised nature of evidence received.
- 5.7 Public hearings were scheduled in Hobart on 24 April 2023 and 15 June 2023. The Committee heard from the Auditor-General Rod Whitehead, Professor Richard Eccleston and Tony Ferrall, Secretary, Department of Treasury and Finance.
- 5.8 On 19 June 2023, the Committee wrote to the following heads of Agencies to invite written feedback on the FMA as it relates to each Agency:
 - Donna Adams, Commissioner of Police and Secretary Department of Police Fire and Emergency Management;
 - Tim Bullard, Secretary, Department for Education, Children and Youth;
 - Kim Evans, Secretary, Department of State Growth;
 - Jenny Gale, Secretary, Department of Premier and Cabinet;

- Jason Jacobi, Secretary, Department of Natural Resources and Environment Tasmania;
- Kathrine Morgan-Wicks, Secretary, Department of Health; and
- Ginna Webster, Secretary, Department of Justice.
- 5.9 On 19 June 2023, the Committee also wrote to the Clerks of the House of Assembly and the Legislative Council to invite written feedback on the operation of the FMA as it relates to the House of Assembly, Legislative Council and Legislature-General.
- 5.10 The Parliamentary Research Service undertook a jurisdictional comparison of Treasurer's Reserves or similar mechanisms. This paper can be found at Appendix C.
- 5.11 The work of all individuals and organisations who contributed to the Inquiry is acknowledged. The written evidence provided was valuable and verbal evidence presented was thoughtful and informative.

6 SUMMARY OF EVIDENCE

- 4.1 A public hearing was held on Monday 24 April 2023 at Parliament House, Hobart, attended by Rod Whitehead, Auditor-General, Jonathan Wassell, Deputy Auditor-General, Jeffrey Tongs, Assistant Auditor-General and Stephen Morrison, Assistant Auditor-General, Tasmanian Audit Office.
- 4.2 The transcript of evidence from the hearing held on Monday 24 April 2023 is attached as Appendix B.
- 4.3 The Tasmanian Audit Office (TAO) also prepared a written submission to the Inquiry. This submission was provided to the Committee on 24 April. This submission is identified as Submission #2 and can be accessed via the Inquiry webpage.²
- 4.4 The TAO Submission provides background to the FMA:

3.1 The Act was introduced following a review of Tasmania's financial management framework, which reflected the financial administration and budgeting practices of the late 1980s. The Act replaced the Public Accounts Act 1986 and the remaining financial management provisions of the Financial Management and Audit Act 1990.

3.2 The main areas of reform included:

- broadening the scope of Tasmania's financial management framework by bringing all General Government Sector entities under a single, cohesive framework, and enhancing accountability and transparency
- combining the then Consolidated Fund and Special Deposits and Trust Fund (SDTF) into a single Public Account and the separation of funds held in trust from the Public Account
- providing a simplified and capped calculation of the Treasurer's Reserve amount
- simplifying the agency appropriation carry forward arrangements
- establishing the Treasurer's powers and obligations in relation to borrowing, guarantees and indemnities on behalf of the Crown
- consistent with the Audit Act, defining those ultimately responsible for the financial management of an agency as an Accountable Authority
- increased frequency in financial reporting by the Treasurer and establishing reporting obligations for agencies that are abolished

² Tasmanian Audit Office, 2023, *Submission #2*, 24 April 2023.

- providing for the authorisation and making of ex-gratia payments, and providing for the recovery of payments in the event that any conditions of payment are breached. ³
- 4.5 The TAO submission confirmed the view of the Tasmanian Audit Office that the *Financial Management Act 2016* is fundamentally robust and fit for purpose. The submission identified opportunities for review or further enhancement of the Act.
- 4.6 The TAO submission outlined a number of opportunities for reform to improve accountability and transparency:

It is recommended the inquiry consider opportunities to improve accountability and transparency as summarised below:

Long title

2.1 Add 'ethical' to the 'economical, efficient and effective' considerations for the management of public finance to reinforce the importance of ethics in government financial management and decision-making.⁴

Part 1 – Preliminary

2.2 Additional accountability mechanisms for Government Business Enterprises (GBEs) and State-Owned Companies (SOCs) would need to be established outside of the Act.

Part 2 – Accounts

2.3 Increased transparency on the purpose of the Specific Purpose Accounts and Agency Trust Accounts and the components and reasons for the retention of revenue in the accounts (including for what purpose those funds are to be spent).

Part 3 – Funds Management

2.4 Inclusion of an annual reconciliation on the use of the Treasurer's Reserve and the inclusion of that reconciliation in the Supplementary Estimates report prepared under section 24 of the Act.

2.5 Inclusion of additional information on the reasons for transfers, additional funding and rollovers for each agency in the Supplementary Estimates report.

Part 4 - Accountable Authorities

2.6 Move the Tasmanian Audit Office from part 1 to part 2 of Schedule 1, so as to remove the Auditor-General from being subject to Ministerial oversight for

³ Tasmanian Audit Office, 2023, *Submission #2*, pp. 2-3.

⁴ The Parliamentary Research Service researched whether 'ethical decision making' is referenced in other jurisdictions' financial management Acts. This research revealed that no Financial Management Act at a State or Territory level mentioned ethical decision-making within these Acts.

the financial management of Office, thereby negating potential conflicts and enhancing the independence of the Auditor-General.

Part 5 – Reports

2.7 Determine whether reports, in addition to the Treasurer's annual financial report and financial statements of agencies, prepared under Part 5 of the Act, should be subject to reasonable or limited assurance e.g., independent audit or review opinions.

2.8 Determine whether reporting by agencies should be subject to assurance reporting in respect to the reporting of their key performance measures or internal controls.

2.9 Determine whether agencies should be required to report on progress in implementing recommendations made in Auditor-General performance audit reports in their annual reports.

Part 6 – Miscellaneous

2.10 Provide increased guidance in relation to identifying ex-gratia payments, as provided for in section 55, in the Treasurer's Instruction FC-13 Ex-gratia Payments. 5

4.7 The TAO submission also made the following observation regarding the ability of Parliament to scrutinise Public Non-Financial Corporations (PNFCs) and Public Financial Corporations (PFCs):

11.1 The Act specifically excludes GBEs and SOCs from the operation of the Act in Section 6 of the Act.

11.2 The GBE Act, Corporations Act 2001 (where applicable), and various principal acts of the entities govern their financial reporting and accountability frameworks.

11.3 The GBE Act has the provision to issue Treasurer's Instructions to GBEs. In addition, the principal acts of the SOCs also require them to comply with the Treasurer's Instructions in the GBE Act.

11.4 The Tasmanian Government Businesses Governance Framework Guide (Framework Guide), issued in October 2008, outlines the governance frameworks for GBEs and SOCs including the Government's role as Owner, and details the:

- o accountability framework
- o role of Parliament
- role of the Treasurer and portfolio minister
- o role of Treasury

⁵ Tasmanian Audit Office, *Submission #2*, 24 April 2023, pp. 1-2.

• role of the portfolio department.

11.5 Accountability is generally through reporting to the Board and the portfolio minister, and to the Parliament through a scrutiny committee. If Parliament requires increased scrutiny of GBEs and SOCs then mechanisms will need to be considered outside of the Act.

11.6 In regard to subsidiaries of GBEs, the reporting frameworks are not clear. The Office has been in discussion with Treasury as to whether Tier 1 financial statements are required and any associated audit requirements for subsidiaries of GBEs.

11.7 The Framework Guide indicates that any changes to constitutions will need to be tabled by the relevant portfolio minister, but I note a footnote indicating that this may not be the case for all SOCs. ⁶

- 4.8 The Committee notes the TAO submission made a recommendation regarding increased guidance in relation to identification of ex gratia payments. The Parliamentary Research Service (PRS) undertook a review of ex gratia payments in other jurisdictions and confirmed that all jurisdictions made provision for ex gratia (also known as acts of grace) payments. The PRS paper can be found at Appendix D.
- 4.9 Professor Richard Eccleston, University of Tasmania, a senior academic having undertaken research and published widely in the fields of governance, public finance and taxation policy, prepared a submission to the Inquiry. This submission is identified as Submission #1 and can be accessed via the Inquiry webpage.⁷
- 4.10 Professor Eccleston's submission provided a high-level overview of the principles and issues relevant to the terms of reference of the SIP, provided options for reform of the Act and the more general need for ethical governance and leadership in relation to election commitments.
- 4.11 Professor Eccleston, in his submission, highlighted the two key areas central to improving the integrity and governance of election campaign commitments:

1. Transparency

The first issue concerns the need for greater transparency and public scrutiny of ad hoc, grant-based election commitments.

Campaign transparency

• Transparency in relation to the quantum of commitments, their policy rationale and the likely source of funding. Parties and candidates should be

⁶ Tasmanian Audit Office, *Submission #2*, 24 April 2023, p. 12.

⁷ https://www.parliament.tas.gov.au/committees/legislative-council/sessionalcommittees/govadmina/inquiries/inquiry-into-the-operations-and-application-of-the-financialmanagement-act-2016

required to report such commitments beyond a certain threshold during the campaign.

- If an established grant program is used as the basis for funding an election commitment then the public service or other independent authority should make a preliminary assessment of the merit of funding commitments with respect to the established funding program guidelines.
- Given public concern about the transparency and basis for campaign spending commitments, consideration might be given to extending the Ombudsman's powers to report on campaign commitments and their funding during campaign periods. An alternative approach would be to extend the Department of Treasury and Finance's powers to achieve the same effect.

Administrative transparency

- Appropriation
 - A particular concern surrounding the 2021 Tasmanian election is that the part of the appropriation (\$2.5 million) for commitments from the Local Communities Facilities Fund was drawn from the Treasurer's Reserve Fund. All states and the Commonwealth have various contingency and reserve funds for unanticipated expenditure which is entirely appropriate. Also, expenditure from such funds is generally documented in subsequent budget papers or updates as occurred under the provisions of the FMA 2016. One administrative reform worthy of consideration might be the more timely public reporting of the approval of expenditures from the Treasurer's Reserve.
- Formal advice and Parliamentary scrutiny
 - A further transparency measure worthy of consideration is for the publication of agency advice on the effectiveness and value of policies and grants made during election campaigns above a certain threshold. While it is an elected government's prerogative to implement a poorly designed policy or programs announced during an election campaign, any advice should be made public. Larger programs should be subject to formal evaluation and/or Audit Office review.
 - Campaign funding commitments should be scrutinised by the incoming Parliament at the earliest opportunity.

2. Ethical Governance

While improving transparency and reporting around election commitments is an important, incremental reform, we ultimately need cultural change and ethical political leadership to end the pork barrelling and ad hoc handouts that have come to dominate recent election campaigns across Australia.

We need a greater commitment to policies and programs designed to deliver desired outcomes rather than ad hoc grants. This would ultimately require a commitment to ethical governance which privileges process and the public interest over short term electoral gain. Well-designed and administered grant programs will continue to play an important role given that the community organisations which play such a central role in delivering services and supporting communities are often dependent on grant funding. Noting this, during campaign periods parties and candidates should commit to specific grant programs under which funding decisions would be subject to due process rather than ad hoc funding commitments.

Enhancing the integrity of our system of democratic government and restoring citizens' trust in it ultimately requires collective political leadership. While politically motivated election promises and grants may confer some short-term political dividends, if our political leaders can commit to a credible program of restoring integrity our democratic system then voters may well reward them.⁸

4.12 Professor Eccleston considered the practice in other Australian jurisdictions:

Based on a preliminary analysis it seems that both the Commonwealth and other states are all grappling with how best to improve the integrity and reporting in relation to campaign funding commitments and no one jurisdiction has a practice model which Tasmania could or should emulate. Perhaps the most robust guidelines and principles in relation to the design and allocation of grant programs can be found in the Commonwealth's Grants Rules Guidelines (CGRG) although these often haven't been applied in practice.⁹

4.13 In conclusion, Professor Eccleston noted the possibility of greater transparency and more timely reporting around election commitments:

Beyond administrative reforms designed to achieve these ends, all political parties should commit to a more ethical approach to election commitments and campaigning. We need to change the tone of the political conversation and establish election campaigns as a choice between different ideas, policies and programs, rather than ad hoc grants designed to win the vote of key constituencies. This type of political leadership would help restore trust in our democratic system and deliver better outcomes for the communities our parliaments are elected to serve.¹⁰

- 4.14 A public hearing was held on Thursday 15 June 2023 at Parliament House, Hobart, attended by Professor Richard Eccleston.
- 4.15 The Transcript of Evidence from the hearing held on Thursday 15 June 2023 is attached as Appendix B.
- 4.16 The Committee explored the possibility that certain commitments funded from the Treasurer's Reserve could potentially avoid parliamentary scrutiny:

Prof. ECCLESTON - What I would say is that the contingency funds are widely used. That probably needs comparative analysis about what the particular provisions are in terms of the circumstances under which a treasurer uses and

⁸ Professor Richard Eccleston, *Submission #1*, March 2023, pp. 3-4.

⁹ Professor Richard Eccleston, *Submission #1*, March 2023, p. 4.

¹⁰ Professor Richard Eccleston, *Submission #1*, March 2023, p. 4.

accesses those funds. I think parliamentary scrutiny after the event is critically important. And the one provision, from my reading of the circumstances and act, is that there should be an obligation to report or to gazette when those funds have been approved.

Mr WILLIE - *So*, *gazetting them when they are approved by the Governor*?

Prof. ECCLESTON - Gazetting when those funds have been approved by the Governor. I think that should be public in my understanding. I stand to be corrected and perhaps check this with the secretary, as I don't think there's an obligation to do that in a timely way.

Mr WILLIE - *We don't want to be too prescriptive in this section of the act because we don't know what unforeseen circumstances are often*.

I go back to that question. Does it need tightening up? Is the process used by the Government in this particular instance in the spirit of the act?

Prof. ECCLESTON - The provisions of the act are broad, so I think we'd say that the Government's conduct is certainly within the spirit of the act. As I said, there are specific issues that do warrant further consideration. As I said in my opening remarks, I have not had an opportunity to do that work.

There is also a trade-off here at the other end around the specificity and detail of budgets and budget processes. The more specific budgets are, the less flexibility there is in terms of appropriation and using funds within budgets. Having completely defined appropriations within a budget ticks the box for transparency and parliamentary accountability, but in terms of the administration of the complexities of government, it does make it a bit more difficult because there are significant funds within programs that are moved around, time delays, moved through time and in various ways reported back through the budget process and into parliament. So, it is a trade-off there between having some flexibility but also that accountability and where that balance lies perhaps needs further consideration.

Mr WILLIE - *... There is no question that it was lawful under the act and your submission refers to that, and I am not questioning that either.*

What happened in this particular circumstance, where the Government funded election commitments from the Treasurer's Reserve -

CHAIR - Some.

Mr WILLIE - Some of them, not all of them; a lot of them were tabled in parliament and debated. Is that a practice you would like to see continue?

Prof. ECCLESTON - Under some circumstances. I don't think we should be ruling it out.

Mr WILLIE - For election commitments?

Prof. ECCLESTON - The other trade-off here is that we want the timely delivery of services. The criticism from communities and commentators is that often governments are too slow to act in terms of implementation. I think the idea of somehow trying to prohibit using contingency or reserve funds for any election commitments is problematic. I think the most likely circumstance I can see is when there is a widely agreed priority that needs urgent investment. I think all of you would be happy to identify and will be advocating for priorities come the next state election, or when you're seeking re-election. The costs might be different, they might blow out, you might need additional funds to deliver a particular program or address an acute community need. In that regard, I would be a bit apprehensive about some sort of blanket prohibition on using contingency funds. What I think would be appropriate is if reserve or contingency funds are required to deliver a particular program in a timely way, that request for funding and the approval of that funding and, ideally, a rationale for why those special reserve funds were required should be made public, as it will be in three, six or nine months or during the next budget cycle.

•••

Prof. ECCLESTON - We need robust guidelines for when grant funding is used.

Mr WILLIE - And they are made public?

Prof. ECCLESTON - Yes.

•••

CHAIR - If I could follow up on that, the guidelines relate to the reporting of election commitments or the expenditure from the Treasurer's Reserve? There are two separate things here.

Prof. ECCLESTON - The guidelines that we are talking about are really about the guidelines for grant funding and at least say that it is explicit in terms for what these funds are designed for. If it is very small-scale spending around particular community needs, that can be baked in and then it is a matter for a government to justify that and for parliament to scrutinise that.

If we are talking about tens of millions of dollars, well, really, what is the rationale and what are the guidelines around that? That is where we are moving, with regard to the tensions between executive government and broader public administration.¹¹

Professor Eccleston concluded:

*Prof. ECCLESTON - I am firmly of the view that parliament is critically important and sovereign, and that's often an inconvenient truth for a lot of governments.*¹²

4.17 Anja Hilkemeijer, Lecturer in Law, Law School University of Tasmania was invited to respond to the Terms of Reference. Ms Hilkemeijer, in correspondence dated 12 April 2023, highlighted the distinction between effective transparency rather than the illusion of transparency:

> Identifying what changes could be made to the FMA to better deliver transparency for these purposes requires cross disciplinary expertise and

¹¹ Professor Eccleston, Transcript of Evidence, 15 June 2023, pp. 5-7.

¹² Professor Eccleston, *Transcript of Evidence*, 15 June 2023, pp. 5-7.

research, including of best practice in both national and international jurisdictions. A difficult challenge in designing reform proposals is that the mere increase in the production of fiscal data is likely to diminish, rather than enhance, parliamentary capacity for oversight and debate. Researchers warn that the availability of more fiscal data increases the risk of a 'transparency illusion' (see Moll and Quayle at 8).

Furthermore, a commitment to fiscal transparency by way of an increase in the release of data does not necessarily focus on increasing democratic accountability. To the contrary, Professor Miranda Stewart has shown that the focus of transparency efforts overly (sic) the last few decades has been on demonstrating 'fiscal austerity, expenditure constraint and market discipline of governments' (see Miranda Stewart, Transparency, Tax and Human Rights, Melbourne Legal Studies Research Paper Series no. 774, at 11).

These research findings indicate that any proposals to reform the FMA need to do much more than merely increase the obligations on the Government to provide fiscal information. There would also need to be careful consideration of how, and in what form, that information is to be disclosed.¹³

- 4.18 Tony Ferrall, Secretary and Susan Peterson, Assistant Director, Department of Treasury and Finance appeared before the Committee on Thursday 15 June 2023.
- 4.19 The Secretary prepared a presentation identified as *Tasmania's Financial Management Framework, 15 June 2023, Department of Treasury and Finance.* The presentation details the legislative framework, the structure of the Public Account and the requirements of the FMA, and highlights areas where the overall financial management framework could be enhanced to improve transparency and accountability. The presentation is attached at Appendix E.
- 4.20 The Secretary made the following observations regarding the legislative framework, detailing the range of legislative and financial governance documents of the Tasmanian public sector:

People often think that the limitation is around the Financial Management Act but there are linkages to the Constitution Act, the Charter of Budget Responsibility Act, the Audit Act and the Financial Management Act, and then you pick up appropriation acts. There is enabling legislation of state authorities and there is also Treasurer's Instructions which are issued under the authority of the FMA. It is quite broad and they all interact in terms of any particular issue or particular decision. You can't necessarily look at just one piece of legislation to understand what should happen or does happen.

The classification framework is determined in accordance with the principles and rules set by the Australian Bureau of Statistics and the entities are classified into three different sectors.

Looking at the table, the General Government Sector [GGS] includes all government departments, some state authorities controlled and mainly financed from the public sector, and state authorities included in the GGS include entities such as TasTAFE, Royal Tasmanian Botanical Gardens and

¹³ Correspondence from Anja Hilkemeijer to the Committee, dated 12 April 2023.

State Fire Commission. In contrast, the public non-financial corporation sector - PNFC - generally covers the majority of its expenses from its own revenues by the sales of goods and services and is generally more commercially focused.

The PNFC sector includes state-owned companies and government businesses, and some state authorities as well. Where an entity lies is not always an easy thing to pick up from either its name or what it is and it's classified by the Australian Bureau of Statistics [ABS]. Some end up in the General Government Sector; those that are more likely to be seen as trading enterprises end up in the PFNC sector. The ABS classification is not a choice that the state makes; it is the classification the ABS decides.¹⁴

- 4.21 The principles and rules of the ABS can be found as Appendix F.
- 4.22 With regard to the FMA, the Secretary made the following comments:

Mr FERRALL - ... The introduction of the Financial Management Act 2016 was effective from 1 July 2019 and it replaced the then 30-year-old legislation and introduced the new structure of the Public Account, new Treasurer's Instructions and revised the responsibilities for managing the state's finances. The FMA, at a high level, provides for the management of the public finances of the state in a manner consistent with contemporary accounting standards and practices, so it's linked to contemporary accounting standards and practices. It establishes minimum requirements for the supporting statements required with respect to bills for appropriation, so there's specification of what must be provided with an appropriation act. It provides authority for the Treasurer to manage appropriations under certain circumstances, and I'll go through those circumstances in a moment; and to report supplementary Estimates to Parliament. It also provides authority for an accountable authority to draw money from the Public Account under certain circumstances. It establishes the responsibilities of the accountable authority of an agency so 'accountable authority' is effectively the head of agency. The act does allow delegation, though, of responsibilities of the accountable authority. It requires the Treasurer to provide quarterly and annual financial reports to Parliament in relation to the General Government Sector and the Public Account, and requires the accountable authority of an agency to provide annual audited financial statements to Parliament for the relevant agency. It provides for the Treasurer to issue instructions in respect of the principles, practices and procedures to be observed in the financial management of all agencies, so that's effectively the Treasurer's Instructions.

Mr WILLIE - In terms of the agencies reporting to Parliament, do you have any comment on how that's done in practice? The Parliament gets snowed with some days 30 annual reports being tabled at once and it's difficult for the media and parliamentarians to scrutinise.

Mr FERRALL - I agree it's difficult to scrutinise. The requirements around the preparation and publication of an annual report and financial statements are really built around the end of the financial year, then the capacity of the agency to prepare the statements, the Auditor-General to do audits of the statements and then push them through. I'm not sure you can avoid a large

¹⁴ Mr Tony Ferrall, *Transcript of Evidence*, 15 June 2023, p. 2.

volume at a point in time because you'd have to change the whole reporting cycle of everybody and move them out of cycle. It satisfies the accountability requirements; it's just a question for Parliament whether there is time or capacity to scrutinise those to the level that Parliament may want to.

Mr WILLIE - And the fourth estate, too. Often, they will make comment about having so many reports to work through, and in a timely way. We can provide scrutiny over a period of time; it's just whether it's timely in terms of when they've been published.

Mr FERRALL - I have some comments about that later. I think there are some ways that some of that timeliness, in some areas of scrutiny, could be enhanced by having some other reports at different times, potentially. Fundamentally, Parliament is overlooking a very large group of individual agencies and GBEs, and the volume is somewhat unavoidable. GBEs come later for scrutiny, but even then, it's still large volumes.

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Mr FERRALL - ... The FMA builds on the principles from the Charter of Budget Responsibility Act in regard to financial management responsibilities of accountable authorities, including the accountable authorities responsible for ensuring an agency's financial management processes, records, procedures, controls and internal management structures are appropriate; ensuring the custody, control and management of accounting for all property, public money, other property and other money in possession of or under the control of an agency. The point I'm making here is really that it is a sort of disagaregated or decentralised model in terms of having accountable authorities at the agency level who are responsible for these things. Although Treasury has quite a significant role, people sometimes confuse Treasury's role with the accountability at an agency level. The accountable authorities are responsible for ensuring that appropriate stewardship is maintained over the assets of an agency and the incurring of liabilities of an agency, and ensuring the effective and efficient use of resources in achieving the government's objectives.

CHAIR - ... If you have an agency that appears to be acting contrary to that, say, there is a whole range of liabilities that could grow, such as leave liabilities ... at what point and who would step in there and say you are allowing this to go beyond your statutory requirements as an agency?

Mr FERRALL - In a practical sense, Treasury does monitor a range of things occurring within agencies, not necessarily to the level of leave liability, as an example, but to the extent that there were behaviours in an agency of which we may form a view they would be inconsistent with the principles or the FMA. In the first instance, we would raise that with the Treasurer. There is a set of guidelines and rules, particularly around things like the Treasurer's Instructions, which do create some boundaries around those kinds of areas. Quite clearly, if there was an agency where there was an egregious going beyond those boundaries, then that would be a matter Treasury would need to deal with. There are provisions in the act which haven't been exercised, but if the Treasurer's Instructions, for example, have been breached, it is ultimately a breach of the law. From a head of agency - CHAIR - Because of the powers in the act to establish the Treasurer's Instructions? They are not scrutinised in any way.

Mr FERRALL - No, they are not. But the powers in the Act -

CHAIR - But if there was a breach of them, it is now actually a breach of the FMA.

Mr FERRALL - Yes, and a breach of the FMA, for a head of agency, is a breach of law, which, under the State Service Act, is an actionable act.

Mr WILLIE - *There are exemptions to the Treasurer's Instructions in many circumstances, aren't there?*

Mr FERRALL - Yes, they can be given.

CHAIR - By the Treasurer?

Mr FERRALL - Yes. ...

...

Mr FERRALL - Just going through page 9, some of the other legislation. The Constitution Act authorises the issue and application of money from the Public Account. That is Part 4 of the Constitution Act. The Constitution Act deals with appropriations, it deals with taxing and it deals with the structure of appropriation bills. The role of the Auditor-General is established under the Audit Act 2008 and the powers and responsibilities of the Auditor-General are detailed through that Act. The Auditor-General is required to provide an independent view on the financial and operational position and management of the state's agencies and businesses. The Auditor-General also provides a view on the fiscal sustainability of government entities, and has the power to investigate those entities and provide a report on a broad range of issues. Going to the question earlier about what happens if there was a breach, part of that is picked up through the Auditor-General's role as well.

...

Mr FERRALL - ... All accountable authorities are required to submit a financial statement to the Auditor-General, each financial year. This statement, along with the report from the Auditor-General, comprises the annual financial report of each agency as prescribed in the FMA. Effectively, those linkages require agencies to have fully audited reports produced for their annual report or included in their annual report.

Other legislation that you would also be familiar with such as the Public Accounts Committee Act provides the committee with broad-ranging powers enabling it to inquire into matters relating to financial management, administration or use of public finances, or any matter that it considers related to public finances. The Public Works Committee Act establishes the Parliamentary Standing Committee on Public Works; the act dictates its membership, powers and responsibilities and it covers public works undertaken by a GGS entity. That does include agencies and state authorities if they are in the GGS. The point I am really trying to make is, there are multiple legs to almost any financial decision. If there is a financial matter relating to capital expenditure, it can fall into the Public Works Committee Act, it can be captured under the Constitution Act, it can be captured under the FMA. When you are looking at how things might be occurring or what needs to occur, you have to look much broader than just the FMA.

Lastly, in terms of legislative framework, the State Service Act establishes government departments under Schedule 1, Part 1 of the act and state authorities under Schedule 1, Part 2. It also provides for the establishment of a head of agency for each agency. Among other things, the State Service Act requires heads of agency to operate and ensure their agency is operated effectively, efficiently and economically as is practical. Again, there is another linkage into the State Service Act. As I said earlier, the State Service Act also requires an agency to produce an annual report.¹⁵

4.23 In relation to expenditure from the Public Account, the Secretary made the following comments:

... there cannot be any expenditure from the Public Account without appropriate authorisation. Treasurer's Expenditure Control Authorities are issued subsequent to the passage of the appropriation act, including if there was a supplementary appropriation. The Treasurer's Expenditure Control Authority [TECA] reflects the total appropriation - both operating and capital services authorised to be drawn down from the Public Account in the relevant budget year. An obvious point I would make is that an appropriation is not money per se. An appropriation is an authority. I do not think that the members here would confuse that but some people do confuse an appropriation and think it is money. What is really is, is an authority for expenditure.

Accountable authorities are authorised to draw money from the Public Account under the FMA in accordance with other written law. That also includes reserved-by-law expenditure. To support accountable authorities to manage expenditure from the Public Account, the Secretary of the Department of Treasury and Finance issues what we call a Public Account Expenditure Summary to each accountable authority of an agency on a quarterly basis. The summary contains all of the approved estimates for expenditure from the Public Account for an agency for the relevant year. Specifically, it includes the approved estimates for annual appropriation, in accordance with the TECA and any adjustment to the expenditure estimates approved by the Treasurer.

If the Treasurer exercised some of the authorities under the act to make adjustments to particular expenditures, then the Public Account Expenditure Summary would be adjusted in line with that. It also includes estimates for expenditures from the Specific Purpose Accounts in accordance with the estimates approved by the Treasurer pursuant to section 17 of the FMA. I will go in to a bit more detail on the Specific Purpose Accounts in a moment. It also includes expenditure reserved by law appropriation in accordance with other written laws. We provide accountable authorities with a summary, simply because there are various elements of the expenditure that they are authorised to make that come from different heads of power. It is easier for

¹⁵ Tony Ferrall, *Transcript of Evidence*, 15 June 2023, pp. 5-8.

us to provide them with a summary, and if there's an amendment, here's another amendment, otherwise they might inadvertently attempt to overspend or not understand what authorities they've got in expenditure.

I will move on to Specific Purpose Accounts. Under the Act, the Treasurer may establish a Specific Purpose Account for any money kept in the Public Account, and the Treasurer must specify the purposes for which the Specific Purpose Account is to be used and the agency responsible for its administration.

Estimated receipts and expenditure in relation to each account must be reported to Parliament in the budget papers as part of the development of the annual appropriation act. Agencies can only retain and expend funds from the account in accordance with the approved purpose.

If an agency wants to treat a new revenue item as agency revenue and retain it within the Specific Purpose Account, it must submit a request to the Secretary of Treasury for consideration by the Treasurer. Agencies need to monitor their accounts on an ongoing basis to ensure that no revenue is retained without approval.¹⁶

4.24 In relation to whole-of-government reporting, the Secretary noted:

Mr FERRALL - ... the requirements for quarterly reporting are in Part 5 of the Act and the following whole-of-government reports are required to be published. These are:

- September Quarterly Report that's no later than 45 days after the Auditor-General's report has been prepared;
- Revised Estimates Report which is no later than 15 February in the financial year to which it relates;
- December Quarterly Report this report is the report of actuals up to December and that's no later than 15 February.
 - ...
- March Quarterly Report which is generally published in the budget papers if an appropriation bill is tabled within 45 days at the commencement of a financial year, or no later than 15 May.

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Mr FERRALL - ...

- Preliminary Outcomes Report which is only provided under certain circumstances. That's no later than 15 August; and
- Treasurer's Annual Financial Report which is no later than 31 October.

¹⁶ Tony Ferrall, *Transcript of Evidence*, 15 June 2023, pp. 10-11.

The Revised Estimates Report presents the detailed financial information, including revised Estimates for the current year and revised forward Estimates, so that's effectively a mid-year report. It provides an explanation of the variations between the original budget and the revised Estimates and the assessment of the government's performance against its Fiscal Strategy, as I mentioned earlier. The mid-year report fiscal strategy update needs to be included as well.

CHAIR - Tony, on that, are we likely to see in the RER this coming year a lineup with the fiscal strategies as outlined in the budget papers?

Mr FERRALL - Yes, unless there's a change to the Fiscal Strategy, the current Fiscal Strategy needs to be reported in the RER.

The Preliminary Outcomes Report is required to be prepared if the preliminary outcome results for the previous financial year differ materially from the estimated outcome published in the budget. When we put the budget forward we do an estimated outcome. We tend to do that, again, some time before the end of the year. It's generally likely that the Preliminary Outcomes Report is required because usually, at least in my time I've made the judgment that there's a difference between the estimated outcome published in the most recent budget and what we're seeing as at 30 June. Mostly, if not always, there will be a Preliminary Outcomes Report presented.

CHAIR - Tony, is 'material variation' defined in the definitions? ...

Mr FERRALL - No.

CHAIR - Can you just give us a description of how that is assessed, by what measure?

Mr FERRALL - It is not numeric, simplistically put, and it can't be. If you started to try to do it as a percentage, what would that mean? Is it 5 per cent against the operating balance? Is it 5 per cent against the estimated capital expenditure? There is a whole variety of factors you would need to bring into account as to whether it is material or not. My judgment has been that if it is different, then it is probably going to be material because somebody will have an interest in it somewhere, as to why the capital is down a bit or why your recurrent expenditure is up a bit or whatever else it might be. I have tended to form the view that it will nearly always be material if there is a difference. I mean, quite clearly, if you ended up with \$10 or a couple of hundred or couple a million across all measures, you'd say that it is probably not material, but there could be circumstances where, even though that might not be material in the global budget, they could be material because of the specific nature of them.

Mr WILLIE - *This is one of those broad interpretations that you talked about at the start?*

Mr FERRALL - Yes.

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Mr FERRALL - ... In practice, it has been, in my judgment, that we'll produce a Preliminary Outcomes Report.

The Treasurer's Annual Financial Report presents audited statements for the General Government Sector and the Total State Sector, including audited Public Account information and also mandatory statistical information. The Treasurer's Annual Financial Report is audited by the Auditor-General and is published no later than 31 October. It is tabled before each House of Parliament on or before 31 October.

On other whole-of-government reporting, section 24 of the FMA outlines the requirements for the Treasurer to prepare supplementary estimates after the end of each financial year. The statement will include all of the information as required under the FMA. This is where you pick up the transfers of appropriation, the utilisation of Treasurer's Reserve, variation in appropriations for Commonwealth grants, any emergency expenditure that has been authorised by the Governor, and it also picks up rollovers from unexpended appropriations.

While the FMA requires only the total value of each of these authorisations, the Supplementary Estimates Statement breaks down the authorisations by agency. The statement is published in the Preliminary Outcomes Report, unaudited, and in the Treasurer's Annual Financial Report, audited.

Agency reports - the requirements to prepare an annual report are included in the State Service Act. The FMA requires that if an agency is required to prepare an annual report, the accountable authorities are required to include annual financial statements in that annual report. Agency annual reports must include the Auditor-General's report and must be tabled in Parliament by 31 October each year, which is why you get all of them on the 30th. As also previously highlighted, a report is required to be prepared on the abolition of an agency, and this is also required to be submitted to the Auditor-General. With the recent abolition of an agency, there was a report submitted by the Auditor-General and the report was tabled in Parliament.

Mr WILLIE - Going back to the discussion where they are all tabled on one day, some agencies would have them prepared before that day and there are Parliament sitting days. ...

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Mr FERRALL - In part, it is to do with the Auditor-General's workload as well. I mean, using Treasury as an example, we have not necessarily been able to get the Auditor-General's final certification; even though we have prepared our report some time previously, we have to wait for that final certification.

CHAIR - Also, don't you need to wait until you have all the final results from the agencies to report on the Special Deposits and Trust Fund and the Specific Purpose Accounts - for the TAFR?

Mr FERRALL - Yes. I am not sure there is anything you can do about the sheer volume. One way of changing it, you'd have to change the reporting cycle from June on June, and that would bring in a whole raft of other challenges. For a

whole-of-state consolidation as at June, we would have to consolidate with interim figures. You just need more time in Parliament.¹⁷

4.25 The Secretary highlighted an opportunity for improvement with regard to the Supplementary Estimates Statement:

Mr FERRALL - ... There are two aspects to that. One is the information included with the statement and the other is the timing. The Supplementary Estimates Statement presents the supplementary estimates of all expenditure from the Public Account that is authorised under sections 20, 21, 22 and 30. It's effectively where the treasurer of the day has utilised his or her authorities under the act to either transfer appropriations or provide a RAF [Request for Additional Funding] or various other things.

The Supplementary Estimates Statement is required to be included with the Preliminary Outcomes Statement - that's in an unaudited form, which it is - and also with TAFR, in an audited form. That satisfies the legislative or tabling requirements, but there's no requirement to provide additional information relating to the reasons or purpose of the determinations made. The Houses ultimately see a table with, across the top, five sections of the Act and, going down, a series of numbers with agency name on the other side.

CHAIR - The Legislative Council does not accept that as adequate.

Mr FERRALL - No, and we, as you know, provide further support or explanation so that the Treasurer or the Leader [of the Government] in the Upper House can address the Legislative Council's issues or questions. My proposition is that there's no reason why you can't include those in the Supplementary Estimates Report that's published with the preliminary outcomes and published with the TAFR.

CHAIR - Are you saying, Tony, that section 24 could be amended to require that to make it really clear on a policy position?

Mr FERRALL - Yes. You could. Whether or not the legislation is amended is a question for others, but I think, ultimately, it would be an enhancement of the information that's provided to have the detailed explanation of the reasons for the particular determinations. I'm not sure that the list of numbers actually does anything in terms of accountability or for ensuring that the community is appropriately informed. It needs context; it needs something. I propose that be effectively included - and detail in relation to the use of the transfer provisions, the rollovers, Treasurer's Reserve, variations to SPPs and other Commonwealth funding.

In regard to timing, most of those determinations are made late in the financial year, but they're not necessarily all made late in the financial year. Again, I don't see any fundamental reason why you couldn't be required to table a statement quarterly, including annual return if appropriate. Where a determination is made, I think it's quite reasonable that that determination is then made public through a quarterly statement, which could be tabled.

¹⁷ Tony Ferrall, *Transcript of Evidence*, 15 June 2023, pp. 20-23.

CHAIR - That would require a change to section 24(1)...

Mr FERRALL - The old act had a quarterly tabling -

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Mr FERRALL - Again, in terms of just openness and transparency, I think there's no reason it can't be done on a quarterly basis, and if the answer is there's no determinations, then it's not a particularly onerous tabling task.

...

CHAIR - Acknowledging it is not money, is asking about what their balance in the Treasurer's Reserve is at any time a reasonable question to be asking? In February or March, whenever we're back -

Mr FERRALL - You would get that quarterly if you had this quarterly report. What it would show is that if there's zero commitments against the Treasurer's Reserve in the first quarter then it's still what it was at the start, but if it's the first or second quarter and there's \$50 million or \$20 million of commitment, or whatever it might be, then that would be disclosed in that quarterly statement. ¹⁸

4.26 The Secretary highlighted the Treasurer's Instructions as an area for improvement:

The third area I would probably suggest for improvement is in relation to the Treasurer's Instructions. As members would be aware, with the introduction of the new act, we move to what we called a more principles-based approach to the Treasurer's Instructions. They've got generally less detail and less prescription in them than the old Treasurer's Instructions we had previously. I think that has left some gaps in regard to specific compliance from agencies. Whilst for some Treasurer's Instructions it's quite appropriate for the instructions to be written in the sense as a principle, I think there are some elements and some instructions where conformance and sort of standardisation and clear practices is probably more warranted across agencies. Also, not all but some agencies have raised with me that they'd welcome more direction in relation to some Treasurer's Instructions because principles are sometimes too wide and difficult for them to interpret, and also trying to ensure that they can be confident they've done the right thing as opposed to thinking they have because they think they're in the right space, as opposed to maybe a direction in some cases. Treasury had always intended to do this after the introduction of the FMA. Again, I would flag that the reality is, the FMA has only been in place since 2019, so it's only really in place for three years. One of those years it was sort of a lost cause for everybody, for various reasons. It hasn't actually been in that long and I think it's an appropriate time to look at it, particularly to start going through the Treasurer's Instructions and look at which ones ought to be more explicit in detail and those which might stay as principles-based.¹⁹

¹⁸ Tony Ferrall, *Transcript of Evidence*, 15 June 2023, pp. 25-26.

¹⁹ Tony Ferrall, *Transcript of Evidence*, 15 June 2023, pp. 26-27.

4.27 The Secretary noted other minor issues which could be rectified by redrafting certain provisions of the Act or by improving definitions:

Mr FERRALL - ... For example, the definition of the Public Account can be challenging even though it might seem simple because a Special Purpose Account or a Specific Purpose Account is within the Public Account, and so is the appropriation, in a sense. When you start talking about the Public Account, within the Act itself the definition is actually used, in my view, in two slightly different ways in a couple of the clauses in the Act. I think it is a tidyup, not a fatal flaw, but it would make it a bit easier.

There are also some areas in the act where we talk about 'account' and it probably means a ledger as opposed to a bank account. Now, that's again generally apparent from the context which is related to the specific provision. I think it is easy for people to get confused between whether it is a ledger account or it is a bank account per se. I think there is some tidying-up around those provisions which would then help clarify some of the drafting in the current bill.

CHAIR - When you look at the definition of 'accounts', it really talks about ledgers doesn't it, as opposed to where the money sits?

Mr FERRALL - Yes, and it talks about an 'authorised deposit-taking institution' but when you go into the Act and you start to look at accounts and where it's used, it gets -

CHAIR - It gets blurred.

Mr FERRALL - *If* you understand what we believe is intended, it is not confusing. I think it needs some clarity.

Lastly, in terms of provisions, in the supply and supplementary appropriation bills, or the sections in relation to supply and supplementary appropriation bills, there is no specific reporting or supporting information requirements for both the supply and the supplementary appropriation bills. Although governments have always provided additional supporting information, there is no requirement to do that. I think there ought to be a specific provision included in the act to specify what additional information requirements are, similar to section 19, which deals with the ordinary appropriation. Practically, it has to be less than that because that is supported by the budget papers. I think there should be an explicit provision detailing, or at least indicating, what supporting information would be required.

CHAIR - With both supply and supplementary appropriation bills, there is a second reading speech that often outlines some of that. But you're suggesting a little bit more detail. ...

Mr FERRALL - Yes. The budget papers currently form supporting information for the bill; there's an explicit reference in the bill that's tabled in parliament, which is how you do your chasing down from a high-level appropriation down to an output level; you can only do that in the budget papers. There is no similar provision in relation to supply or supplementary appropriation. I think it is less of an issue with supply because what you are doing is enabling the continuation of the ordinary services of government through that supply period, if you introduce a supply bill. But I think with a supplementary appropriation, there possibly or potentially could be some greater transparency by providing more detailed information supporting it.

Again, from my history, all governments have provided that information effectively through speeches or through other aspects when they seek passage of a supplementary appropriation, but it probably warrants having a specific document tabled which provides more of that rather than relying in the speech or the questions in the debate, et cetera.²⁰

4.28 The Secretary was asked to make comment on ethical considerations with regard to the role and function of governments in their spending, particularly in light of the Auditor-General's consideration that 'ethical' could be included in that consideration:

Mr FERRALL - I am not against that sort of consideration but I think you have to be very careful of what that might mean. There is no totally objective view of 'ethical'.

...

Mr FERRALL - ... there can be differing judgments as to how ethical something is or isn't.

CHAIR - And whose ethics we are talking about.

Mr FERRALL - You could run into some strange views around whether it is ethical for particular activities to occur in a public hospital, for example, but there would be different views on that. I would be careful if there are additional requirements that people are trying to meet in that sort of respect, and even with the existing ones, to be fair to the people who are trying to implement the legislation, there ought to be clear definitions of what the expectation is.²¹

4.29 The Secretary was invited to make comment regarding funding for the Treasurer's Reserve for election commitments, and whether potential improvements could enhance transparency in that process:

Mr FERRALL - The process, as I have said to the Public Accounts Committee, was and is transparent. I don't think there is an issue of transparency; I think, probably from a parliamentary point of view, or maybe even a political point of view, it is a question of the timeliness of that transparency and whether, when those commitments were in the subsequent appropriation bills, there was appropriate scrutiny of those at the time and whether, if members of Parliament had a concern about them, they should have dealt with them at that point. But if you adopted the proposal in terms of having the supplementary Estimates reported effectively quarterly, then those RAFs would have been reported on a more timely basis, which might have assisted people in their views or their debate.

²⁰ Tony Ferrall, *Transcript of Evidence*, 15 June 2023, pp. 28-29.

²¹ Tony Ferrall, *Transcript of Evidence*, 15 June 2023, p. 30.

CHAIR - That is another way of more timely reporting of it, even though that is the decision that is made as opposed to a decision that has to get the approval of Parliament.

Mr FERRALL - Yes. Parliament has given the treasurer of the day the capacity to utilise the Treasurer's Reserve for a whole range of very appropriate reasons. In my view, the only real question in relation to the specific matter you have mentioned is whether or not transparency could be enhanced by maybe more timely reporting of those matters, which I think it could be with a quarterly report.

Mr WILLIE - *We heard from the previous witness that if that process is used that it should be gazetted; does that not happen?*

Mr FERRALL - *Well, what I would question or ask is, what does gazetting do, as opposed to it being reported and tabled?*

Mr WILLIE - Well, I suppose it is effectively the same thing, isn't it?

Mr FERRALL - Purely, if gazetted means putting it in the Gazette, I am not sure, apart from when the Gazette used to be nailed on the door of various places so people could read it and see it, I am not sure in the current world order that that would add much in terms of public awareness and being made transparent. I'm not against it, but it is just another step.

...

CHAIR - Tony, in that case, if there was a RAF- or the Treasurer's Reserve, by way of RAF - utilised to fund election commitments, there would be no way that you could then push that out to the very end of the financial year legitimately, could you? If we did the more frequent quarterly reporting, are you fairly confident it would show up there rather than be pushed out to a June RAF?

Mr FERRALL - It should be. An accountable authority cannot expend money on something they do not have an appropriation for or some other lawful means, so if it was a new purpose, then the mechanism for that is not an ordinary RAF approved by the Treasurer; as a new purpose, it would have to be a RAF approved by the Governor and then, instead of it being reported quarterly, it would be shown in the report. I think the framework is appropriate; it is just a question about the timing of some of those things.

A government which is elected has to be enabled with the capacity to put in place its broad election commitments. That seems to stand to reason to me that if there are lawful mechanisms in the Financial Management Act which enable the government to facilitate its commitments of the day in a timely or a reasonably timely basis, then that is what they are authorised to do.²²

4.30 The Committee wrote to Mr Ferrall following the hearing requesting a list of the 33 Specific Purpose Accounts and 19 agency trust accounts and recommendations related to reporting transparency of the Specific Purpose Accounts. Mr Ferrall also provided a schedule summarising key requirements under the FMA and a short

²² Tony Ferrall, *Transcript of Evidence*, 15 June 2023, pp. 30-31.

description in relation to each requirement. This document is attached as Appendix G.

4.31 The Committee received a written response from Kathrine Morgan-Wicks, Secretary, Department of Health, on 7 July 2023 providing the following feedback on the application and operation of the Act from an Agency perspective:

> I note that, at the time that it was introduced, the Financial Management Act was aimed at ensuring higher levels of accountability and transparency for the Tasmanian Government, and to establish a contemporary financial governance relationship between Tasmania's Parliament, the Executive Government and public sector entities. In my view, that intended purpose has been achieved.

> ... I note that the Auditor-General's submission to the Committee concluded that, fundamentally, the Financial Management Act is robust and fit for purpose. I concur with and strongly support that view.

I note your letter seeking my views on the application of the Financial Management Act made particular reference to the presentation by the Secretary, Department of Treasury and Finance to the Committee of 15 June 2023. I have reviewed the Hansard Transcript of that Hearing and note that Treasury suggested a number of opportunities for further enhancement of the Act. I thought that it may assist the Committee if I provide my views on those suggested improvements, which are as follows:

• The suggestion that Agency Budget Chapters (in Budget Paper No 2) should present estimated outcome information is supported.

I note that the estimated outcome information presented for the General Government Sector (GGS) in Budget Paper No 1 is provided at financial statement level (ie Income Statement, Balance Sheet and Cash Flow Statement) and suggest that, for consistency purposes with the GGS information, agencies should also present estimated outcome information at financial statement level. However, I note that the Department of Health has previously provided Legislative Council Estimates Committees with estimated outcome information at Revenue from Appropriation by Output level and, should the Committee regard this as useful, that information could also be presented in the Agency Budget Chapter.

• The suggestion that Agency Budget Chapters (in Budget Paper No 2) should present a statement of estimated receipts, expenditure and opening and closing balances for Agency Specific Purpose Accounts is supported, although its (sic) not clear from the Transcript of 15 June 2023 whether this was intended to be for the upcoming Budget year, the current financial year or both. This may need to be considered by the Committee, noting that Agency Budget Chapters are generally presented having regard to information for the upcoming Budget year. I note that information on estimated Specific Purpose Account transactions is currently presented for the General Government Sector in Budget Paper No 1 (page 92 -94 refers) and suggest that, for consistency purposes with the GGS information, agencies should also present SPA information in a consistent format and at a similar level of detail to the GGS information. • I note that Treasury suggested a number of improvements in respect of the presentation of Supplementary Estimates and I defer to the Treasury Secretary's view on those matters.

• Treasury also suggested that it may be timely for a review of the Treasurer's Instructions with a view to providing a greater level of interpretive detail in certain TIs, where deemed appropriate.

Treasury also suggested the potential for some minor redrafting of certain clauses in the Financial Management Act where the definitions are inadequate or where references to specific terms such as "account" may be confusing. Both of those recommendations are supported, however, I strongly suggest that any such review of the TIs or revised legislative drafting should be undertaken in conjunction with agencies and should also engage with the Public Accounts Committee.²³

4.32 The Secretary, Department of Premier and Cabinet, the Secretary, Department of Natural Resources and Environment Tasmania, and the Secretary, Department of Justice, confirmed in writing that they had no feedback to provide in relation to the operation and application of the FMA.

²³ Correspondence from Kathrine Morgan-Wicks, Secretary Department of Heath to the Committee, dated 7 July 2023.

Appendix A – Meeting Minutes

LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION 'A'

SHORT INQUIRY PROCESS INTO THE OPERATIONS AND APPLICATION OF THE FINANCIAL MANAGEMENT ACT 2016

MINUTES OF MEETING

FRIDAY 25 AUGUST 2023

The Committee met at 10:30 am in Committee Room 2, Parliament House, Hobart and via Webex.

Members Present

Mr Duigan (Webex) Mr Edmunds Ms Forrest (Chair) Mr Gaffney Mr Harriss Mr Willie

Apologies

Nil

In Attendance

Jenny Mannering (Committee Secretary)

Confirmation of Minutes

The **Minutes of the Meeting** held on Friday 11 August 2023 were confirmed as a true and accurate record.

Correspondence

Incoming

1. Email dated 28 July 2023 from Kate Mills on behalf of Ginna Webster, Secretary, Department of Justice in relation to the operations and administration of *Financial Management Act 2016.*

Outgoing

Nil

The Committee received the incoming correspondence.

Consideration of Draft Report

The Committee considered the draft report.

The Committee completed its final review of the draft, chapter by chapter, and RESOLVED that the report be adopted as the final report of the Committee with minor amendments as agreed to, and that the report be the report of the Committee.

The Committee RESOLVED that the Report be Tabled on 5 September 2023.

The Committee RESOLVED to publish the Report on the Inquiry webpage upon tabling.

The Committee RESOLVED to prepare a media release advising the media when the Report is available to access on the Inquiry webpage.

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<u>Adjournment</u>

At 12:50 pm the Committee adjourned.

DATE

25 August 2023

CONFIRMED

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CHAIR

LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION 'A'

SHORT INQUIRY PROCESS INTO THE OPERATIONS AND APPLICATION OF THE FINANCIAL MANAGEMENT ACT 2016

MINUTES OF MEETING

FRIDAY 11 AUGUST 2023

The Committee met at 1:00 pm in Committee Room 2, Parliament House, Hobart and via webex.

Members Present

Mr Duigan (webex) Mr Edmunds Ms Forrest (Chair) (webex) Mr Gaffney Mr Harriss Mr Willie

Apologies

Nil

In Attendance

Jenny Mannering (Committee Secretary)

Confirmation of Minutes

The **Minutes of the Meeting** held on Thursday 15 June 2023 were confirmed as a true and accurate record.

Correspondence

Incoming

- 1. Email dated 27 June 2023 from Lydia Horne, Team Leader Secretary Support, Department of Premier and Cabinet in relation to requested information
- 2. Letter dated 27 June 2023 from Tony Ferrall, Secretary, Department of Treasury and Finance providing response to questions taken on notice at public hearing on 15 June 2023
- 3. Letter dated 3 July 2023 from Jenny Gale, Secretary, Department of Premier and Cabinet in relation to feedback regarding Inquiry
- 4. Letter dated 5 July 2023 from Jason Jacobi, Secretary, Department of Natural Resources and Environment Tasmania in relation to feedback regarding Inquiry
- 5. Letter dated 7 July 2023 from Kathrine Morgan-Wicks, Secretary, Department of Health providing information to the Inquiry

Outgoing

- 1. Letter dated 20 June 2023 to Donna Adams, Commissioner of Police/Secretary, Department of Police, Fire and Emergency Management in relation to the operations and administration of *Financial Management Act 2016.*
- 2. Letter dated 20 June 2023 to David Pearce, Clerk of the Legislative Council and Laura Ross, Clerk of the House of Assembly in relation to the operations and administration of *Financial Management Act 2016*.
- 3 Letter dated 20 June 2023 to Ginna Webster, Secretary, Department of Justice in relation to the operations and administration of *Financial Management Act 2016*.
- 4. Letter dated 20 June 2023 to Jenny Gale, Secretary, Department of Premier and Cabinet in relation to the operations and administration of *Financial Management Act 2016*.

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- 5. Letter dated 20 June 2023 to Kathrine Morgan-Wicks, Secretary, Department of Health in relation to the operations and administration of *Financial Management Act 2016*.
- 6. Letter dated 20 June 2023 to Kim Evans, Secretary, Department of State Growth in relation to the operations and administration of *Financial Management Act 2016*.
- 7. Letter dated 20 June 2023 to Tim Bullard, Secretary, Department of Education, Children and Youth in relation to the operations and administration of *Financial Management Act 2016*.
- 8. Letter dated 20 June 2023 to Jason Jacobi, Secretary, Department of Natural Resources and Environment Tasmania in relation to the operations and administration of *Financial Management Act 2016*.
- 9. Letter dated 23 June 2023 to Tony Ferrall, Secretary, Department of Treasury and Finance providing questions take on notice at hearing on Thursday 15 June 2023

The Committee received the incoming correspondence and endorsed the outgoing correspondence.

Consideration of Draft Report

The Committee considered structure for draft report.

Mr Harris left the meeting at 1:47 pm. Mr Harris resumed his place at 3:11 pm.

Other Business

Next Meeting

Adjournment At 3:28 pm the Committee adjourned.

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CHAIR

CONFIRMED

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LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION 'A'

SHORT INQUIRY PROCESS INTO THE OPERATIONS AND APPLICATION OF THE FINANCIAL MANAGEMENT ACT 2016

MINUTES OF MEETING

THURSDAY 15 JUNE 2023

The Committee met at 8:55 am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr Duigan (left meeting at 10:00 am) Mr Edmunds Ms Forrest (Chair) Mr Harriss Mr Willie

Apologies

Mr Gaffney

In Attendance

Jenny Mannering (Committee Secretary) Ali Scott (Committee Secretariat)

Confirmation of Minutes

The **Minutes of the Meeting** held on Monday 24 April 2023 were confirmed as a true and accurate record.

Correspondence

Incoming

1. Letter dated 1 June 2023 from Auditor-General providing response to QONs

Outgoing

- 1. Letter dated 24 April 2023 to Hon Michael Ferguson, MP, Treasurer in relation to invitation to Secretary, Department of Treasury and Finance to attend a public hearing.
- 2. Letter dated 26 April 2023 to Auditor-General seeking response to QONs taken at public hearing on Monday 24 April 2023.

The Committee received the incoming correspondence and endorsed the outgoing correspondence.

PUBLIC HEARING

At 9:05 am Professor Richard Eccleston was called, made the statutory declaration and was examined. (Submission #1)

The witness withdrew at 10:00 am.

(Mr Duigan left the meeting at 10:00 am)

The Committee suspended at 10:00 am The Committee resumed at 10:15 am

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At 10:15 am Tony Ferrall, Secretary and Susan Peterson, Assistant Director, Department of Treasury and Finance were called, made the statutory declaration and were examined. (No Submission)

Tabled Document

Presentation - Tasmania's Financial Management Framework

Questions on Notice

- Please provide a list of the 33 Specific Purpose Accounts and 19 agency trust accounts.
- Please provide the recommendations made by you related to transparency around the Specific Purpose Accounts.

The witnesses withdrew at 12:23 pm

Consideration of Draft Report

The Committee considered structure for draft report.

The Committee **RESOLVED** to write to the Clerks of Legislative Council and House of Assembly and Agency Heads in relation to the operations and administration of *Financial Management Act 2016*.

PRS Document Received

The Committee noted the following document received from PRS:

• Financial Management Act – Ex gratia Payments

Other Business

The Committee **RESOLVED** to meet on Friday 11 August 2023, Friday 25 August 2023 and Monday 28 August 2023.

Next Meeting Friday 11 August 2023

Adjournment

At 12:45 pm the Committee adjourned.

DATE 11/8/23

CONFIRMED

CHAIR

LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION 'A'

SHORT INQUIRY PROCESS INTO THE OPERATIONS AND APPLICATION OF THE FINANCIAL MANAGEMENT ACT 2016

MINUTES OF MEETING

MONDAY 24 APRIL 2023

The Committee met at 1:45 pm in Committee Room 2, Parliament House, Hobart.

Members Present

Mr Duigan (Webex) Mr Edmunds Ms Forrest (Chair) Mr Harriss Mr Gaffney Mr Willie

Apologies

Nil

In Attendance

Jenny Mannering (Committee Secretary) Ali Scott (Committee Secretariat)

Confirmation of Minutes

The **Minutes of the Meeting** held on Tuesday 21 March 2023 were confirmed as a true and accurate record.

Correspondence

Incoming

- 1. Email dated 21 March 2023 from Professor Richard Eccleston declining invitation to attend public hearing on Monday 24 April 2023
- 2. Email dated 22 March 2023 from Auditor-General accepting invitation to attend public hearing on Monday 24 April 2023
- 3. Email dated 28 March 2023 from Professor Richard Eccleston providing submission relating to SIP Operations and application of the *Financial management Act 2016*
- 4. Letter dated 4 April 2023 from the Treasurer in relation to Mr Tony Ferrall's appearance at a public hearing on 24 April 2023
- 5. Letter dated 12 April 2023 from Anja Hilkemeijer, Lecturer-in-Law, UTAS providing information to the Inquiry

Outgoing

- 1. Letter dated 21 March 2023 to Hon Michael Ferguson, Treasurer, extending invitation to attend a public hearing on Monday 24 April 2023
- 2. Letter dated 21 March 2023 to Auditor-General extending invitation to attend a public hearing on Monday 24 April 2023
- 3. Letter dated 21 March 2023 to Professor Richard Eccleston extending invitation to attend a public hearing on Monday 24 April 2023
- 4. Letters dated 28 March 2023 to the following inviting participation in the SIP Operations and application of the *Financial Management Act 2016:*
 - Commonwealth Parliamentary Association

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- CPA Tasmania
- Institute of Public Accountants (Tas Division)
- Office of the Australian Accounting Standards Board (AASB)
- Australian Institute of Company Directors (Tasmania)
- Australian National University
- University of Melbourne

The Committee received the incoming correspondence and endorsed the outgoing correspondence.

PUBLIC HEARING

At 1:52 pm Rod Whitehead, Auditor-General, Jonathan Wassell, Deputy Auditor-General, Jeff Tongs, Assistant Auditor-General and Stephen Morrison, Assistant Auditor-General were called, made the statutory declaration and were examined. (Submission #2)

Questions on Notice:

- 1. Is the reason for rejection of the RAF provided to the Auditor-General?
- 2. Does Section 23 of the Audit Act enable the Audit Office to undertake any work around the assurance or accuracy of information in those other Treasurer's reports (listed within division 1 of the *Financial Management Act 2016*.
- 3. Please provide a link to the Victorian Database regarding performance measures.
- 4. Does the ACT conduct follow up reviews regarding achievement or implementation of recommendations?

The witnesses withdrew at 3:09 pm.

Other Business

The Committee RESOLVED to seek information from PRS in relation to:

- 1. The definition of ex gratia payments in the Tasmanian legislation, and if not covered, in other jurisdictions; and
- 2. References to ethical decision making in financial management acts.

The Committee **RESOLVED** to invite Tony Ferrall, Secretary, Department of Treasurer and Finance to a public hearing on Thursday 15 June 2023.

The Committee **RESOLVED** to receive the submission from the Tasmanian Audit Office and publish corrected version to the Inquiry webpage.

The Committee **RESOLVED** to publish Professor Richard Ecclestone's submission to the Inquiry webpage.

<u>Next Meeting</u> Thursday 15 June 2023

<u>Adjournment</u> At 3:22 pm the Committee adjourned.

DATE

1516/23

CONFIRMED

CHAIR

LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION 'A'

INQUIRY INTO THE OPERATIONS AND APPLICATION OF THE FINANCIAL MANAGEMENT ACT 2016

MINUTES OF MEETING

TUESDAY 21 MARCH 2023

The Committee met at 9:00 am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr Duigan Mr Edmunds Ms Forrest (Chair) Mr Harriss Mr Gaffney Mr Willie

Apologies

Nil

In Attendance

Jenny Mannering (Committee Secretary) Ali Scott (Committee Secretariat)

Election of Deputy Chair

The Chair called for nominations for Deputy Chair. The Chair nominated Mr Edmunds. Mr Edmunds being the only nominee, the Chair declared Mr Edmunds to be duly elected Deputy Chair.

Correspondence

Incoming

Nil

Outgoing

- 1. Letter dated 19 December 2022 to Hon Michael Ferguson MP, Treasurer, providing notification of commencement of Inquiry
- 2. Letter dated 17 January 2023 to Auditor-General providing notification of commencement of Inquiry
- 3. Letter dated 17 January 2023 to Professor Richard Eccleston providing notification of commencement of Inquiry

The Committee endorsed the outgoing correspondence.

Submissions Received

The Committee noted no submissions received in relation to this inquiry as at COB Friday 17 March 2023.

The Committee **RESOLVED** to revert the Inquiry into the operations and application of the *Financial Management Act 2016* into a Short Inquiry Process (SIP).

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The Committee **RESOLVED** to write to the following to invite participation into the SIP - Inquiry into the Operations and application of the *Financial Management Act 2016:*

- Australian Accounting Standards Board (AASB)
- Chartered Professional Accountants (CPA Australia)
- Institute of Public Accountants (IPA)
- Commonwealth Parliamentary Association (CPA)
- Australian Institute of Company Directors (AICD)
- Schools of Governance (ANU, Melbourne University)

The Committee **RESOLVED** to invite the Secretary, Department of Treasury and Finance, Professor Richard Eccleston and the Auditor-General to attend a public hearing on Monday, 24 April 2023.

The Committee **RESOLVED** that a SIP special report be tabled in the Legislative Council Chamber 21 March 2023.

Other Business

The Committee noted the following PRS document:

• Treasurer's Reserves

Next Meeting

To be advised

Adjournment

At 9:22 am the Committee adjourned.

24/4/23 DATE

CONFIRMED

CHAIR

Appendix B – Transcripts of Evidence

THE LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION A MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON MONDAY, 24 MAY 2023

SHORT PROCESS INQUIRY INTO FINANCIAL MANAGEMENT ACT 2016

The Committee met at 1.52 p.m.

CHAIR (Ms Forrest) - Thank you, Rod, and your team for appearing before the Government Administration Committee B review of the Financial Management Act 2016. We have received the submission you have provided, which we appreciate. It is a public hearing. The information you have provided to us is covered by parliamentary privilege. We will ask you all, whoever is going to speak, to take the statutory declaration in a moment, and then if you could introduce the members of your team at the table. I am sure you all understand parliamentary privilege and I don't need to go through that with anyone. I hand over to you, Rod, to make the statutory declaration and ask members of your team to do likewise.

Mr RODNEY WHITEHEAD, AUDITOR-GENERAL; **Mr JONATHAN WASSELL**, DEPUTY AUDITOR-GENERAL; **Mr JEFFREY TONGS**, ASSISTANT AUDITOR-GENERAL; AND **Mr STEPHEN MORRISON**, ASSISTANT AUDITOR-GENERAL, TASMANIAN AUDIT OFFICE, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

Rod, I invite you to make an opening statement and then we will go through your submission step by step because it is laid out really well in terms of how the act is currently drafted.

Mr WHITEHEAD - Thank you, Chair. Before I go through the opening statement, just by way of introduction, on my immediate left, I have Jonathan Wassell, who is the Deputy Auditor-General, and on my immediate right, I have Stephen Morrison, who is an Assistant Auditor-General in our Financial Audit Area, and I also have Jeffrey Tongs, also an Assistant Auditor-General in our Financial Audit Area. I expect that I will probably take most of the questions but on occasions I may defer to one of my colleagues at the table here. We will see how that transpires.

In terms of an opening statement, the Tasmanian Audit Office welcomes the opportunity to make a submission and to attend the Legislative Council Government Administration Committee A inquiry into the operations and applications of the Financial Management Act 2016, which I will just refer to as the act from this point forward. The act provides for the management of the public finances of the state of Tasmania in an economical, efficient and effective manner, consistent with contemporary accounting standards and financial practices. The act is aimed at ensuring high levels of accountability and transparency for the Tasmanian Government and a contemporary financial governance relationship between Tasmania's parliament, the executive government, and public sector entities. We also note the terms of reference for the inquiry, and I won't read those through.

The office has undertaken a review of the act with particular reference to the inquiry's terms of reference and the scope and role of the Auditor-General, as set out in the Audit Act 2008.

Legislative Council Sessional Committee Government Administration A

In our view there is a need for the act to continue and, fundamentally, the act is considered to be robust and fit for purpose. We have identified opportunities for review or potential enhancement of the act, as outlined in our submission. Our submission does not discuss all matters associated with the act but only those that we felt were worthy of consideration.

CHAIR - We might work through the bill according to the way you have laid it out in your submission and perhaps ask further questions on each of those suggestions or areas you have highlighted in that, noting that we only got this this morning, so most of us have not had time to really deeply study it, so we might need you to provide a bit of guidance around that.

Mr WHITEHEAD - That is perfectly okay. Thank you, Chair, for the opportunity to do that.

What I might do is I might skip over section 2, which is really just a summary of all the points that were raised for consideration to the Chair as possible points for consideration in terms of improving the financial performance and operations of the act.

Section 3 of our submission just provides a bit of background to the Financial Management Act. Again, we probably will not go through this in any detail. It is relatively straightforward. The dot points in that particular section really highlight the significant changes that arose as a consequence of the adoption of this particular act and also the changes that applied from the previous legislation that was in place.

In terms of the long title, we have put a bit of a focus here around ethical considerations within the act. The reason for this is that the long title of the act states that it provides for the management of the public finances of the state in an economical, efficient and effective manner. Interestingly, those three criteria are also what we adopt in the conduct of our performance audits. In fact, they are also referenced within the Audit Act as three of the key criteria that we consider when we are looking at and undertaking performance audits.

Interestingly and in contrast, the Public Governance, Performance and Accountability Act 2013, which is a Commonwealth act, requires accountable authorities of Commonwealth entities to govern their entities in a way that promotes the proper use and management of public resources. The act defines 'proper' in relation to the use and management of public resources as meaning 'efficient, effective, economical and ethical'. I suppose the reason I am drawing this out is that there is a broader context around the way in which Commonwealth entities have to manage their resources, and that also includes that overlay of ethical requirements. That is quite interesting because there have been a number of audits that have been done across Australian jurisdictions. I point out here a number of performance audits, in particular, that have looked at both procurement activities and also grant administration. In a number of the cases, those audits have actually identified that although people are behaving and acting in accordance with legislative requirements, in some cases they might not be behaving necessarily in an ethical manner. So, although sometimes people are complying with the black letter of the law, in terms of the way and the outcomes that have been derived, they might not have necessarily been in accordance with the intent of the law. That is why we have this particular emphasis on ethical considerations.

Interestingly, both the Australian Auditor-General, when they conduct their performance audits now, they include ethical considerations in the subject matter that they are looking at. They make assessments about how the particular entities actually comply with those ethical

Legislative Council Sessional Committee Government Administration A

considerations as well as the legislative and regulatory considerations when they are actually looking at compliance of entities in performing their particular activities in accordance with those laws and regulations.

Similarly, the Auditor-General of New Zealand has also produced a publication that looks at ethics and integrity across the New Zealand government sector at the same time.

CHAIR - Just on that, before you go onto anything else, ethics is sometimes a bit of a difficult to define term because what I see as ethical may be different from what someone else sees as ethical behaviour or decision or spending or whatever. Do you know how it is managed at the Commonwealth and New Zealand parliament levels in terms of actually defining what is an ethical consideration?

Mr WHITEHEAD - Yes, there are other regulatory bodies that actually do look at ethical considerations as part of government decision-making. Certainly, ombudsmen, for example, would look at various elements of how administrative decisions are being made by the government. We are aware that there are a number of integrity bodies across other jurisdictions and part of their mandate is to look at how people within the public service are making ethically-based decisions. Interestingly, in terms of how this might be better ingrained into the framework here, there is the opportunity through Treasurer's Instructions and other guidelines that are produced, to also include commentary around ethical considerations, as well as compliance with the legislative or regulatory requirements.

We are not suggesting that it does not exist at the moment, but we are suggesting that there could potentially be an opportunity for some greater focus around ethical considerations.

CHAIR - Do you suggest then, Rod, that it should be in the legislation? Treasurer's Instructions sit over here; they don't have any legislative authority; they can be changed at the whim of a treasurer; they could be added to, removed, altered, whatever. The parliament has no oversight at all of the Treasurer's Instructions. Do you think it needs to be named up in the act, in our act, to provide that framework?

Mr WHITEHEAD - Well, that is probably why we have highlighted it as part of the long title - noting that the long title of the act talks about the management of public finances in the state of Tasmania in an economical, efficient and effective manner. We are suggesting that, maybe, the inclusion of the word 'ethical' would also enshrine that principle within the legislation.

CHAIR - You don't think it needs definition as well, in the bill?

Mr WHITEHEAD - It certainly could, potentially, if that was the path that was deemed appropriate. Certainly, there would need to be some consideration as to how you would define 'ethical' within the context of the legislation.

Mr WILLIE - Something that has been quite topical in public discussion is spending from the Treasurer's Reserve. That didn't come through parliament, it went straight to the Governor for approval. Including 'ethical' in this statement of intent, would that prevent that from happening in the future?

Mr WHITEHEAD - It would depend on the guidelines that you put around ethical decision-making. I suppose it comes down to the intent of what is deemed to be necessary, and again, it's a matter of interpretation. In the particular case of the Treasurer's Reserve, it is in the Treasurer's opinion as to what purposes the Treasurer's Reserve is used for. So, one, the expenditure has to be unforeseen; and secondly, it has to be necessary for efficient financial administration.

CHAIR - But not for ethical administration?

Mr WHITEHEAD - No, that is correct; but again, ethical considerations might help people in guiding them, not only in those particular circumstances, but in other particular circumstances - particularly when, following the letter of the law regulation, something might be appropriate under pure compliance, but the question might still be, is it ethical?

Mr WILLIE - Would that be a consideration for the Governor, too?

Mr WHITEHEAD - I can't speak for the Governor in that particular circumstance, because the act is silent on what the Governor would take into account in making their determination.

Mr GAFFNEY - Similar to Ruth when she thought about the ethical part of it, I looked at that too. It is included in the Corporations Act 2001, but I am interested to know why they didn't include it in 2016, because it is a relatively new act and they had the Commonwealth one in 2013. Do you have any idea if there was a debate or a discussion back then about why it was not included?

Mr WHITEHEAD - To be honest, I have not looked at the debate to understand whether or not it was considered as part of the bill. It's probably a matter for further research to answer that question.

Mr GAFFNEY - Yes, because when you go to what Josh's question was, it then goes on, 'based on values, honesty, integrity, respect, responsibility, trustworthiness'. I am thinking, did OPC ask; how do you measure that, how do you define that?

CHAIR - It's more a question for Treasury. The secretary of Treasury was overseeing this change; we will hear from him later.

Mr WHITEHEAD - I will now draw your attention to part five of our paper, on page four, that talks about Part 1 of the act, which deals with preliminary matters. Overall, we do not have any concerns with Part 1 of the act. We do note that this particular part of the act does allow the Treasurer, by order, to determine that the act or elements of the act may not apply to an agency or part of an agency; and similarly, orders can be made to include entities, to apply the act to entities not in schedule 1. Section 8 also provides for the Governor to make amendments to schedule 1. Amendments are usually made as a consequence of the machinery-of-government changes from time to time. We have provided within the submission some examples of where the orders have been used in the past and the reasons for those orders, but I do not intend to talk to those in depth.

Section 6 of our submission, which deals with Part 2 of the act, deals with accounts. Again, we do not see any major concerns with this particular part of the act. Part 2 creates the

Legislative Council Sessional Committee Government Administration A

Public Account and outlines the financial transactions that must be transacted through the Public Account, and how those transactions are accounted for. Section 17 deals with the creation of special specific purpose accounts and section 18 deals with agency trust accounts.

With regards to the specific purpose accounts and trust accounts established under sections 17 and 18, we do not have any concerns with the provisions of the act. However, outside the agency there is limited information publicly provided on the purpose of the accounts and what other conditions are applicable to those accounts to determine if the funds in those accounts are only used for the purposes of that account. General information available is restricted to the title of the specific purpose account or the trust account name. That is usually referenced in the Treasurer's Annual Financial Report and in the accounts of the Public Account within the Treasurer's Annual Financial Report.

CHAIR - To clarify that, it is unclear to you whether the money in the specific purpose account within an agency is actually used for that specific purpose?

Mr WHITEHEAD - Not so much unclear to us but unclear to the broader public because that information is not publicly reported. What we are suggesting is there may be an opportunity for enhanced reporting around what the purpose of the specific purpose accounts are for and what makes up the balances of the specific purpose accounts and also the trust accounts.

CHAIR - You audit those accounts?

Mr WHITEHEAD - Correct.

CHAIR - So you know what comes in and goes out and for what purpose?

Mr WHITEHEAD - Yes.

CHAIR - So you would flag if it was a concern that they were not being used?

Mr WHITEHEAD - We would potentially flag that but we are talking about what information is in the public domain around the use of those accounts.

CHAIR - Yes, I absolutely understand.

Mr WHITEHEAD - I should mention too, Chair, from time to time we do get referrals from members of the public to my office that often ask questions about the balances held within specific purpose accounts. Quite often they make assumptions about what the purposes of those funds are for and then draw conclusions from that. In most cases those conclusions are unfounded because, again, there is not sufficient information in the public domain to make those assumptions. Again, I think it is an example of where members of the public may potentially benefit from having further information disclosed about what is in those accounts and the purpose of those accounts.

CHAIR - In terms of disclosing the money that is in that account and for what purpose it has been used, should that be reported in the agency's annual report, or how do you think that should be made more visible?

Mr WHITEHEAD - It could either be in the agency's annual report or the specific account balances that are actually disclosed in the Treasurer's Annual Financial Report as part of one of the statements accompanying the Public Account.

CHAIR - I have last year's here. Doesn't that only just tell you what is in it, as opposed to what it is being used for?

Mr WHITEHEAD - Correct. What we are suggesting is that there might be an opportunity within that Treasurer's Annual Financial Report for the balance of what is in the account to be explained and also the purpose for which it is going to be used.

CHAIR - You think in the Treasurer's Annual Financial Report, the Treasurer?

Mr WHITEHEAD - That is one area where it can be disclosed. The other alternative is in the agency's financial statements themselves.

CHAIR - In their annual reports?

Mr WHITEHEAD - Correct.

Mr WILLIE - And the reason it has been retained?

Mr WHITEHEAD - Correct, the reason it is being retained. Yes.

CHAIR - This necessarily also refers to the funds that agencies can keep and roll over in their, that would be the operating accounts, wouldn't it?

Mr WHITEHEAD - Correct.

CHAIR - Do you prefer to comment later on about that?

Mr WHITEHEAD - Yes, we do.

CHAIR - All right. I will wait until then. Thank you.

Mr WHITEHEAD - I will come now to part 7 of our submission, which deals with Part 3 of the act, which deals with funds management. This particular part deals with the funds management of the Public Account. The general mechanisms for funds management in respect of each financial year are robust and have appropriate approval processes in place, with sufficient flexibility for agencies to independently manage their financial obligations and their services and activities. Part 3 does deal with a various number of sections. Section 21 deals with the Treasurer's Reserve, section 23 deals with rollovers of unexpended balances and appropriations, and section 25 deals with authorities for expenditure, we have not covered all the sections in this particular part. Some of them are relatively straightforward, for example transfers, but these are the ones that we felt more relevant to comment upon.

In respect of the Treasurer's Reserve, we have replicated section 21 of the act in terms of the power of the Treasurer in any financial year to issue and apply from the public account for expenditure, the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is necessary for efficient financial administration. We note that there

Legislative Council Sessional Committee Government Administration A

are two elements to that: one is the amount that is contingently appropriated by the appropriation act for the relevant financial year; and the second element is the receipts additional to the total estimated receipts specified in a statement accompanying an appropriation act that are generated within that financial year, the amount of those additional receipts, less the amount of any Commonwealth moneys received by the state.

There is an overarching cap on the amount of the Treasurer's Reserve, so the Treasurer's Reserve, in total, cannot exceed 2.5 per cent of the total appropriation in the appropriation act for that particular financial year.

We are aware that there have been two recent parliamentary inquiries that have looked into the use of the Treasurer's Reserve. We have made reference to those within our submission but we do not go back to try to reinterpret what is in those reports and also within the transcript of evidence that is available in respect of the inquiry into the Tasmanian Government's use of provisions of the Financial Management Act. to fund election commitments in 2021. However, we do note that in both instances the Parliamentary Standing Committee of Public Accounts did inquire into how the Treasurer had determined whether the use of the Treasurer's Reserve was necessary for efficient financial administration.

CHAIR - Maybe this is a comment you do not wish to make, maybe more a policy thing for government in many respects. We have talked about this in the Public Accounts Committee, about how an election commitment is a commitment; one should not assume it to be a guarantee because it relies on the party being elected, and one would assume that is part of them deciding to proceed with those expenditures. So, the argument that it could be unforeseen, because you don't know whether you are going to win the election or not - arguable as a definition for 'unforeseen'. But if you put that into that filter that says 'in the Treasurer's opinion, it is unforeseen', perhaps if you overlay the ethical question over the top of that, do you think that the reasonable person in the street would think that was what the Treasurer's Reserve was for?

Is this for things that come up that are really unforeseen like a natural disaster or another pandemic, whatever - something that happens that is not actually related to the government or the opposition at the time, whichever, making a determination about what they would do if they were able to?

Mr WHITEHEAD - It is interesting because it comes down to what the definition of 'unforeseen' actually means. One could take the view that 'unforeseen' would mean expenditure that was not foreseen at the time that the appropriation act received assent. It may be that at that particular point in time, election commitments were made at a subsequent date and it may be that some of those election commitments were not foreseen at the time the appropriation act was passed.

I think the second leg of that is around the necessity for efficient financial administration. Again, in the absence of any specific guidelines around what that means, it could be quite open to interpretation as to what is necessary to achieve efficient financial administration.

Expeditiously approving funds for distribution through the Treasurer's Reserve, in the eyes of some, might be seen to be efficient financial administration so as to circumvent other approval mechanisms for that particular expenditure. Again, that might be an interpretation where a strict legal interpretation of the legislative requirement could be met.

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It comes down to whether or not that was the intent of the legislation for those types of expenditures. I don't have a particular view around that. It is probably one of those areas where there is judgment that can be used by the Treasurer in making that determination.

CHAIR - Recently we had a supplementary appropriation bill that dealt with a lot of unexpected expenditure related to COVID-19. In the last two budgets we have approved an appropriation of an additional \$150 million into the Treasurer's Reserve in addition to the \$20 million that is generally appropriated to it. The debate around that time and the comment from the Government was that the \$150 million extra payment or appropriation to the Treasurer's Reserve was for unanticipated COVID-19 expenditure. The supplementary appropriation dealt with a lot of COVID-19 related expenditure in health and other areas, which notionally was what this additional money in the Treasurer's Reserve was for. That expenditure met the criteria of being unexpected at the time of the setting of the Budget. There wasn't an appropriation already approved in the Treasurer's Reserve. We did ask this during the debate and the Government basically said, we have more coming so we will have to use the Treasurer's. Do you have a view about that - whether you should expend that appropriation first and then come back to the parliament with a supplementary appropriation, in terms of openness and transparency?

Mr WHITEHEAD - Yes. It is probably difficult for me to have a particular view about that, Chair. I note from the transcript of evidence given by the Treasurer about the use of the Treasurer's Reserve to fund the election commitments that there were particular dates that were used and the timeliness of when the expenditure was going to be made, prior to the end of the financial year, was used as part of the justification as to why it was necessary for them to use the Treasurer's Reserve for that particular purpose. My answer to your question would, to some extent, depend on the timing of when the supplementary appropriations would need to be passed by the parliament - whether they should go down that route, as opposed to using the Treasurer's Reserve.

CHAIR - The fact is that decisions like that, that the parliament is retrospectively approving because it is the Treasurer's opinion that you use the Treasurer's Reserve to draw down that appropriation to fund an election commitment, in those cases that you referred to, there is no scrutiny until afterwards. Whereas, if you brought in a supplementary appropriation bill, there would be scrutiny. It is unlikely to be rejected, because the Government have won the election and they have made those commitments. However, it is a bit more open and transparent.

Mr WHITEHEAD - I certainly concur with you on that particular point. Yes.

Mr WILLIE - Do you have advice to the committee at all, in terms of any changes here? It would not be a practice that probably should continue into the future, where the Treasury is funding election commitments out of the Treasurer's Reserve without the approval of parliament?

Mr WHITEHEAD - We have not made any specific recommendations on that particular point. It is probably more a matter for the committee and for the parliament, particularly around the wording that is used within the act about the use of the Treasurer's Reserve. One of the things that we have recommended, though, is that there could be great transparency about what is within the Treasurer's Reserve. In other words, what is the total capacity of the Treasurer's

Reserve? That would include both the appropriated amount that is within the appropriation act but also the additional receipts that help make up -

CHAIR - We never see those.

Mr WHITEHEAD - That is correct - that make up the total of the Reserve that would be available in any particular year. And also the provision of additional information about what that Reserve has been used for. That could be broken down from department to department, but also outlining the particular purpose for the use of that. At the moment, within the supplemental elements, it really only discloses the agency name. It does not specific what the purpose is for the expenditure out of the Treasurer's Reserve or the appropriation out of the Treasurer's Reserve. In our submission, we have provided a pro-forma reconciliation that could be considered, to bring greater transparency about what the Treasurer's Reserve has been used for.

CHAIR - How often should that occur? This is on page 7 of your submission.

Mr WHITEHEAD - Yes. That is correct. This could form part of the supplemental estimates, it could be attached to a statement to the Public Account, to provide greater clarity about how the Treasurer's Reserve is being used.

CHAIR - This is when they tabled the section 21 report?

Mr WHITEHEAD - It could be at the time when they prepare the Preliminary Outcomes Report. It could prepared at that particular point of time. Alternatively, it could be prepared when the Public Account statements are finalised in the Treasurer's Annual Financial Report.

CHAIR - You also made the comment, Rod, that there is no real vision or public awareness of the balance of the Treasurer's Reserve in terms of additional monies it has been receiving - predominately from the Commonwealth, as I understand it - the additional money that comes in during the year?

CHAIR - It is from the Commonwealth, but it is also other amounts that are generated within that financial year. The amount of those additional receipts, less any amount of the Commonwealth money provided, received by the state.

CHAIR - Do you have any vision of when the comings and goings of this Treasurer's Reserve occur? It could be anytime during the year?

Mr WHITEHEAD - That is correct. The total amount within the Treasurer's Reserve will not be determined until closer to the end of the financial year because they could potentially receive amounts that could be incorporated within the Treasurer's Reserve. That is why we are suggesting that a reconciliation be performed, for greater transparency and accountability, about what the total amount in the Treasurer's Reserve was and what the purposes for which appropriations were made out of that Treasurer's Reserve.

CHAIR - Assuming that it is not all spent, or not all drawn down, then it becomes zero again?

Mr WHITEHEAD - It would lapse. Any unexpended amounts or any unappropriated amounts from the Treasurer's Reserve should lapse at the end of each financial year.

CHAIR - Including any federal government funding, or does that not form that part of the figure?

Mr WHITEHEAD - No, I don't think it does, because it is receipts less the amount of any Commonwealth money received by the state.

Mr GAFFNEY - I am interested to know, Rod, when you are going through the Treasurer's Reserve and how it operates and perhaps looking at fine-tuning it or some suggestions, do you also look at how that operates in other states? Do you do any comparison when you talk to your colleagues throughout the other states about if it is done differently, or is there a better way for this to occur, or is there some legislation we can look at that might approach this a little differently?

Mr WHITEHEAD - In answering your question, I haven't specifically asked the question of other Auditors-General in other jurisdictions about how the Treasurer's Reserve is used within their particular jurisdictions. In preparing our paper, we did a bit of a scan across other jurisdictions about what other inquiries have been held into similar acts like the Financial Management Act that Tasmania has. There was nothing specific that came out about the Treasurer's Reserve as part of those particular scans that we did across those other inquiries. Essentially, I don't have the information to be able to answer that question.

Mr GAFFNEY - Thank you.

Mr WHITEHEAD - I will move on, Chair. In terms of the rollover of unexpended balances of appropriation, section 23 of the act authorises the Treasurer to rollover an amount of unexpended appropriation for an agency not exceeding 5 per cent of the agency appropriation, to be issued and applied from the public account in the following financial year.

I did note that, from one of the earlier inquiries, there was some discussion - in fact, I think it may have been from the Tasmanian Government spending unallocated COVID-19 funding - where the secretary of the Department of Treasury and Finance provided an explanation as to how the rollover of unexpended balances of appropriation work. I have provided a similar, very short example within our submission. The point to make is that, notwithstanding the automatic appropriation the following year, rollovers usually reflect the commitment or requirement that moves from one financial year to the next financial year, so usually there is a justification as to why that rollover amount is needed to be rolled to the following financial year.

CHAIR - In respect to Health, as you have outlined here in your submission, that is a lot of money, \$2 billion, to be sitting there. I know they have a big budget, but it seems to be happening a lot that, if it was predominantly related to timing or timing issues, I think 'well, why is that'? Do you think it's reasonable for that amount of money to be sitting in an account waiting to be rolled forward?

Mr WHITEHEAD - The only way I can answer that, Chair, is that when we audit the supplemental Estimates, we do go through the documentation that supports the rollovers and we note that within each of the approvals provided, there is an explanation as to why the

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rollover is required. Therefore, the only comment I can provide is that there is usually a justification and an explanation for why the rollover is necessary. It's probably interesting to note that, both in the case of rollovers and also in the case of the use of Treasurer's Reserve, or request for additional funds, not all of those requests are always approved - there are some that do fail to get approval. That is, again, evidence where there is judgment used in the decision-making to say that not everything that gets put up for approval is automatically approved.

CHAIR - In that assessment, is the reason for the rejection of the RAF made clear to you?

Mr WHITEHEAD - I would have to take that on notice because I am not sure whether the documentation that we examine includes the rationale for why it hasn't been approved. I would need to take that one on notice.

CHAIR - The reason I ask, and maybe you could have a check for us, is if an RAF was rejected, say, from Health - because they have \$2 billion sitting in their account and notionally, while most of that is earmarked for something, the Treasurer obviously, in their widom, would see that there was enough capacity there for you to do that - you don't need extra money. Is that part of the consideration, do you know?

Mr WHITEHEAD - I understand the way the question is framed in saying that if the agency had particular savings in another area that they could use to cover that request for additional expenditure, would they utilise those savings in that other area? Broadly, I understand that that is considered as part of the approval process. Similarly, where someone might be applying for a rollover of expenditure, but also apply for a request of additional funds at the same time, someone might argue, well, why don't you use the funds from that rollover instead of the request for additional funds? The reason that there may be both is because they may be used for different purposes. It may be that there may not be additional funds left over to the amount for which an RAF is requested. In other words, there cannot be a rollover in respect to an amount where a request for additional funds may be required because they have actually spent or used up all the existing appropriation for that particular purpose.

CHAIR - Where there are inter-agency transfers, are you aware of whether the Treasurer looks to those? Is there capacity, say - we will stick with Health because it is the one we are looking at here. It is a big department and there are many aspects prior to approval of an RAF or an approval to roll over up to 5 per cent of their appropriation. Do they also look within the agency where there may be unspent funds that won't be spent?

Mr WHITEHEAD - I probably could not answer that particular question because I'm not involved in that decision-making around how Treasury might look across other agencies to determine where saving could be used from one agency to help fund an appropriation in another agency. However, I do note that section 20, and, again, it is in the supplemental estimates, does give some indication as to the amount of the transfers between agencies, probably noting that, in comparison to requests for additional funds and also transfers under section 22, the amount is not as significant. I believe the secretary of Treasury may have made this point, that section 20 transfers between agencies are not that common.

CHAIR - No, but it used to be, from my memory. We used to see it quite a bit but not so much. Maybe that is better budgeting. However, within agencies, you would expect the agency to do that before they went to the Treasurer for additional funds, would you?

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Mr WHITEHEAD - It depends. I would imagine some agencies would not have any visibility over whether other agencies have savings -

CHAIR - No. Within their own agencies.

Mr WHITEHEAD - Certainly within their own agencies they would possibly look for areas where there might be savings from which they could transfer funds from other programs or activities.

CHAIR - Is that reported in any way? Like, say, with Health, say Ambulance Tasmania needs additional funds to pay a pay rise for their paramedics or to buy new vehicles because several became redundant, or whatever. In another area, let's say mental health, that they haven't expended all the money that was allocated there for whatever reason, would that be something that would happen internally without any visibility?

Mr WHITEHEAD - I cannot answer that question, Chair. That is probably more a question for Treasury to answer.

CHAIR - Or Health maybe.

Mr WHITEHEAD - Or Health itself, correct.

CHAIR - Any questions on this area? No?

Mr WHITEHEAD - Moving along, on page 8 we talk about authorities for expenditure and note that under section 25 of the act, an accountable authority of an agency can only draw money from the Public Account in accordance with the Treasurer's expenditure control authority, or the estimated expenditure approved by the Treasurer pursuant to sections 17(10) and (11) of the act, or under any other written law. Interestingly, the amount of estimated expenditure approved by the Treasurer under sections 17(10) and (11) of the act represents the estimated expenditure from specific purpose accounts approved by the Treasurer as part of the development of the annual appropriation act, as subsequently approved by the Treasurer as a variation of expenditure in relation to the specific purpose account.

When we have looked at that, we do not examine that as part of our audit process. It may be a question for Treasury as to whether or not they monitor the compliance with that particular aspect under 17(10) and 17(11) of the act.

A final note around this part of the act is that the Governor does have authority for emergency expenditure. We advise that the Governor's approval under section 30 for emergency expenditure required but not approved by the parliament has not been used to date because, under that particular act, there is a requirement to advise me where that is needed.

CHAIR - Since it has never been used in more recent times - I do not know that it has been used. A similar power exists under the Public Account Act. Does it need to stay there or are there enough other mechanisms to ensure that funding can be made available?

Mr WHITEHEAD - I think it is always useful to have that as a fallback provision. But when, at the beginning of the COVID-19 pandemic, I contacted the secretary of Treasury and

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asked the question whether or not this particular section of the act was likely to be used for the purpose of providing emergency expenditure to agencies to respond to the pandemic, I think the response from the secretary at that point in time was that they were using the supplemental appropriations to cover that emergency expenditure that was required to respond to the pandemic.

CHAIR - Yes, it was basically unallocated funding. Same as the \$150 million into the Treasurer's Reserve in two years. It does beg the question, though, because there is absolutely zero oversight of any governors, with all due respect to the Governor, that decision, that power when you already have the Treasurer's Reserve, you have supplementary appropriation bills that can be dealt with. This is where it really was tested: when we weren't sitting because of the pandemic; it was not deemed safe to congregate. But, still, we had an emergency sitting, passed COVID-related legislation and supply bills, and supplementary appropriation bills. Unless, perhaps, the parliament burnt down?

Mr WHITEHEAD - I imagine the situation might be where parliament is prorogued for an election and then the pandemic or something hits while parliament is prorogued and then there would be no potential mechanism to recall parliament to pass through a supplemental appropriation. So, that could be a situation where that particular mechanism in the act might be warranted or would be warranted.

CHAIR - Shouldn't prorogue parliament quite so often.

Mr WILLIE - Do other financial management acts across the country have a similar provision?

Mr WHITEHEAD - I have not looked for that in other acts in other jurisdictions. Part 8of our submission that deals with part 4 of the act deals with accountable authorities. Interestingly, the same terminology for accountable authorities is the same that applies in the Audit Act 2008, so there is consistency across the acts. We don't have any major concerns with this part.

I suppose one point that we have made - and I probably should disclose a vested interest in this particular statement - is questioning whether the Tasmanian Audit Office should be included within part 1 of schedule 1 of the act. We are suggesting that it may be more appropriate to put us in part 2 of the act. The reason for that is that because we are in part 1 of schedule 1 of the act, that makes us subject to ministerial direction for the financial management of the Tasmanian Audit Office.

I note that in some of the other jurisdictions they are starting to take steps to better preserve the independence of the Auditor-General and their respective audit officers. For example, in Queensland recently they made the Auditor-General an officer of the parliament. There were also amendments made to the act to provide the Auditor-General with more independence and greater separation from the executive government.

CHAIR - Rod, would that require an amendment to the Audit Act., as well as this act, potentially, for that to occur?

Mr WHITEHEAD - I am not sure that an amendment would be required to the Audit Act. This would basically just remove us from being subject to ministerial direction for the

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financial management of the office. But there may be other consequential amendments under some of the other acts, for example, the State Service Act, a question whether there might be a consequential amendment required for that, if that particular change was effected.

CHAIR - Were you the Auditor-General when this bill came through?

Mr WHITEHEAD - For the Financial Management Act?

CHAIR - Yes.

Mr WHITEHEAD - I wasn't when the bill was tabled. I can't recall the exact date that it received Royal Assent.

CHAIR - What year did you start?

Mr WHITEHEAD - March 2016.

CHAIR - You were in the middle of it. Yes, you came in when it was partway through the process.

Mr WHITEHEAD - I think it was September 2016. I stand to be corrected on that particular date.

CHAIR - Yes, it did not take effect until 2018.

Mr WHITEHEAD - In fact, I might have it here as to which date it received royal assent.

CHAIR - I am pretty sure we debated it in 2016.

Mr WHITEHEAD - October 2016. It would possibly have been some time after that.

CHAIR - Are you aware whether the former Auditor-General made submissions along that line?

Mr WHITEHEAD - Correct. I am aware of activities of the previous Auditor-General along these lines.

CHAIR - Do you understand the arguments as to why it was rejected?

Mr WHITEHEAD - I have had similar discussions with various people within Government. The question which often comes up is that we are seen as being a government department and, therefore, all the rules that apply to other government departments should also apply to us. That is a construct of the way that the office is currently constituted. Again, it comes down to the view of how the office should be constituted and what level of independence you want the Auditor-General and the Tasmanian Audit Office to have.

CHAIR - As I understand it - and I am happy for anyone to correct me if I am wrong on this - when legislative agencies in part 2 of the second schedule are not subject to Treasurer's Instructions. Would that be an issue for the Audit Office, to not be subject to Treasurer's Instructions?

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Mr WHITEHEAD - Notwithstanding the fact that we may not be subject to Treasurer's Instructions, we would probably follow them as a matter of course if they represent good governance and also good accountability and transparency. I do not think that is the particular issue here. The issue is more about the fact that we are subject to ministerial direction in respect to the financial management of the office. Some could construe that as being a means to influence the way in which the office undertakes its work. I should point out that has never occurred during my time as Auditor-General, but some might see that as an impediment to the independence of the Auditor-General.

CHAIR - Are there questions on that from anyone?

Mr WHITEHEAD - If I move on to Part 5 of the act, which is section nine of our submission. This deals with reports. Division 1 of Part 5 deals with the Treasurer's reports and the act does list a range of different reports that the Treasurer is required to prepare. Interestingly, the only one that has any level of assurance - that is, an audit or review that is undertaken by my office - is the Treasurer's Annual Financial Report. We have highlighted that in some other jurisdictions, in some instances, some offices do work in respect of the budget and, in some other cases, some of the other offices do work in respect of other budget Estimates and forecasts. We are starting to see some of the other jurisdictions do work on more than just the Annual Financial Report of the Treasurer at the end of the financial year. We have raised that for consideration for the committee, in terms of their consideration of the act.

CHAIR - These quarterly reports are published on a website and then they are available for the public as well as for the parliament, of course. What benefit do you see there would be in the Audit Office having a greater role in assessing the measures, and the level of detail in those, and whether or not you would confirm their predictions or not? How do you think that would improve public accountability and transparency?

Mr WHITEHEAD - It probably comes down to the appetite of the parliament, in regard to the information that they are receiving. If there were ever any concerns around the accuracy in the information within any of those reports, if the parliament wanted to get another level of assurance around the accuracy or the appropriateness of the information in those reports, then we could be an opportunity to provide the parliament with that extra level of assurance.

CHAIR - You could do that without having to legislate it?

Mr WHITEHEAD - At the moment, we do not have a mandate to do that. The question would be, it may need to be mandated if that is the level of assurance the parliament wanted on those particular reports.

CHAIR - . If you received a request from a member of parliament to undertake a deeper financial analysis of, say, the preliminary outcomes report, that is one of your discretionary things, I imagine - that you could say yes or no to.

Mr WHITEHEAD - I need to have a quick look at section 23 of the Audit Act, because section 23 does cover items that we can look at. For example, the Estimates might not be specifically mentioned or referenced in that. However, it does talk about investigating any matter relating to the accounts of the Treasurer, a state entity or a subsidiary.

I am not sure whether or not the definition of the accounts of the Treasurer would necessarily include all the reports that are listed within division one of this particular part of the Financial Management Act. The 'accounts of the Treasurer' might be a reference to the Treasurer's Annual Financial Report, being the General Government sector, financial statements, the Public Accounts statement and also the supplemental Estimates. I believe they are the ones that constitute the accounts of the Treasurer.

Mr WILLIE - On that, in practical terms, if we look at, say, a wages policy that was in the underlining assumptions of our last budget, I think it was 2.5 per cent. Would that be something that you could look at - the assumptions built into that? Because then they came to parliament for a supplementary appropriation, and a fair portion of that was for wages.

Mr WHITEHEAD - The comment I make in regard to auditing Estimates is that's a particularly tricky area because there are a lot of assumptions involved. In some cases, it is very difficult to say that one assumption is right and one is wrong.

In those cases, usually the work is not so much on the number but the process that the entity's gone through to make sure that they've landed on the right assumption, rather than auditing the assumption itself. It can, potentially, be more of a control-based audit to say have appropriate processes and due diligence been undertaken by the agency to determine the right assumptions, as opposed to trying to say whether assumptions are correct or incorrect.

Mr WILLIE - Or realistic or not realistic.

Mr WHITEHEAD - Correct, yes. I'll leave that for the committee's consideration; but we've highlighted the fact that we don't do any other sort of assurance work on any of those other Treasurer's reports.

CHAIR - To your knowledge, there's nothing that prevents you from doing it?

Mr WHITEHEAD - I'm not sure whether section 23 would give us the opportunity to do that. I would probably need to get advice on that whether that would cover that.

CHAIR - Would you be happy to do that?

Mr WHITEHEAD - We could certainly ask the question about that.

If I move on, in respect to division two which is annual reports by agencies, section 42 of the act requires an accountable authority of an agency to prepare annual financial statements of the agency - sorry, I did note that there's a typographical in there. It says, 'reprepare', it should 'prepare'. Section 17.1 of the Audit Act also requires an accountable authority of an agency, other than the Auditor-General - in other words, other than me - as soon as possible and within 45 days at the end of each financial year to prepare and forward to the Auditor-General a copy of the financial statements for that financial year which are complete in material respects.

We also note that agencies are required to prepare and submit to their minister for tabling in parliament an annual financial report, or annual report, which includes the audited financial statements in the auditor's report thereon.

Currently, the budget framework provides for the state's output-based budgeting and financial reporting framework, which forms part of the annual reporting requirements.

We've also identified on page 10 of our submission other things for the committee's consideration. One is about reporting of service performance, because within the annual reports are a lot of state entities and they do include key performance measures. In some of those cases, the performance measures are insightful; in other cases they're more reporting of activity measures.

We have previously reported on this, in our Report of the Auditor-General number 12 in 2016-17, Volume 4, State Entities, 30 June and 31 December 2016. In this particular volume, we did a scan across the other jurisdictions to understand what level of service performance reporting was being undertaken in other jurisdictions and also the extent to which there was audit activity undertaken on those performance measures.

If I use an example, the Commonwealth has a well-developed performance and reporting and assurance process established under the PGPA Act - the Public Governance Performance and Accountability Act 2013 - which includes the audit of annual performance statements of Australian government entities.

We're also aware that in other jurisdictions, they're now starting to introduce this as well. For example, in Western Australia, section 15 of the Auditor-General's Act requires the Auditor-General to prepare and sign an opinion on an audit carried out on an agency's key performance indicators stating whether, in the Auditor-General's opinion, the key performance indicators are relevant and appropriate to assist users to assess the agency's performance and fairly represent the indicated performance for that period under review.

We are aware that in other jurisdictions there is quite a bit of activity that has been happening around these performance measures and performance reporting. Also, in the case of Victoria, on the Victorian Auditor-General's website there is actually a database available that has a whole list of different performance measures that can be applied for different types of agencies.

CHAIR - So, a standardised list of performance measures?

Mr WHITEHEAD - Sort of a standardised list but I think that list has actually been gathered from all the performance reporting that occurs across the Victorian public sector agencies. It is quite a comprehensive database and I can provide a link to that database to the committee, if you would like.

CHAIR - That would be helpful. This is one of the things that we often comment on in budget Estimates, where the performance information throughout so many departments is just output data, not outcome data, and thus is going to be meaningless. So, I am interested in whether you think there is some way that this should be included in the Financial Management Act, even though it is performance measures, as opposed to necessarily financial performance.

Mr WHITEHEAD - We believe that there is a Treasurer's instruction that deals with the information that goes into annual reports. I am not sure if I referenced the particular Treasurer's instruction here. However, through that Treasurer's instruction could be the opportunity where it might clarify what the expectations are in respect to performance measures. At the moment,

I think it makes a statement along the lines - I might see if I can drag up that Treasurer's instruction for you.

CHAIR - I don't know how many years I have sat across the table from the Coordinator-General's Office and asked, 'what do these performance measures actually measure?', and still come away none the wiser. There are others, not just that one, and they commit to looking at it and providing more outcomes-focused measures every year and still they are the same. It is not working, the influence of my badgering.

Mr WHITEHEAD - In that particular case, if nothing is changing, you would say that nothing is working.

Mr WILLIE - Like some cases, they just change the measurement. In education, for example, the Kinder development check, there were declines over a number of years so, instead of trying to address that, they changed the way that the Kinder development check is measured.

Mr WHITEHEAD - Having just come back from a recent conference where other Auditors-General were in attendance, there was a statement made around performance reporting that, in some cases, where an agency fails to meet the performance indicator, sometimes it drops off their reporting. So if you are going to have performance reporting, you might need a mechanism to make sure that there is an approval process why they might have particular changes to certain performance measures.

CHAIR - It brings us back to the question, should that be legislated in some way, even though we are talking about performance in a non-financial sense? There are, obviously, financial performance measures as well but, as a service deliverer, which is what the state government is, most of the performance measures that are meaningful are outcomes-focused, outcomes for people, whether they are students in school, patients in a hospital or people engaged with the justice system.

Mr WHITEHEAD - To answer your question, it could be incorporated into the Financial Management Act. I believe the State Service Act also has a requirement for agencies to produce annual reports. Alternatively, it could be through Treasurer's Instructions. It is actually Treasurer's instruction FR 4 that deals with annual reports and that particular Treasurer's instruction has instructions about the information that agencies have to include within that financial report. Although it is quite an extensive list, it does include a fairly broad statement about information on the performance of the agency in its achievement of agency objectives and meeting of agency responsibilities. So it is a fairly broad statement about how it reports on its performance and probably does not provide a lot of clarity or guidance.

CHAIR -Let's go back to Health and say, well, we have increased by 200 per cent the number of hip replacements we have done but, sadly, 50 per cent of those died as a result of complications of their hip replacement. That is not really good performance, is it? So, you have to measure outcomes to get the full picture. You just increase your activity but it's not done well.

Mr WHITEHEAD - No, that is correct. I suppose the question is, how do they assess the impact of their activities, or the outcomes?

CHAIR - The outcome for the people.

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Mr WHITEHEAD - Correct.

CHAIR - That is pretty wishy-washy, the one of the Treasurer's Instructions there, in terms of giving clear guidance about what we are supposed to be measuring.

Mr WHITEHEAD - The final comment in this particular section is that we want to highlight that the Australian Accounting Standards Board, in alignment with international developments, currently has a project underway on reporting service performance information by not-for-profit entities. So, it may be that this might - through the adoption of the standard by the Australian Accounting Standards Board - become mandatory at some future point of time.

CHAIR - Performance reporting?

Mr WHITEHEAD - Correct. However, we just highlight that some of the other jurisdictions have voluntarily gone down that path much earlier.

One of the other areas that we wanted to highlight is about the reporting of the accuracy of internal controls. For example, some jurisdictions - Western Australia is one that comes to mind - there is a requirement for the Auditor-General to also express an opinion on whether the controls exercised by the agencies are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of money, the acquisition and disposal of property and incurring of liabilities have been in accordance with legislative provisions. That is an additional requirement over and above existing requirements that we have here in Tasmania in terms of my reporting obligations on the financial statement audits of entities.

The final point we wanted to make is about the tracking of progress and the implementation of Auditor-General recommendations. We have highlighted here what happens in the Australian Capital Territory, where directorates - which are the equivalent of agencies - are required to provide details in their annual reports on the progress made against commitments made in response to the recommendations made by the Auditor-General during a particular year. I should highlight it is not just the Auditor-General; it applies to other recommendations - for example, from the Ombudsman or from a Legislative Assembly committee. They have to keep track of the status and the implementation of recommendations coming out of particular bodies. It is a good way of holding them to account and reporting on what they are doing in respect of those recommendations.

CHAIR - Do they have time frames around that, for them to respond?

Mr WHITEHEAD - There is quite a bit of information on that. The best thing I could do is refer you to the footnote at the bottom of page 11 of our submission, which deals with the directive that is issued by the Australian Capital Territory Government. It deals with annual report requirements - part B: organisational overview and performance - and there is a section there on scrutiny. It has quite a lot of information about what the agencies have to report in complying with that particular directive.

CHAIR - Do you know if the Auditor-General's office in the ACT do follow-up reviews, or is it unnecessary because of this?

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Mr WHITEHEAD - I have to take that on notice; to be honest, I have not looked whether they do specific follow-up reviews.

CHAIR - It might make it a bit less onerous.

Mr WHITEHEAD - It may do; but we find it is always beneficial to understand whether agencies are keeping track of your recommendations or not. Having some mechanism for agencies to keep track of the achievement or the implementation of those recommendations is appropriate.

The final thing we want to report on is on page 11 of our submission - division 3, which is on the reporting on the abolition of agencies. This was a new provision that was incorporated within the act; it didn't exist in the previous act. Interestingly, we have had to complete the audit of the Department of Communities Tasmania under this particular section of the act. I consider that is beneficial, because it provides greater transparency and accountability about agencies that cease to exist partway through a financial year. There is a mechanism now for them to prepare a final set of financial statements and have those financial statements audited.

Part 6 of the act, which deals with miscellaneous provisions - we are only probably reporting here by exception. We did note that the Treasurer's Instructions issued under section 51 have the force of law. They are principles based, because prior to the existing act, the Treasurer's Instructions were essentially rewritten on implementation of the Financial Management Act and as part of that particular process they became more principles based and less prescriptive. Treasurer's Instructions only apply to the General Government sector entities in schedule 1 Part 1, and do not apply to entities in schedule 2 Part 2. Section 6 would enable those instructions to be applied to other entities. However, there is no mechanism to apply those to government business enterprises and state-owned companies because there are separate Treasurer's Instructions that apply to those particular categories of entities.

In reflecting on some of the Treasurer's Instructions, there are some that we are aware of that agencies probably struggle to follow or comply with. One is FC3, which deals with finance manuals. Quite often, when we commence an audit, we will ask the question about whether they have updated their finance manual recently. Most agencies have been a little bit resource constrained and have volunteered that they have not been able to undertake their reviews every two years, as required under the Treasurer's Instructions. Probably another area that has come to our attention, which is covered by section 55 of the act and also Treasurer's Instruction FC13, which deals with ex gratia payments. We have had some feedback from various people within agencies that may suggest that sometimes payments might be being made when there is no contractual obligation to make those payments, in which case they might be construed to be ex gratia payments. In some cases, those ex gratia payments are not getting the necessary approvals for them to be made.

CHAIR - As per the Treasurer's Instructions?

Mr WHITEHEAD - As per the Treasurer's Instructions. Yes. We believe it might be because people might not necessarily be clear on what constitutes an ex gratia payment. It may warrant consideration as to whether there needs to be some further guidance on what might constitute an ex gratia payment, for which approval is required.

CHAIR - Would that be in the interpretations section of the act, do you think?

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Mr WHITEHEAD - I am not sure whether they are in the interpretations section of the act.

CHAIR - It is not in that section of the act; but if it appears unclear as to what an ex gratia payment may be, and where it is appropriate.

Mr WHITEHEAD - That is right. Even in FC13, it does not provide a definition of what an ex gratia payment is there either.

Mr WILLIE - Section 55 of the act goes through how it happens.

CHAIR - It does not say what it is, though. There is a presumption, then, that we know what we are talking about here?

Mr WHITEHEAD - Quite. I do not know whether in the interpretations section of the act, if it might include an interpretation in there. I am just having a quick look. No, I cannot see it in the definitions section either.

CHAIR - Is there anywhere else we might find it?

Mr WHITEHEAD - It could be in the Acts Interpretation Act. I do not know whether there might be a definition within that particular act. Notwithstanding, there might be a definition, I suppose, in some cases as examples of how that might be applied in practice. It can sometimes be a benefit for people to help clarify in their mind as to whether something may be an ex gratia payment that might need approval under the act.

The final note I wanted to make about the Treasurer's Instructions is that we generally have a good cooperative relationship with Treasury. Quite often, when they are revising the Treasurer's Instructions, they will make us aware that they are revising them and seek our input into some of the drafting of the Treasurer's Instructions. Recent examples include: FC16, that dealt with contributions to equities in the public non-financial corporations and public financial corporations sector; FC19, which dealt with leases; and also FC2, internal audit, which also incorporated some of the recommendations that came from one of our performance audit reviews, looking at the effectiveness of internal audit across the government departments.

CHAIR - While that provision in section 51 talks about being written law is then defined in section 3 of the act. That defines the Treasurer's Instructions as law. We are looking at the rest of the list, any directions given under this act and Treasurer's Instructions. They do not receive any scrutiny of parliament. They are determined by the Treasurer; with advice - it is not just the Treasurer deciding what they think it should be. They obviously do consult, because you say that they consult with you. Do you think there should be some other scrutiny? Or do you believe that because it is such a technical instrument that it does not warrant that?

Mr WHITEHEAD - It is probably a question for mechanisms such as this committee, whether or not there is the possibility of scrutinising some of the impact of the Treasurer's Instructions or the outcomes from the Treasurer's Instructions. Now, whether an inquiry like this might result in clarity in some of the Treasurer's Instructions that we have spoken about today, for example - that might be a mechanism by which the parliament can have some similar over what's in those Treasurer's Instructions.

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CHAIR - Do you think there is a role for the Public Accounts to play in consulting on the revision or change of Treasurer's Instructions?

Mr WHITEHEAD - Possibly, because they deal with the Financial Management Act, which deals with use of resources of the government. I would suggest that there possibly is, but I would probably need to seek an opinion on that to clarify my response.

CHAIR - It is something we can ask the Treasurer anyway.

Mr WHITEHEAD - Just to round out our submission, we have some comments around the ability of the parliament to scrutinise public non-financial corporations and public financial corporations, which I think was item 2 on the terms of reference for the inquiry. We have noted that the act specifically excludes government businesses and state-owned companies from the operation of the act in section 6. The GBE act and the Corporations Act and the various principal acts of the state-owned companies govern their financial reporting and accountability frameworks. The Government Business Enterprises Act has the provision to issue Treasurer's Instructions to government business enterprises. In addition, the principal acts of the state-owned comply with those Treasurer's Instructions issued under the Government Business Enterprises Act.

There is a publication called the *Tasmanian Government Business Governance Framework Guide*, which was issued in October 2008. That outlines the governance frameworks for government business enterprises and state-owned companies, including the government's role as an owner. It also details the accountability framework, the role of the parliament, the role of the Treasurer and portfolio minister, the role of the Treasury and also the role of the portfolio department.

The publication states that accountability is generally through reporting to the board and a portfolio minister, and then through to parliament through scrutiny committees. If parliament requires increased scrutiny of government business enterprises and state-owned companies, then mechanisms will need to be considered outside of the Financial Management Act.

Just a couple of other comments we have made. One is in regard to subsidiaries of government business enterprises. We have highlighted to Treasury that the financial reporting framework is not clear and we have been in discussion with Treasury as to whether tier 1 financial statements should be required for subsidiaries of government business enterprises.

CHAIR - Might be a typo in that first line, 11.6. You say they are 'clear'. You just said they were 'not clear.

Mr WHITEHEAD - Yes, it should be 'not clear'.

CHAIR - We will amend that.

Mr WHITEHEAD -We will resubmit the submission with those corrections to it. The framework guide indicates that changes to constitutions will need to be tabled by the relevant portfolio minister. But there is a footnote in the guide that says this might not be the case for all state-owned companies.

CHAIR - Yes. As you would be aware, since 2010, we have had our Government Administration Committees A and B in our House for the purpose of holding some of these GBEs and PNFCs and PFCs to account, because without that, there was nothing other than a couple of hours of GBEs every second year by each House, and not for all of them.

I can't remember the debate around this at the time we debated the Financial Management Act, as it is now. Noting that they are governed by the GBE Act state-owned company provisions there, do you think there should be built in greater accountability measures or do we rely on our government admin committees, which are sessional and will have to be reestablished every session, unless we make them standing committees?

Mr WHITEHEAD - To be honest, Chair, I have not put my mind to that particular question. But I am aware that the opportunity for the committees to scrutinise the government businesses is relatively time-constrained. As you mentioned, it only occurs once per annum. The question is, if there was a desire to have more scrutiny over the government businesses, then there would need to be another mechanism to actually provide for that scrutiny to occur.

CHAIR - The Public Accounts Committee can call in any of those government businesses on a matter of financial performance particularly.

Mr WHITEHEAD - That might be one mechanism which could be used to provide that opportunity, but then that would be limited to members of the Public Accounts Committee.

CHAIR - Thanks for that, Rod. It has been very helpful to walk through that. Overall, you made the comment at the beginning that you think it is essentially fit for purpose. When it came in, there was a lot of consultation at the front end; there were several iterations of the bill before it became the final bill that was tabled. There were amendments during the process through the parliament too. It is really important to review significant change. If there was anything that could be done better in a broad sense, do you think that there is anything or do you think, overall, it's pretty sound?

Mr WHITEHEAD - I probably don't have a comparison to make against because most of my tenure as Auditor-General occurred pretty much once the new Financial Management Act came into effect. I don't have a comparison under the old Financial Management and Audit Act to provide a comparison against. Perhaps if I turn to the gentleman on my immediate right, Stephen, do you have a particular view about the comparison between the way in which the Financial Management Act works and the former act?

Mr MORRISON - They're pretty similar apart from some of the changes because they pretty much mashed them together so there's nothing too similar there. I suppose from my perspective is around the level of public knowledge around the purpose of things going on in terms of section 24 from the supplemental Estimates report is the main thing.

CHAIR - Do you think there's a timely release of information; it's just the detail that's the issue here?

Mr WHITEHEAD - Yes, I think that's the comment we were making around the level of information this act has provided in the supplemental Estimates report. It provides information around the name of the agencies that might either proceed to transfer or receive

additional funds but it doesn't provide any breakdown of what those additional funds were for, what program or activity they were for.

CHAIR - One of the ways we've overcome that in the parliament is to note those reports and then seek that information during the debate, which is a pretty time-consuming and clunky way of doing it, I guess. If it was provided in the report, it would be much easier.

Mr WHITEHEAD - I should also note too, one of the documents we get from the Department of the Treasury and Finance as part of our audit process, is they do give us a detailed supplemental Estimates statement that has a reconciliation right back to the original Appropriation Budget and then it has all the relevant transfers, additional requests, et cetera, under sections 20, 21, 23 rollovers, and also identifies the appropriation savings to come up to the final appropriation amount. For us, that's quite a useful document but I note that's not in the public domain at all.

CHAIR - Would there be a barrier? This is from your perspective, would there be any secret detail in there that could be embarrassing?

Mr WHITEHEAD - I wouldn't have thought so but I find it a particularly useful document so it might be a question to raise with Treasury.

CHAIR - It's always hard to reconcile what was appropriated, what it was used for or spent on, and what's left over.

Mr WHITEHEAD - The interesting thing is it also identifies the appropriation savings by agencies as well which I think is useful information.

CHAIR - That is not necessarily the same figure as what's rolled over in their operating accounts?

Mr WHITEHEAD - This has the rollover figures in there as well, so you do see the rollover figure. The only question that I haven't clarified is whether the initial amount in the appropriation act includes the initial rollover from the previous year. That's the only piece of information I haven't clarified in my mind as whether that's included in the reconciliation statement or not.

CHAIR - You could argue that the Budget Paper is very large or that the Treasury and Financial Report is quite large, but it's not that big.

Mr WHITEHEAD - This particular reconciliation statement is four pages long.

CHAIR - Is that for one agency?

Mr WHITEHEAD - No, it covers all the agencies but it only has totals by agency, it doesn't have a breakdown on what the purpose of the amounts were for, as is the comment we made before.

CHAIR - Any closing comment you want to make, Rod, or any of your team?

Mr WHITEHEAD - Probably just to thank the committee again for the opportunity to come along and talk about the workings of the Financial Management Act.

Again, as we've covered, we broadly think it is reasonably robust. Other than the comments that were raised, we have no other comments to make at this point in time.

CHAIR - Thanks for your input. It's really helpful to have someone with your level of expertise across the table to help us to understand it better and how it could work better for not just people like yourselves with the expertise but also the average user and consumer of it which is us on behalf of the people.

Mr WHITEHEAD - Thank you, Chair.

CHAIR - Thank you.

THE WITNESSES WITHDREW.

THE LEGISLATIVE COUNCIL SESSIONAL COMMITTEE GOVERNMENT ADMINISTRATION 'A' MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON THURSDAY 15 JUNE 2023

SHORT PROCESS INQUIRY INTO THE FINANCIAL MANAGEMENT ACT 2016

The Committee met at 9.03 a.m.

CHAIR - This is a public hearing. It is being broadcast and everything you say to the committee will be public and form part of this transcript. You are covered by parliamentary privilege while you are before the committee. Otherwise I think you know everything you need to know about this process. If you could do the statutory declaration, then introduce yourself and speak to your submission, please.

<u>Professor RICHARD ECCLESTON</u> WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

Prof. ECCLESTON - Thank you for the invitation, Chair. My name is Richard Eccleston, I am the Professor of Public Policy at the University of Tasmania. As I think members of the committee are aware, I work across a range of issue. My academic background is in tax policy and public finance, as well as a broader interest in governance and good democratic practice. I'm happy to appear before the committee.

I am sure members have seen the brief and high-level submission I prepared back in March in my capacity as an academic. I am happy to speak to that at the level of principles. Despite the best intentions, and we can discuss this, I've not had an opportunity to do more detailed, comparative analysis of how these important yet challenging issues are being dealt with in other jurisdictions, nationally and beyond. Chair, would you like me to provide an overview of the submission?

CHAIR - That would be great.

Prof. ECCLESTON - As we know and is apparent to all elected members and parliaments, I think there is increasing focus on improving integrity and transparency in government, but a lot of these issues are not new. I think they are becoming a mainstream political concern.

The terms of reference of this inquiry sort of intersect at two challenging areas. One is around the administration of grant programs. Grant programs are an incredibly important way of funding critically important community work, for a range of reasons. We know that, increasingly, in infrastructure, particularly critically important community and social services - it's a little bit by not-for-profits and other third-party providers, and that's entirely appropriate - and grant funds are used for a range of other purposes. In that broad discussion, in terms of providing certainty to grant recipients, particularly those delivering critically important programs, I think the Government has introduced some important initiatives, and particularly extending the grant period and duration for critically important grants to the community sector out to five years so they can plan and build capability.

Grants are part of the landscape, and I think an appropriate part of the political landscape, for governments to provide services and deliver for the communities they serve. I guess using

grant funding during election campaigns adds to the complexity and the challenges, and a lot has been written about this. I guess applying processes of good governance and election campaigns is challenging because once parliament is prorogued or dissolved and caretaker conventions apply, we're essentially looking at two groups of rival candidates, multiple candiates, parties, contesting an election. A lot of the normal governance and oversight doesn't apply. There's a difficult tradeoff here because on one level, you want to have accountability around commitments that are made, and money sort of promised and perhaps ultimately spent, but at the same time, I think voters and electors would expect governments and candidates, and particularly governing parties after an election, to deliver on their campaign promises. In making the submission, there is a trade-off there. Just because a program might be inefficient or ineffective, it is ultimately a political party's prerogative to make those commitments and the community probably has got an expectation that they will be delivered. So that is part of the complexity here.

In terms of guidelines around grants, I think in the submission, some of the federal Department of Finance's guidelines around the administration of grant programs are credible and robust, although it is interesting to note that in the Commonwealth sphere, a lot of these guidelines have been honoured more in the breach than in terms of compliance. I am sure members would have seen some of this discussion around the regional Health and Hospitals Fund and the National Audit Office's review into the use or abuse of that grant program.

The principles outlined in the submission are reasonably obvious, but I think there is also a hierarchy there - go to transparency, being very clear and being in a public domain about when election commitments have been made. One problemtic trend, with some evidence I think in Tasmania but more generally, is when commitments are made to certain groups or constituents that are not made public. That is problematic in the sense of voters overall knowing what the priorities of rival parties are and where they intend to spend or invest money.

Then you've got the effectiveness and efficiency kind of guidelines: do programs represent value for money; are they likely to be effective? Are they delivered in an equitable way based on need or some type of criteria? That, again, intersects with the political logic - what actually is pork-barrelling? Is it a party contesting an elections prerogative to spend money in certain electorates at the expense of others? Ultimately, if you've got the transparency, it is up to electors to decide.

Then there is the overarching principle around lawfulness and accountability to parliament. Based on my assessment of particularly the Community Grants Program that this committee is looking at, I think it is clear, my view on it - and I am not a lawyer - is there is no question that appropriations were unlawful and, as is often the case, all governments have reserved funds in contingency funds that they do draw on in between budgets for unintended consequences and expenditure. And we saw that to a pretty significant scale during COVID. The accountability to parliament there is essentially post facto, after the event. There is reporting through the parliamentary and budget process about the expenditure from those contingency funds. I think a practical governance reform in that regard is perhaps more timely reporting of when expenditure from reserve funds and contingency funds have been approved. That may be a question for further consideration.

In terms of some high-level observations that I outlined in the brief submission, clearly, whether it's legislative requirement or just a practice, it is important that campaign commitments are made public in a transparent and accessible way during the course of the

campaign. If there is an issue with the guidelines around grant programs, and if an established grant program is identified as a source of funding for a particular commitment, ideally, there should be clear evidence - whether it's produced by the party or perhaps by the administrators or agency of the grant program - on whether there is broad alignment between a campaign promise or commitment and the rationale and objectives of a particular grant program.

I guess the broader and the more challenging question in the context of an election campaign is, for large commitments around spending, should there be some sort of oversight and assessment of the merits of a particular promise or commitment? I think without a significant investment in independent capacity, that is challenging.

Under the - I think it's the 2007 budget act, and you can certainly ask the Secretary of Treasury and Finance about this - there's clearly a provision for a treasurer or premier or leader of a political party to request the independent costings of a campaign proposal. It seems like good practice, but we know the reality is that it is very challenging in the context of an election campaign. It's not a level playing field in the sense that a government has had the resources of Treasury and Finance and other agencies to develop and cost programs, whereas, clearly, a party in opposition doesn't have those resources. So, there is a risk to them politically if they've suggested a policy and requested costings and it's inconsistent perhaps with what they've proposed or what they anticipate. For that reason, those provisions haven't been widely used in election campaigns. I think the main issue there around transparency has been very clear about what commitments have been made.

In terms of oversight and administrative transparency, as I've mentioned, all governments use contingency and special reserves to finance their activities that weren't anticipated during the normal budget cycle. I think the governance question there is about being clear when and why those special reserves are being used.

Perhaps a more challenging one, and again it goes to capacity and also thinking about the role of Cabinet and Cabinet confidentiality in this, is thinking around a commitment also to provide advice or at least a rationale on the basis under which funding decisions have been made. That's an issue that comes up in a number of contexts.

In terms of closing remarks, this is challenging. It almost requires a cultural shift, a responsibility collectively on all sides of politics to move away from focusing on spending as an end unto itself, and to think about what are the outcomes and priorities that we're trying to deliver. Really, that should be the focus of election campaigns, whereas at the moment, the practice nationally and here in Tasmania is focusing on where money is being spent, and that's our best way of signalling our priorities for the state without thinking about those effectiveness and efficiency issues. It's about where we're spending money rather than what we're trying to deliver for government, where we intend to prioritise investment, and then it becomes more of an evidence-based policy process; whereas all too often - and I think all sides of politics are guilty of this - election campaigns become long lists of promises,

There's accountability, and I think governments have done a pretty good job in honouring promises, but without thinking about what are the impacts and benefits to the Tasmanian or Australian community in terms of these investments. We have pages and pages of commitments without thinking about what it means in terms of programs, what it means in terms of services, what it means in terms of improving outcomes for Tasmanians. Clearly that's just editorialising; we have got into this - politics at the moment is really about thinking about

these individual investments and promises and commitments rather than the much more important and complicated main game of delivering for the communities.

CHAIR - Thanks. Some of the matters you're raising sit under the Charter of Budget Responsibility Act, which is not the direct focus but obviously is linked to all of this.

Mr WILLIE - Thank you for the submission, Richard. I appreciate your comments around transparency, and that's where my questioning will go. You mentioned the Local Communities Facilities Fund in your submission. In another hearing of the Public Accounts Committee, the Treasurer told me that the way that grant was administered was a matter for the Liberal Party. Is that an acceptable position in terms of transparency?

Prof. ECCLESTON - There are two questions. One is about how a program is administered and ways around the transparency of the program. Clearly, commitments that are made should be widely published and available during campaigns.

Mr WILLIE - In fairness to the Government, the commitments have been published. They've been tabled in parliament. That might have been post-election. I think a lot of them were out in the public domain during the election, whether that was in the mainstream media or on social media or within clubs. What I'm asking here is whether the decision-making to award money to certain community groups is a matter for the Liberal Party, which is what the Treasurer said.

CHAIR - From a particular fund?

Mr WILLIE - From a particular fund.

Prof. ECCLESTON - I think that if you looked at the Commonwealth's grant funding guidelines in terms of some of the principles that I've outlined in the submission, there's a question about who administers the funds. I think the critically important question is around the accountability, around assessing value for money, fairness, equity and lawfulness. Clearly, the question - and I don't know the answer to this - is, what were the guidelines around the allocation of those funds, and did they meet those criteria?

Mr WILLIE - And it should it be public?

Prof. ECCLESTON - I think, ideally that's the sort of regime that we should be working towards. Highly discretionary funds, in terms of Commonwealth guidelines, in terms of emerging guidelines in other states, are something that we should be moving away from.

Mr WILLIE - The other issue I'd like to raise because it's in your submission and concerns transparency is, an issue with this Local Communities Facilities Fund was that some of the commitments were funded from the Treasurer's Reserve, and they went straight to the Governor and avoided parliamentary scrutiny. If you read the Treasurer's Reserve section in the Financial Management Act - I'll just read the first part to you:

The Treasurer may, in any financial year, issue and apply from the Public Account, for expenditure, the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is necessary for efficient financial administration -

Does that need tightening up given that it's been used to fund election commitments that probably are reasonably foreseen and, in this instance, it's been used to avoid parliamentary scrutiny?

CHAIR - At the front end.

Mr WILLIE - At the front end.

Prof. ECCLESTON - What I would say is that the contingency funds are widely used. That probably needs comparative analysis about what the particular provisions are in terms of the circumstances under which a treasurer uses and accesses those funds. I think parliamentary scrutiny after the event is critically important. And the one provision, from my reading of the circumstances and act, is that there should be an obligation to report or to gazette when those funds have been approved.

Mr WILLIE - So, gazetting them when they are approved by the Governor?

Prof. ECCLESTON - Gazetting when those funds have been approved by the Governor. I think that should be public in my understanding. I stand to be corrected and perhaps check this with the secretary, as I don't think there's an obligation to do that in a timely way.

Mr WILLIE - We don't want to be too prescriptive in this section of the act because we don't know what unforeseen circumstances are often.

I go back to that question. Does it need tightening up? Is the process used by the Government in this particular instance in the spirit of the act?

Prof. ECCLESTON - The provisions of the act are broad, so I think we'd say that the Government's conduct is certainly within the spirit of the act. As I said, there are specific issues that do warrant further consideration. As I said in my opening remarks, I have not had an opportunity to do that work.

There is also a trade-off here at the other end around the specificity and detail of budgets and budget processes. The more specific budgets are, the less flexibility there is in terms of appropriation and using funds within budgets. Having completely defined appropriations within a budget ticks the box for transparency and parliamentary accountability, but in terms of the administration of the complexities of government, it does make it a bit more difficult because there are significant funds within programs that are moved around, time delays, moved through time and in various ways reported back through the budget process and into parliament. So, it is a trade-off there between having some flexibility but also that accountability and where that balance lies perhaps needs further consideration.

Mr WILLIE - I will frame the question differently then.

There is no question that it was lawful under the act and your submission refers to that, and I am not questioning that either.

What happened in this particular circumstance, where the Government funded election commitments from the Treasurer's Reserve -

Legislative Council Government Administration A Thursday 15 June 2023 CHAIR - Some.

Mr WILLIE - Some of them, not all of them; a lot of them were tabled in parliament and debated. Is that a practice you would like to see continue?

Prof. ECCLESTON - Under some circumstances. I don't think we should be ruling it out.

Mr WILLIE - For election commitments?

Prof. ECCLESTON - The other trade-off here is that we want the timely delivery of services. The criticism from communities and commentators is that often governments are too slow to act in terms of implementation. I think the idea of somehow trying to prohibit using contingency or reserve funds for any election commitments is problematic. I think the most likely circumstance I can see is when there is a widely agreed priority that needs urgent investment. I think all of you would be happy to identify and will be advocating for priorities come the next state election, or when you're seeking re-election. The costs might be different, they might blow out, you might need additional funds to deliver a particular program or address an acute community need. In that regard, I would be a bit apprehensive about some sort of blanket prohibition on using contingency funds. What I think would be appropriate is if reserve or contingency funds are required to deliver a particular program in a timely way, that request for funding and the approval of that funding and, ideally, a rationale for why those special reserve funds were required should be made public, as it will be in three, six or nine months or during the next budget cycle.

Mr WILLIE - In summary, you would like to see more focus on outcomes; if this process is used again in the future, you would like to see it gazetted, or published, when the Governor approves it; and you would also like to see the guidelines used in the decision-making.

Prof. ECCLESTON - We need robust guidelines for when grant funding is used.

Mr WILLIE - And they are made public?

Prof. ECCLESTON - Yes.

Mr WILLIE - I am trying to get to the heart of the transparency issue.

CHAIR - If I could follow up on that, the guidelines relate to the reporting of election commitments or the expenditure from the Treasurer's Reserve? There are two separate things here.

Prof. ECCLESTON - The guidelines that we are talking about are really about the guidelines for grant funding and at least say that it is explicit in terms for what these funds are designed for. If it is very small-scale spending around particular community needs, that can be baked in and then it is a matter for a government to justify that and for parliament to scrutinise that.

If we are talking about tens of millions of dollars, well, really, what is the rationale and what are the guidelines around that? That is where we are moving, with regard to the tensions between executive government and broader public administration.

CHAIR - You talked about that you wouldn't want to see the use of the Treasurer's Reserve limited because there could be an urgent need that comes up; that is agreed by all parties during an election campaign. Let's say, we have a mass resignation of paramedics so we actually needed to fund additional positions on higher pay to attract them - whatever it is, we cannot operate the state without them, and this is agreed to during the election period, in caretaker mode.

The newly elected government of whatever colour controls and determines the sitting schedule, it controls and determines the legislative agenda, so its first order of business could to bring forward a supplementary appropriation bill for the amount of money required to fund the new paramedics, say, and that would be a front-end scrutiny, an open and transparent process, even though everyone agrees this is a priority. Do you think, if that remains possible, COVID-19 aside perhaps - there are situations where perhaps parliament cannot meet, but then that is not a question about how we meet remotely, which is not part of this but maybe should be. I am just trying to understand, if it is an extraordinary circumstance like that, then the government has a couple of options. One is to bring in a supplementary appropriation bill. The other is to be open and transparent about the fact that we are actually going to access the Treasurer's Reserve for this because we want to do it now - with 35 members, the count might take longer to finalise the last few members so they cannot formally sit until that is done. I am trying to look at how to get the most open and transparent mechanism. Is it with the current framework with more rigour around it or is it something else? I am trying to understand how

Prof. ECCLESTON - I am firmly of the view that parliament is critically important and sovereign, and that's often an inconvenient truth for a lot of governments. There are costs though in formulating a supplementary appropriation bill and feeding it through parliament in terms of time and other things that parliament could be doing. Perhaps a regime - and, again, we would need to think about the details - is that spending or appropriations from the Treasurer's Reserve above a certain threshold, if there is a significant -

CHAIR - There is only \$50 million in there.

Mr WILLIE - It's \$50 million in most years but through COVID it was \$150 million.

CHAIR - They have stopped that now.

Prof. ECCLESTON - There is a de facto limit there and it seems about right in the context of a state. It is less than 1 per cent of the state budget.

CHAIR - On that point, Richard, if you had a threshold level and amounts above whatever that threshold level is needed to be reported separately in some way, that doesn't remove all the problems of the grants - \$5000 here, \$6000 there, \$2000 there - to little community organisations. For them it is a lot of money. For them it is equivalent to \$20 million in, say, the Health system. As you identified, transparency and timeliness of reporting is the key, and how do we define that?

Prof. ECCLESTON - That is the next layer of more detailed work that needs to be considered.

Mr EDMUNDS - You made a comment about commitments that aren't being made public being problematic. Is that the answer to that as well about detail?

Prof. ECCLESTON - Absolutely. It is difficult; it is more of a risk in small communities but also with digital platforms and micro-targeting and all of those types of strategies. If firm commitments have been made to groups then that should be made public. I don't think that necessarily applies to the community funds but it is another insidious practice that is highly problematic. That is the minimum threshold that parties should be making a clear commitment to make public all of their election promises and costings. I think that has generally happened in Tasmania. It is an important principle but one I'll acknowledge is often difficult to enforce in practice.

Mr DUIGAN - I guess what I am hearing is that, by and large, you feel that the regulatory framework is okay, aside from a few little tweaks around publishing. Are there other levers to achieve the kind of cultural shift that you feel is needed? Where do you start that piece? Where does that come from? How do you drive that?

Prof. ECCLESTON - That has to come from the top down. You talk to a lot of people and I talk to a lot of people in the community. I am sure you talk to a lot more than I do given the nature of your work, but there is a frustration there in the kind of transactional way that we are doing politics in Australia. I am not singling out Tasmania there. Groups often depend on this type of funding to do their work, but why can't we do it more systematically, more holistically? Let's lean with our aspirations and what our priorities are, then that feeds into the criteria for grant funding so we have much better alignment and much better effectiveness. It is partly about being explicit about a commitment or an ambition to do politics differently.

Then it is about parties embracing that and ultimately around governance and policy, embracing that. If our focus for the next five years is to support more young people into work and further education, that is the priority for our grant funding for all of the different groups and employment services that are doing work; how can you make that kind of systematic ecosystem?

Thinking about these issues at a higher level, you're right, Nick, the two are around the timely reporting and then a serious commitment to tightening up the criteria and governance of grant programs and trying to conform with those. Having had a look at what was happening in other states briefly when preparing this submission in March and some of the analysis and seeing some of the materials coming out of the Commonwealth Department of Finance around grant guidelines, that makes perfect sense, and then to read the National Audit Office report and how those guidelines were completely ignored in terms of the allocation of \$1.9 billion worth of funds federally highlights part of the cultural challenge.

CHAIR - Following up from that, Richard, around the tightening up of the rigour around the grants programs, do you see that sits in the Financial Management Act? Without some legislative expectation around that, our guidelines don't have any ways and if someone doesn't follow the guidelines then, so what, effectively - we've seen a bit of that.

Prof. ECCLESTON - Yes, what is the role of the independent audit function around this and where does that - ?

CHAIR - There's no penalty, except a bit of public shaming maybe, whatever it is, but do you think there needs to be some sort of legislative provision around the use and assessment of grants, and where would that best sit?

Prof. ECCLESTON - In terms of the machinery of government and where it best sits, that's an open question. It is one pillar of a broader kind of review of the integrity and accountability in government in order to tighten that up and to get that balance right between community expectations and delivering communities without developing compliance and oversight regimes that are expensive and unenforceable and often don't lead to better outcomes. That's something where you really need to work through the details and I apologise for not having a prescriptive position on that but, clearly, there needs to be more oversight.

CHAIR - Does that need to have a legislative framework that guides that? Is that what you're saying, rather than just some guidelines that sit there but are not necessarily followed, as we've seen in other jurisdictions?

Prof. ECCLESTON - The critical thing is timely oversight and accountability. Even legislative requirements often can't be ignored but are interpreted in a pretty liberal and pragmatic way without that independent oversight.

CHAIR - We do have some legislative requirements about reporting of financial transactions and things like that. Obviously, there are a number of financial reports each year - the big one, the Treasurer's Annual Financial Report, lovingly known as the TAFR, which provides a consolidated set of numbers but that's in October after the end of the financial year on 30 June. With the Treasurer's Reserve expenditure, there's the reporting of that after the event as we get the report in parliament that's tabled that has a list of the requests for additional funding - RAFs - and the other movements within agencies and things like that. There's nothing wrong with that; that's all lawful and appropriate but that, again, is well after the event. If you go to the dates of when those decisions were made, nearly always they're made almost without exception - I've been here a while now - in June, between about 16 June and 30 June. Some, occasionally, happen a little bit earlier but they're nearly all in that period. When I've asked about this previously, it's because we manage within our own resources until we can't anymore and then we agree to these requests for additional funding to meet the gaps.

Prof. ECCLESTON - It's a reconciliation thing.

CHAIR - Yes. When you look at the description of the expenditure to come out of the Treasurer's Reserve, it is for contingencies, it is for unforeseen expenditure which is necessary for the efficient financial administration. That is efficient financial administration, balancing the books at the end of the year. On 16 June we don't have in the *Gazette*, as you suggested, or even a tabled document in the parliament that says on 16 June, 10 RAFs were approved and this is what they were for and this is the amount; we wait until after they've all be approved by the Governor and - a done deal. Is there a better way of doing that? You have touched on it by saying when a decision is made, whenever it is, and it could be on 29 June, a lot of them are, that there is a gazettal notice at that point.

Prof. ECCLESTON - That is exactly the approach. With technology and better administrative systems it is straightforward. There is a lot not to like about American politics and American budget processes, but they are really good at transparency and real-time reporting of expenditure, spending decisions, warts and all. Also, who is involved committees and making spending decisions. There is a shift towards transparency but we need a model that is appropriate for Tasmania in 2023 or 2024. Based on my preliminary analysis of the case, there could and should be more timely reporting.

Mr DUIGAN - They also have lots of circumstances where they are not going to approve the funding and the government is going to shut down and those sorts of things, I guess. If you have less than 1 per cent of the budget to balance the books at the back end, that would seem like it is limited in its size and scope.

CHAIR - It is limited to \$50 million.

Mr DUIGAN - That's right, less than 1 per cent of the budget to balance the books.

CHAIR - In terms of how big the Treasurer's Reserve can be, it can be bigger than that depending on what Commonwealth funding comes into it.

Mr DUIGAN - But it is not.

Prof. ECCLESTON - It has to be proportional to the funds and significance. This is the sort of responsive regulation. You don't want to have really prescriptive, robust, onerous requirements in terms of process and timely or real-time reporting for very small sums, but in terms of the investment and processes to report these decisions in a timelier way, I can't see that would be an issue. It would be interesting to look at what Australian states are doing about the contingency and reserve funds and reporting expenditures from those.

Mr WILLIE - Back to the administration of grants, it is a follow-on from the Chair's questions about legislative frameworks. One model is potentially where parties could commit to a Local Communities' Facilities Fund of, let's say, \$100 million. During election campaigns politicians can champion projects, say this is a great project, we are going to put this forward for this fund and it is going to be assessed on its merits. Do you have any comment on that model? Is that problematic in terms of delivery? Politicians might get caught championing a project and people think it is going to be delivered and then it is assessed and knocked off.

Prof. ECCLESTON - It is a good example, Josh, and it highlights that tension that I tried to describe in my opening comments. At the end of the day, shouldn't it be a candidate or a party's prerogative to propose policies and priorities that it thinks are appropriate? Isn't there a risk with that kind of model about, well, this is really a commitment and that is the trade-off? I want to fund a new school or a new district hospital or something like that, but it has to go through this process. It's not easy. I agree with you and I sound like I'm contradicting earlier calls focusing on priorities and outcomes rather than spending. I think we really want a culture and a system where - you don't want a hundred-million-dollar fund - we discourage politicians and parties from making those ad hoc decisions, or commitments, I should say. It's really explicit that these are priorities and they will be subject to this kind of review. You could set up guidelines for a smaller community fund that's really about empowering communities and giving them the sort of autonomy to make decisions about all their priorities, so that sort of

devolved decision-making. There are models to do that, to respond to acute community needs that are perhaps slightly insulated from a crude political calculus about buying votes.

Mr WILLIE - Would that sort of process be more inclusive, like in this particular example of the current Government? You go out into some communities and they feel aggrevied because they're not connected to the political process, they don't necessarily know a member of parliament and they didn't know this sort of funding was available to their club.

Prof. ECCLESTON - That goes down to guidelines around access and equity and fairness so that it's not an insider's game but that community funds are spent based on need and genuine grassroots community propirites. I think more generally it's not easy, but we really need to think about the way we engage with the communities and how we empower communities and give them a voice. I know it's a set of issues that the local government review has been considering. Clearly, councils are close to communities, but it's a pretty traditional form of political engagement where some constitutents in communities have got good relationships with elected officials but there are also big constituencies and groups within communities that don't have those connections, so how can we more effectively reach out, give them a voice and really understand what their priorities are?

CHAIR - That is where the equity aspect of this comes in, in that it's not a relationship with a particular community, maybe there's a particularly Labor-leaning area or a particularly Liberal-leaning area, then they are more likely to engage with the members of that party and more likely to be able to get their ear in getting additional funding. In terms of making it a more equitable and open process, are you suggesting there should be a fund that is established, a bit like the Treasurer's Reserve, a fund established that has a certain amount of money in it and from which commitments can be made, and then there's still a process of ensuring some oversight of that before it's doled out. I am just trying to understand the structure you are suggesting here.

Prof. ECCLESTON - I think a good example here in Tasmania, of what is really good public policy is the Tasmanian Community Fund, which is a great funding model; it's basically the proceeds of selling the state bank [Trust Bank] when I was a kid, kept in perpetuity and managed independently and pretty strong connections to communities in terms of setting priorities and funding a range of projects at different scales. That really should be the model that we're working towards, but at the end of the day it's a cultural shift, isn't it, in terms of planning an election campaign, trying to desperately win, win votes -

CHAIR - Wouldn't it make it more equitable if, to pluck a figure out of the air, say, there's \$20 million sitting in a local community facilities fund or whatever you want to call it, that all candidates knew was there, and so it's limited to a degree, but then all communities would know there is that bucket of money - we really need a new roof on our sports ground facility, so let's put our hand up and ask for that. Then both or all parties may say yes, absolutely, we'll back that in.

Pro ECCLESTON - That is right and some of the criteria can be an extent to which members and candidates will support a particular proposal.

Mr DUIGAN - To an extent you do see that; in an election campaign, there will be things that people will -

CHAIR - I am not disputing that, I am just talking about the process of how you make the funding decisions about it in an open and transparent way. It's not just a party member saying this local community group definitely needs this investment, it's valued about \$5000 or \$10 000 so we'll make that commitment. It would assessed through the process of this fund, whatever it is called. The other party comes along and talks to this group and says, 'We support that too', so that is likely to get the tick-off at the end. Whereas the ones who perhaps only have the support of one party may be reviewed more thoroughly in the wash-up as to whether there is a real need there, with an outcomes focus. It sounds like a complicated process -

Prof. ECCLESTON - It is a trade-off, isn't it? Rather than voting for a candidate or a party who is committed to building a new change room at the local netball club or whatever, you are voting for a candidate that supports that proposal in a process. That is one step removed. Maybe I am naïve but I think there is an appetite for having that kind of process.

CHAIR - It also makes it possible for independent members to say if they were elected particularly in the lower House, that if that was to come before them, they would support it, too. Doesn't it make it more equitable for all?

Prof. ECCLESTON - That's right. It is one mechanism at a small scale of giving members who are part of a governing party or coalition or power-sharing arrangement some influence over resource allocation. We need to be careful because our system is not really set up to do that. But in the progression of politics and the evolution of our kind of parliament and party system and Westminster budget system, that might be something worth thinking about.

CHAIR - Do you think that sort of arrangement should be described in the Financial Management Act, if there was to be such a process?

Prof. ECCLESTON - It could be considered. But we would need to do the work in terms of what are the models and what are the guidelines. Then, what is the best policy instrument? Is it including it in the Financial Management Act? I do take your point though that guidelines, more often than not, are honoured in the breach rather than in terms of compliance. I do think in terms of this evolution of government, governance is about providing more oversight. We have got good, ordered oversight of financial management and spending, but what we always struggle to do is to think about the outcomes, or what I call a performance audit. Sure, we have spent this money in an appropriate way, as per the budget and probity guidelines, but has it actually delivered anything? Could it have delivered more? All too often the answer is either 'We don't know' or 'Probably not'. All governments are resource-constrained. The budget outlook over the medium term is challenging. We've got high and complex needs and we really need to lean into that in creative ways.

CHAIR - Richard, is there anything you wanted to say that you haven't said already that you wish you had?

Prof. ECCLESTON - The only thing is the apology about the general nature of that discussion; I think we identified some priorities in thinking about that and the committee's work and the broader reform agenda around some of these issues. Unfortunately, I did not have the time to do work on more detailed or prescriptive views.

Mr WILLIE - You can always come back to us.

CHAIR - If you felt inclined.

Prof. ECCLESTON - If I can find the time, yes. That is an important set of issues. I will certainly bear that in mind and through the Chair or the Secretariat I can keep following the committee's work.

CHAIR - It is very targeted. Obviously, it is not something that interests everybody, but it's an important body of work that we review legislation that seems to arguably have been used in a way that perhaps wasn't fully intended or without the transparency that people expect and whether that can we strengthened and if so, how. Thank you.

Prof. ECCLESTON - Thank you.

THE WITNESS WITHDREW.

The committee suspended from 10.01 a.m. to 10.15 a.m.

The committee resumed at 10.15 a.m.

CHAIR - Welcome to you both to our public hearing for Government Administration Committee A looking at the Financial Management Act, how it is related. It is a public hearing. Everything you say is covered by parliamentary privilege while you are before the committee. I don't imagine there will be anything of a confidential nature you wish to share with us but if you do, you can make that request, otherwise it is a public hearing and will be transcribed and will form part of our public record and report.

Any questions or comments? Otherwise I will get you both to take the statutory declaration and invite you to make some opening comments.

Mr <u>**TONY FERRALL,**</u> SECRETARY, AND <u>**Ms SUSAN PETERSON**</u>, ASSISTANT DIRECTOR, DEPARTMENT OF TREASURY AND FINANCE, WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

CHAIR - Thank you. I am not sure how you want to approach this, by going through the act initially?

Mr FERRALL - If it suits the committee, I have a presentation on the act which goes through the principal areas of the act and how they are operationalised. Within the presentation there's also a series of slides which pick up various sections in the act and provide some commentary around how they are operationalised within Treasury and with the Treasurer's office or the Treasurer. In that part of the presentation, I wasn't going to work through it. I was going to leave it with the committee, but I am happy to work through it if that helped. Then, towards the end, I have some comments and thoughts around some of the areas I think there could be some improvements or some changes. I am happy to work through that if it suits the committee. I am happy to take questions as we go through.

CHAIR - Would members find it helpful to have that? Perhaps some of our newer members might find it helpful to have it in front of them, or all of us really for that matter.

Mr FERRALL - And I have provided an electronic version.

Mr EDMUNDS - I have had a few IT issues this morning so hard copies are good.

Mr FERRALL - This technology looks like it is dead.

CHAIR - We have all had trouble this morning. We will leave it in your hands, Tony, as to how you wish to approach it.

Mr FERRALL - I am happy to take questions through the presentation. To assist the committee into the operations and application of the Financial Management Act, the presentation details the legislative framework, the structure of the Public Account and details of the requirements of the FMA; it tries to step through those. The presentation is quite long but it is intended to give the committee a broad understanding of the legislative framework.

In addition, as I said earlier, part of the presentation provides details of specific responsibilities of the Treasurer under the FMA and when the provisions are utilised and how Treasury operationalises their requirements. As I said, I am happy to go through that but

I didn't really intend to go through that part of the presentation in detail but leaving the slides with you may assist you in your deliberations. I will highlight a number of areas where I believe the overall financial management framework could be enhanced to improve transparency and accountability.

If we move on to page 3, this slide shows the range of legislative and financial governance documents of the Tasmanian public sector. People often think that the limitation is around the Financial Management Act but there are linkages to the Constitution Act, the Charter of Budget Responsibility Act, the Audit Act and the Financial Management Act, and then you pick up appropriation acts. There is enabling legislation of state authorities and there is also Treasurer's Instructions which are issued under the authority of the FMA. It is quite broad and they all interact in terms of any particular issue or particular decision. You can't necessarily look at just one piece of legislation to understand what should happen or does happen.

The classification framework is determined in accordance with the principles and rules set by the Australian Bureau of Statistics and the entities are classified into three different sectors.

Looking at the table, the General Government Sector includes all government departments, some state authorities controlled and mainly financed from the public sector, and state authorities included in the GGS include entities such as TasTAFE, Royal Tasmanian Botanical Gardens and State Fire Commission. In contrast, the public non-financial corporation sector - PNFC - generally covers the majority of its expenses from its own revenues by the sales of goods and services and is generally more commercially focused.

The PNFC sector includes state-owned companies and government businesses, and some state authorities as well. Where an entity lies is not always an easy thing to pick up from either its name or what it is and it's classified by the Australian Bureau of Statistics. Some end up in the General Government Sector; those that are more likely to be seen as trading enterprises end up in the PFNC sector. The ABS classification is not a choice that the state makes; it is the classification the ABS decides.

CHAIR - Just on that point, Tony, Homes Tasmania sits in the PNFC sector. Is it because it is asset-based, because of the assets that have been transferred to them and they can raise their own revenues through their rents and things like that?

Mr FERRALL - I cannot really say why the ABS classifies something in one place or another; they go through a process of identifying whether the entity has own-source revenues, whether it is largely funded from public funding or whether there are other features that make it more like a trading entity as opposed to a general government department.

CHAIR - If you look at Metro, which gets significant government subsidies, that still sits in the PFNCs.

The subsidies for Metro are under a contract and so, again, my judgment is that the ABS would consider that as a trading entity for that reason or partly for that reason. It is not always obvious as to where an entity will be classified under the ABS framework, but it does create some confusion sometimes when people attempt to make or apply the framework that applies to the General Government Sector to an entity that is in the PNFC or vice versa.

CHAIR - The Treasurer and the state have no say over where they sit, the ABS makes that determination?

Mr FERRALL - In terms of the ABS classification, there are provisions - and I would have to check which ones - which would enable you to have an entity classified as operating within the Public Account notwithstanding that it would be classified by the ABS as, say, a PNFC. That would create a number of challenges for Treasury, particularly in presenting financial statements because we would have a uniform presentation framework which follows the ABS classification and then we would have an entity which might be picked up in the PNFC, which would then have to be consolidated into the PNFC. So, in the budget papers you would have some chapters at the back that would be under the uniform presentation framework and that would not reconcile with other parts in the budget papers. Although it is potentially possible for an entity to be scheduled so that it does end up as part of the Public Account, from a Treasury point of view we would not really support that because then you are going to get inconsistencies within the budget papers. That will be difficult to reconcile and creates more confusion for the readers of the papers.

I am on page 5. The FMA establishes the Public Account, which includes the receipts of the General Government Sector and expenditure from the General Government Sector, which is largely appropriations and the Specific Purpose Accounts.

Under the previous legislation, some members may remember, there was effectively a Consolidated Fund and there was a Special Deposit and Trust Fund. Now, in consolidating under the new legislation, effectively, the special purpose accounts, which would have previously been in the Special Deposit and Trust Fund, would have been brought into the single Public Account in terms of the legislation. Agency trust accounts are outside of the Public Account, that is true trust or pure trust accounts, and the FMA applies to all General Government Sector agencies scheduled in the act, and that was the point I made a moment ago that you could potentially schedule a PNFC entity in the Public Account, effectively, but it would create a number of problems.

CHAIR - We do not have any that are scheduled in there?

Mr FERRALL - No. And the FMA does not apply to government business enterprise or state-owned companies. The Charter of Budget Responsibility establishes and provides a very broad framework to improve fiscal policy outcomes. It requires a number of things, including for the government to have a fiscal strategy, which need to be based on the principles of sound financial management. It also requires a regular report on the government's financial performance. I will not go into the details of the principles of sound financial management established under the act, but they are quite broad principles, as most principles are; they are not prescriptive and they are of the nature of - I can give you an example - preparing for unexpected events by building a robust financial position. They are quite broad and they are open to quite broad interpretation.

The Charter of Budget Responsibility Act also requires regular reports to provide for the assessment of the government's fiscal performance, so the Treasurer is to provide information within the Budget, the revised Estimates report and the Treasurer's Annual Report, to allow assessment of the government's fiscal performance against the Fiscal Strategy so there are requirements for that to be reported.

CHAIR - We do know the improved reporting in the budget papers this year on that.

Mr FERRALL - Yes, and personally I think it is a good move to provide a broader set of reporting and a broader set of measures under that Fiscal Strategy. The charter also requires a publication of a Pre-Election Financial Outlook Report under certain circumstances and establishes a process for costing of election policies at parties represented in the House of Assembly, and it requires the tabling in parliament of the report on the sustainability of state finances every five years.

CHAIR - Tony, we were talking with our previous witness about the intersection with the Charter of Budget Responsibility Act. Some things he was talking about were reflected more there than in the Financial Management Act. On the publication of the Pre-Election Financial Outlook Report, can you just go through to some of those circumstances that might prevail that would see that happen?

Mr FERRALL - Yes, and I will not try to get all the provisions in the act right, but, fundamentally, the Secretary of Treasury, if an election is called, needs to make a judgment within a certain period of time as to whether the most recent publicly released financial statements of the government of the day are appropriate or still reasonable. Then, once the Secretary has made that judgment, if the judgment was that there needs to be an update to those most recently published financial statements - and the Secretary has, I think, 10 days to produce further information or a further statement and the form and nature of how that is produced is up to the Secretary - it is effectively in there as a mechanism if there is a long period of time between the publication of the Revised Estimates Report if you looked at an election that was some time after the publication of the Revised Estimates Report; there are obviously things that could have changed and you might need to have an updated report. So, it is designed around that.

CHAIR - So it is a timeframe thing but also if something significant was happening economically to the state.

Mr FERRALL - Yes.

While the charter act addresses significant issues relating to what is considered to be a sustainable budget position, reporting on the sustainability of the government's financial position and public accountability, in practice, as I noted a moment ago, it's noted that many of the requirements of the act are quite broad and open to a level of interpretation that can lead to uncertainty. In turn, this could result in a reduction in the financial management rigour required, but they are very broad provisions. From a personal point of view, I'm not sure you could actually operate if you made them very tight as well, but because they are very broad, there's a level of interpretation that is needed to be undertaken, particularly by the Secretary of Treasury when you have certain responsibilities under the act which occur generally around those election times or publication of the Pre-Election Financial Outlook Report, but also in terms of publishing a report on the sustainability of the finances every five years. They're very broad provisions; they don't give a lot of direction.

CHAIR - When is the next of those due - before or after you go?

Mr FERRALL - After.

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CHAIR - Is it next year? I'm trying to remember when you did the last one.

Mr WILLIE - It's a few years until the next one.

CHAIR - Yes, it must be getting close.

Mr FERRALL - We did one in 2021.

CHAIR - That was the bonus one, though, wasn't it?

Mr FERRALL - No, there was another bonus one. I will see if Susan can find it.

CHAIR - Yes, Susan might be able to figure out when it's due.

Mr FERRALL - I will move on to the Financial Management Act. The introduction of the Financial Management Act 2016 was effective from 1 July 2019 and it replaced the then 30-year-old legislation and introduced the new structure of the Public Account, new Treasurer's Instructions and revised the responsibilities for managing the state's finances. The FMA, at a high level, provides for the management of the public finances of the state in a manner consistent with contemporary accounting standards and practices, so it's linked to contemporary accounting standards and practices. It establishes minimum requirements for the supporting statements required with respect to bills for appropriation, so there's specification of what must be provided with an appropriation act. It provides authority for the Treasurer to manage appropriations under certain circumstances, and I'll go through those circumstances in a moment; and to report supplementary Estimates to parliament. It also provides authority for an accountable authority to draw money from the Public Account under certain circumstances. It establishes the responsibilities of the accountable authority of an agency so 'accountable authority' is effectively the head of agency. The act does allow delegation, though, of responsibilities of the accountable authority. It requires the Treasurer to provide quarterly and annual financial reports to parliament in relation to the General Government Sector and the Public Account, and requires the accountable authority of an agency to provide annual audited financial statements to parliament for the relevant agency. It provides for the Treasurer to issue instructions in respect of the principles, practices and procedures to be observed in the financial management of all agencies, so that's effectively the Treasurer's Instructions.

Mr WILLIE - In terms of the agencies reporting to parliament, do you have any comment on how that's done in practice? The parliament gets snowed with some days 30 annual reports being tabled at once and it's difficult for the media and parliamentarians to scrutinise.

Mr FERRALL - I agree it's difficult to scrutinise. The requirements around the preparation and publication of an annual report and financial statements are really built around the end of the financial year, then the capacity of the agency to prepare the statements, the Auditor-General to do audits of the statements and then push them through. I'm not sure you can avoid a large volume at a point in time because you'd have to change the whole reporting cycle of everybody and move them out of cycle. It satisfies the accountability requirements; it's just a question for parliament wehter there is time or capacity to scrutinise those to the level that parliament may want to.

Mr WILLIE - And the fourth estate, too. Often, they will make comment about having so many reports to work through, and in a timely way. We can provide scrutiny over a period of time; it's just whether it's timely in terms of when they've been published.

Mr FERRALL - I have some comments about that later. I think there are some ways that some of that timeliness, in some areas of scrutiny, could be enhanced by having some other reports at different times, potentially. Fundamentally, parliament is overlooking a very large group of individual agencies and GBEs, and the volume is somewhat unavoidable. GBEs come later for scrutiny, but even then, it's still large volumes.

The next Fiscal Sustainability Report is in 2026.

CHAIR - That's a job for the next secretary of Treasury.

Mr FERRALL - Correct. The FMA builds on the principles from the Charter of Budget Responsibility Act in regard to financial management responsibilities of accountable authorities, including the accountable authorities responsible for ensuring an agency's financial management processes, records, procedures, controls and internal management structures are appropriate; ensuring the custody, control and management of accounting for all property, public money, other property and other money in possession of or under the control of an agency. The point I'm making here is really that it is a sort of disaggregated or decentralised model in terms of having accountable authorities at the agency level who are responsible for these things. Although Treasury has quite a significant role, people sometimes confuse Treasury's role with the accountability at an agency level. The accountable authorities are responsible for ensuring that appropriate stewardship is maintained over the assets of an agency and the incurring of liabilities of an agency, and ensuring the effective and efficient use of resources in achieving the government's objectives.

CHAIR - You may come to this later, so we could leave it until then. If you have an agency that appers to be acting contrary to that, say, there is a whole range of liabilities that could grow and leave liabilities ...[indistinct], at what point and who would step in there and say you are allowing this to go beyond your statutory requirements as an agency?

Mr FERRALL - In a practical sense, Treasury does monitor a range of things occurring within agencies, not necessarily to the level of leave liability, as an example, but to the extent that there were behaviours in an agency of which we may form a view they would be inconsistent with the principles or the FMA. In the first instance, we would raise that with the Treasurer. There is a set of guidelines and rules, particularly around things like the Treasurer's Instructions, which do create some boundaries around those kinds of areas. Quite clearly, if there was an agency where there was an egregious going beyond those boundaries, then that would be a matter Treasury would need to deal with. There are provisions in the act which haven't been exercised, but if the Treasurer's Instructions, for example, have been breached, it is ultimately a breach of the law. From a head of agency -

CHAIR - Because of the powers in the act to establish the Treasurer's Instructions? They are not scrutinised in any way.

Mr FERRALL - No, they are not. But the powers in the act -

CHAIR - But if there was a breach of them, it is now actually a breach of the FMA.

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Mr FERRALL - Yes, and a breach of the FMA, for a head of agency, is a breach of law, which, under the State Service Act, is an actionable act.

Mr WILLIE - There are exemptions to the Treasurer's Instructions in many circumstances, aren't there?

Mr FERRALL - Yes, they can be given.

CHAIR - By the Treasurer?

Mr FERRALL - Yes. I am happy to go quicker or slower.

CHAIR - Are we all good with the speed? Yes? Bearing in mind that most of the other members were not here when we brought this act in, so it is probably helpful.

Mr FERRALL - Just going through page 9, some of the other legislation. The Constitution Act authorises the issue and application of money from the Public Account. That is Part 4 of the Constitution Act. The Constitution Act deals with appropriations, it deals with taxing and it deals with the structure of appropriation bills. The role of the Auditor-General is established under the Audit Act 2008 and the powers and responsibilities of the Auditor-General are detailed through that act. The Auditor-General is required to provide an independent view on the financial and operational position and management of the state's agencies and businesses. The Auditor-General also provides a view on the fiscal sustainability of government entities, and has the power to investigate those entities and provide a report on a broad range of issues. Going to the question earlier about what happens if there was a breach, part of that is picked up through the Auditor-General's role as well.

CHAIR - Which the Auditor-General can only do if his offices are adequately resourced.

Mr FERRALL - Resources are a problem for everybody.

All accountable authorities are required to submit a financial statement to the Auditor-General, each financial year. This statement, along with the report from the Auditor-General, comprises the annual financial report of each agency as prescribed in the FMA. Effectively, those linkages require agencies to have fully audited reports produced for their annual report or included in their annual report.

Other legislation that you would also be familiar with such as the Public Accounts Committee Act provides the committee with broad-ranging powers enabling it to inquire into matters relating to financial management, administration or use of public finances, or any matter that it considers related to public finances. The Public Works Committee Act establishes the Parliamentary Standing Committee on Public Works; the act dictates its membership, powers and responsibilities and it covers public works undertaken by a GGS entity. That does include agencies and state authorities if they are in the GGS.

The point I am really trying to make is, there are multiple legs to almost any financial decision. If there is a financial matter relating to capital expenditure, it can fall into the Public Works Committee Act, it can be captured under the Constitution Act, it can be captured under

the FMA. When you are looking at how things might be occurring or what needs to occur, you have to look much broader than just the FMA.

Lastly, in terms of legislative framework, the State Service Act establishes government departments under Schedule 1, Part 1 of the act and state authorities under Schedule 1, Part 2. It also provides for the establishment of a head of agency for each agency. Among other things, the State Service Act requires heads of agency to operate and ensure their agency is operated effectively, efficiently and economically as is practical. Again, there is another linkage into the State Service Act. As I said earlier, the State Service Act also requires an agency to produce an annual report.

Now, for the Treasurer's Instructions, the detail there just groups them in particular areas, the way we have grouped the Treasurer's Instructions. Treasurer's Instructions can be issued in respective to the principles, practices and procedures to be observed in the financial management of agencies. They are there to provide further detail to guide agencies. They can apply to all agencies. They can apply to a specific agency and at all times or specific time frames. You could, under the act, have an individual Treasurer's Instruction for a specific agency, for a defined period of time.

CHAIR - Does that happen very often?

Mr WILLIE - Have you got an example of that happening?

Mr FERRALL - I do not think there has ever been an example of a TI like that. We have done them all as generically applying to all agencies, and there are specific exemptions that are given on occasion, but I am not aware of any that we have done, no. Treasury's Instructions don't apply to the agency specified in Part 2 of Schedule 1 of the FMA; that's effectively the legislative agencies, so it doesn't apply to the House and it doesn't apply to Legislature-General and the Governor - it's basically those that end up in that schedule. Treasurer's Instructions have been developed relating to financial control, financial reporting, budget, procurement framework, procurement processes, contracts and disposals. In addition, we produce a range of better practice guidelines which are available to assist the agencies with their responsibilities.

Mr WILLIE - When an exemption is given to a particular Treasurer's Instruction, does the Treasurer seek advice from Treasury, or is it purely the Treasurer's decision?

Mr FERRALL - I am not aware of an example where Treasury hasn't provided advice to the Treasurer in relation to an exemption. A number of the Treasurer's functions and activities have been delegated to me as Secretary of Treasury, so I can give exemptions under certain circumstances as well.

Mr WILLIE - Okay.

Mr FERRALL - Moving on to page 13 of the budget papers, the FMA requires that a bill for an appropriation act is to be accompanied by a statement in the budget papers showing, in respect of that financial year, the total amount of estimated receipts in the Public Account, the expenditure from the Public Account, and the major general financial sector's financial statements prepared in accordance with the Accounting Standards. The requirement to publish major GGS statements in accordance with the Accounting Standards is met through the

statements currently included in budget paper 1, and the Treasurer may include any other financial or statistical report. The budget papers that accompany the appropriation bill have a range of additional reports or additional information which goes beyond what is required to accompany an appropriation act, technically. As the committee would be aware, Treasury often makes suggestions to the treasurer of the day to expand or to include additional information through those reports.

Mr WILLIE - How far out do you lock those estimates in from tabling in parliament?

Mr FERRALL - Sorry, can you repeat that?

Mr WILLIE - The estimated receipts of the Public Account for example, how far out from tabling in parliament does Treasury lock those figures in?

Mr FERRALL - It varies. In practice, we need about a six-week runway from the time government makes its final decisions around the budget to get to the point of budget day. It can vary but that's broadly; by the time everything is documented and checked and worked through, it takes about six weeks. When we are doing the budget, we tend to do things like - revenue estimates for some revenue lines might be done a little bit earlier. In the most recent Budget - I'd have to check the exact dates - we'd probably be dealing with those in around March.

Mr WILLIE - Are they taxation and things like that? Where you've got more control and it's not as volatile?

Mr FERRALL - Not necessarily all of them, but some of them we do earlier and we monitor as we go forward to see if there are events that might cause a significant change to those particular estimates. The budget process is a bit challenging because with the budget date where it is, we don't get a significant piece of information, that is, the Commonwealth estimates until quite late. Again, just for clarity, the Commonwealth budget, when it's published, doesn't necessarily have the level of detail for some aspects of Commonwealth revenue to enable us to fully include it even then. Certainly, the level of GST pool is fine, but if you start to go down into some of the Commonwealth specific payments, they are not disclosed in the level of detail in the Commonwealth budget papers that we actually need, either. That takes a further update sometime later.

I will move now, if the members are happy, to a bit more detail in relation to the obligations under the Financial Management Act. Accountable authorities can delegate any function or power under the FMA except the power of delegation. Anything a head of agency is required to do, they can delegate. The very specific requirements of the accountable authority are detailed in Part 4. In particular, the accountable authority of an agency is responsible for ensuring the expenditure is in accordance with the law; ensuring effective and efficient use of resources; that appropriate stewardship is maintained over assets; ensuring the financial management processes, records procedures and sturctures et cetera are appropriate; custody of assets; proper control of all money payable to or collected under any law administered by the agency; conducting reviews at the times determined by the Treasurer of fees and charges; and ensuring compliance by the agency with the act or any other written law.

They are quite high level in terms of what their responsibilities are, but I think there is a pretty clear understanding in terms of what appropriate records are, because you have

accounting standards that would support those; appropriate custody and control management of accounting public property, public money et cetera. Even though the accountable authority's responsibilities are relatively high level, I think they are quite appropriate because there is a very good understanding of what those high-level principles effectively mean.

CHAIR - Going back to your point earlier, Tony, if the accountable authority was to not fulfil a responsibility under that, then that would link to the State Service Act as well and the potential penalty there?

Mr FERRALL - Yes.

Moving on to expenditure from the Public Account, there cannot be any expenditure from the Public Account without appropriate authorisation. Treasurer's Expenditure Control Authorities are issued subsequent to the passage of the appropriation act, including if there was a supplementary appropriation. The Treasurer's Expenditure Control Authority reflects the total appropriation - both operating and capital services authorised to be drawn down from the Public Account in the relevant budget year. An obvious point I would make is that an appropriation is not money per se. An appropriation is an authority. I do not think that the members here would confuse that but some people do confuse an appropriation and think it is money. What is really is, is an authority for expenditure.

Accountable authorities are authorised to draw money from the Public Account under the FMA in accordance with other written law. That also includes reserved-by-law expenditure. To support accountable authorities to manage expenditure from the Public Account, the Secretary of the Department of Treasury and Finance issues what we call a Public Account Expenditure Summary to each accountable authority of an agency on a quarterly basis. The summary contains all of the approved estimates for expenditure from the Public Account for an agency for the relevant year. Specifically, it includes the approved estimates for annual appropriation, in accordance with the TECA and any adjustment to the expenditure estimates approved by the Treasurer.

If the Treasurer excercised some of the authorities under the act to make adjustments to particular expenditures, then the Public Account Expenditure Summary would be adjusted in line with that. It also includes estimates for expenditures from the Specific Purpose Accounts in accordance with the estimates approved by the Treasurer pursuant to section 17 of the FMA. I will go in to a bit more detail on the Specific Purpose Accounts in a moment. It also includes expenditure reserved by law appropriation in accordance with other written laws. We provide accountable authorities with a summary, simply because there are various elements of the expenditure that they are authorised to make that come from different heads of power. It is easier for us to provide them with a summary, and if there's an amendment, here's another amendment, otherwise they might inadvertently attempt to overspend or not understand what authorities they've got in expenditure.

I will move on to Specific Purpose Accounts. Under the act, the Treasurer may establish a Specific Purpose Account for any money kept in the Public Account, and the Treasurer must specify the purposes for which the Specific Purpose Account is to be used and the agency responsible for its administration.

Estimated receipts and expenditure in relation to each account must be reported to parliament in the budget papers as part of the development of the annual appropriation act.

Agencies can only retain and expend funds from the account in accordance with the approved purpose.

If an agency wants to treat a new revenue item as agency revenue and retain it within the Specific Purpose Account, it must submit a request to the Secretary of Treasury for consideration by the Treasurer. Agencies need to monitor their accounts on an ongoing basis to ensure that no revenue is retained without approval.

Mr WILLIE - How many accounts are in operation at the moment?

Mr FERRALL - Specific Purpose Accounts, 25 - that's a guess.

Ms PETERSON - We tendered a list at Estimates.

Mr FERRALL - Yes, there are quite a few. Every agency has one or more Specific Purpose Accounts. There would be plus or minus 25. We will table a list of them. They are published in the Treasurer's Annual Financial Report as well.

The Treasurer can also approve variations in relation to the estimated receipts and expenditure from the account subsequent to the passage of the appropriation bills. As part of the appropriation, the receipts and expenditure estimates for SPAs are provided in the budget papers. They can and do vary during the year and the Treasurer can approve changes subsequent to the passage of an appropriation act to those SPA estimated receipts and expenditure.

CHAIR - Of the supplementary appropriation, you mean?

Mr FERRALL - No. SPAs are separate to your appropriation in terms of the receipts and expenditure. I will use Parks as an example. Parks would have authority to receipt Parks revenue into their Specific Purpose Account and they also have authority to spend from the revenues they receive to that account on Parks purposes. That is not and doesn't go near an appropriation. That is effectively outside - it is still within the Public Account, broadly, but it is not part of the appropriation process.

Agency trust accounts sit outside of the Public Account. They're accounts that have been established under section 18 of the FMA, and that's for the receipt of money by the state or an agency held in trust, as approved by the Treasurer. They are not part of the general operations of an agency or the government. There's limited, or effectively no, discretion on how funds can be used because the requirement, under the trust, is to use them for those purposes.

Opening and closing balances and net transactions are disclosed as part of departmental annual financial statements for each agency trust account. Some of the examples of purposes for which trust accounts can be established include the receiving and disbursement of significant private funds to be held by an agency and administered in a trust; money deposited with an agency pending the completion of a transaction, potentially in the termination of a dispute, there might be a trust established for that; Tasmanian Community Fund; the residential tenancy security deposits - there are a range of trust accounts, not many of them though compared to the SPAs.

CHAIR - Bequeaths? Sometimes people leave bequeaths for Health, particularly.

Mr FERRALL - Hospitals. Yes, it depends - not all of those would necessarily be trusts, but there is a hospital bequest and whatever trust fund already established.

CHAIR - How many trust funds have we got now?

Ms PETERSON - It's quite a smaller number now.

Mr FERRALL - It wouldn't be many, put it that way. Contrary to the general Specific Purpose Accounts, not every agency would have trust accounts even; some might have more than one, but it'll be a small number.

On page 19, in terms of budget management, as I've indicated, accountable authorities are responsible for managing agency appropriations and must manage their budget pressures within existing allocations. Budget pressures include all above-budget costs, there's a TI B1 budget management which provides direction and guidance for agencies in relation to managing those pressures.

This includes the requirement for agencies to manage their budget in the current year, as well as taking action to manage agency costs within current forward Estimate allocations on the same basis.

Ms PETERSON - There are currently 33 SPA accounts and 19 agency trust accounts, and the SPA accounts are listed at table 4.8 in budget paper 1, but we can get a separate list of both.

Mr FERRALL - Do you want that tabled separately?

CHAIR - Yes, if you wouldn't mind, it just helps to get a record there.

Mr FERRALL - Some commentary briefly from the TI:

Accountable Authorities must manage their agency budget on the basis that supplementary funding will not be provided within the budget year, including in the following circumstances: variations to cost, outcomes of wage negotiations, deficiencies in Australian Government funding, deficiencies in own-source revenue, and new expenditure initiatives, unless previously approved by a budget committee and endorsed by Cabinet.

The requirements of TI B1 are much more specific and low level then those that come through the act, and they do provide a framework for accountable authorities to manage their budgets within year and across the forward Estimates.

The particular TI also precludes accountable authorities from committing to new Australian Government funding that have matched funding obligations unless a budget allocation already exists without the prior approval of a budget committee and is endorsed by Cabinet.

The framework is quite tight in many respects. The framework in terms of TI B1 also requires the accountable authority to advise the Secretary of the Department of Treasury and

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Finance as soon as practical if it becomes apparent that material above-budget expenditure has occurred or is at risk of occurring within the agency that cannot be managed within existing appropriations.

Mr WILLIE - That would happen, say, in the Health department?

Mr FERRALL - By way of example, I haven't necessarily been advised that by the Department of Health this year, but the Health department - look, all agencies have an ongoing dialogue with Treasury around how they're managing their finances within year, so there's an elevation from 'We've got some challenges but we think we're managing them and we should be fine' to a point which might be something formal coming from a head of agency to me saying 'This has got beyond what we think we can manage and it's a significant issue'. It's sort of a graduated - we have budget analysts within Treasury meet with most agencies on a monthly basis and they have a dialogue, an interchange about how they're managing and what things might be occurring.

CHAIR - Does the same apply if, say, particularly in the areas where they're heavy on capital works, that there's been some delay in getting the works done, and so they want to push the funding out into the next year?

Mr WILLIE - Or a cost blowout.

CHAIR - Yes, but I'm talking about whether they're not going to use the money they've been allocated.

Mr FERRALL - We have. We get updates from agencies on a regular basis, effectively on a monthly basis. There are probably some challenges in the information exchange because, what I would comment about capital projects particularly, is there tends to be an overestimation from agencies of what they can deliver or what will be delivered, and it tends to be quite late in the year that they start to wind back. If I went to an agency to do the Revised Estimates Report in mid-December and asked them to update their capital expenditure for the year, most of them would say 'We are going to meet our budget and we are going to get all our capital works done', but if I go to them in May or June, they would probably have a different story.

Again, in part that is the reality of the major capital projects, but it is also in part that there is still an element within some agencies that wouldn't want to report it at that point because they might think that it is something bad as opposed to saying this is just an information exchange with Treasury to help manage the budget in an appropriate way.

CHAIR - Do you actually report that? Is it in your Revised Estimates Report? Is that the hesitation for them to say, 'We don't think we will be able to deliver the so many million dollars' worth. We think it is going to be less than that'?

Mr FERRALL - We do updates in the Revised Estimates Report.

CHAIR - There is a reluctance at that point because it will be publicly reported?

Mr FERRALL - It will be publicly reported because if you had a project in a particular agency that was estimated to be \$50 million at the start of the year and in the Revised Estimates Report we publish the actual expenditure up to December, which in most capital projects tends

to be significantly lower than half a year's expenditure and that is natural, we would get revised estimates from agencies against those projects. The point I was making is that there is a range of incentives and other issues and they don't tend to report early in the financial year because either they believe they will catch up on the project or get the project done, or some of them probably have some reservation in reporting it because they recognise it will be publicly reported and reflect.

CHAIR - Put their rose-coloured glasses on before the RER. That is my assessment of the situation.

Mr FERRALL - Yes, and from a Treasury perspective, we nearly always make comments in both the RER and the budget in relation to the likelihood of the overall capital program being achieved and, in part, it is for those reasons.

On page 20, section 20 of the FMA allows the Treasurer to make good deficiencies in appropriation out of surpluses arising or savings effected across items within the Schedule of an appropriation act. Effectively, using the transfer provisions, if an appropriation is going to be underspent then the Treasurer has authority to transfer it to another appropriation to offset budget pressures and basically to better reflect the allocation of budgets during the course of the year, for example, to reflect internal restructures and overhead reallocations.

CHAIR - To clarify, Tony, does this occur just within agencies or can it go across agencies?

Mr FERRALL - It can go across agencies.

Mr WILLIE - But not very often?

Mr FERRALL - If it was going across agencies, something like Finance-General would be more likely to go across agencies, but it can go across agencies and it has gone across agencies in past years but more likely within an agency.

CHAIR - And that is reported in your supplementary estimates?

Mr FERRALL - Yes. I will get to that one as well. The Treasurer's Reserve - section 21 of the FMA allows the Treasurer to consider the provision of additional funding to agencies through the Treasurer's Reserve. It's for expenditure which could not, in the opinion of the Treasurer, reasonably have been foreseen and is necessary for efficient and financial administration. It's a pretty broad provision.

Section 22 of the FMA allows for the Treasurer to approve above-budget receipts received from the Australian Government to be provided to agencies, so there are two sections, and with above-budget receipts there's no need to have another authority to expend Australian Government funding.

CHAIR - Just going back to the definition or the requirements for expenditure by the Treasurer's Reserve - and you may come to this later, Tony, so if you're going to that, that's fine. It is an 'and', it's not an 'or' there. I think sometimes the necessity for efficient financial management description [prescription?] is more easily met than the first one, the unforeseen or reasonably unforeseen circumstances. Would you agree with that? It seems that not both tests

are necessarily being met when there's expenditure from the Treasurer's Reserve, from the outside observer's perspective.

Mr FERRALL - It's possibly a challenge. The intention of the provision is ultimately that if an expenditure is foreseen, it should be included in the appropriation bills that go to parliament. You shouldn't, in general terms, be budgeting to expend from the Treasurer's Reserve. If you could foresee it, and you knew it was a likelihood, it should be in the budget.

CHAIR - Just to come back to your point earlier, funding decisions that are basically finalised before the six weeks that you need to do all the rest of it to prepare and deliver the budget and the budget papers, there will be knowledge up to that point. You could argue that beyond that point, that six weeks it roughly takes, they could be unforeseen in that period, even though they appear within the previous financial year.

Mr FERRALL - Yes. Look, if we've prepared the budget papers or we've got all the final decisions from the government and we're doing the final part of the budget papers, and then something happens and government legitimately makes a commitment to it, then I couldn't foresee that when we were doing the budget papers. That does occur. It's quite legitimate and appropriate.

As I said, the main purpose of the provision, in my view, is to ensure that the budget itself has all of the known commitments in it to the extent possible at the time of formulating the budget.

In relation to your comments on the second component necessary for efficient financial management, that, again, is probably a clause that could be interpreted many different ways. What does it really mean by saying something is necessary for efficient financial management? I'm sure there'd be lots of different views on that.

I'm on page 22, on the Treasurer's Reserve. The total amount available for distribution, subject to appropriate approvals, is the value of the Treasurer's Reserve in the appropriation act plus any additional receipts generated during the year, less additional Australian Government receipts. The Treasurer's Reserve for 2022-23 is \$150 million. It reverts to \$50 million in each year of the forward Estimates after that.

The Treasurer's Reserve is limited to 2.5 per cent of the total appropriation in the appropriation act for that financial year. If that was calculated, was applied to the total appropriation in 2022-23, the limit would be approximately \$188 million as opposed to the \$150 million that was put forward in the Budget.

It is expected that an agency will have explored all opportunities to manage costs within its existing funding before submitting what we call a Request for Additional Funds. A Request for Additional Funds is submitted by an agency; it needs to include any reasons for the additional cost, details of any action the agency has taken in order to manage the additional costs, and where any expenditure does not relate to an existing purpose detailed in an appropriation act, the approval must be sought from the Governor. That is effectively where you have a new-purpose RAF that needs to go to the Governor.

The Financial Management Act does not provide any specific guidance as to what the Governor may consider in making a decision in relation to a new purpose act, so it is not prescriptive in terms of what the Governor would consider.

CHAIR - Just before you go on then, Tony, you talked about that the Treasurer's Reserve that is appropriated may not exceed 2.5 per cent of the total appropriation; that is not considering any additional revenues?

Mr FERRALL - No, it is 2.5 per cent including - where I came up with \$180 million, we had \$150 million of the base Treasurer's Reserve and there were total additional state-sourced receipts, that is, not counting Commonwealth additional receipts of \$96 million. That gives a total fund, notionally available, of \$246 million - \$150 million plus the \$96 million - but the statutory cap is 2.5 per cent of the total appropriations, which includes any initial appropriation plus any supplementary appropriation that went through, and the 2.5 per cent of that is the \$188 million. So, even though we received additional state revenue in 2022-23, we could not have increased the Treasurer's Reserve to the total of the original appropriation plus those receipts, because we are still limited by the 2.5 per cent.

CHAIR - So, where is the additional revenue coming from?

Mr FERRALL - Well, it is additional state sources, which was the \$96 million that was basically from tax receipts, compared to budget, what we get.

CHAIR - Just any own-source revenue -

Mr FERRALL - Yes.

CHAIR - that basically comes into the Public Account?

Mr FERRALL - Yes, that can be counted.

CHAIR - But you cannot top up the Treasurer's Reserve beyond that?

Mr FERRALL - You cannot go beyond 2.5 per cent, but you can top it up to the 2.5 per cent. I mean, you could appropriate to the full 2.5 per cent at the start of the year, so you could have gone to that level and then, if you have any additional revenues that will potentially not be available because you have already reached the 2.5 per cent limit, but a year like, say, the coming financial year, where we have a Treasurer's Reserve of \$50 million, which is quite a bit below 2.5 per cent, if there are net additional state revenues, then that will supplement the Treasurer's Reserve, that is, give greater capacity to do RAFs, only to the extent that it still remains under the 2.5 per cent.

CHAIR - If, say, with the property boom they're saying conveyance duties go up, how is the decision made as to whether you put that additional revenue, or even the expected revenue, into the Treasurer's Reserve or into the general Public Account?

Mr FERRALL - Well, it all goes into the general Public Account. The Treasurer's Reserve is effectively a ledger rather than a fund; in a technical sense, what happens is that the Treasurer's Reserve does not actually get spent because the expenditure incurs in an agency where they have instigated the request for additional funds. In the Treasurer's Reserve, if we

have additional revenue, we don't sort of move the cash, for want of a better description, so it is all still sitting in the Public Account.

Mr WILLIE - In terms of supplementary appropriations, how do you make the decision whether to use the Treasurer's Reserve or come to parliament for a supplementary appropriation? Sometimes the amounts are below the Treasurer's Reserve.

Mr FERRALL - Ultimately, that is a matter of judgment for the treasurer of the day. Quite obviously, if the total required additional funding is beyond the capacity of the original appropriation and the Treasurer's Reserve and any additional revenues, then the only other lawful way of expending would be through a supplementary appropriation. The timing of a supplementary appropriation tends to mean that you have got to make some judgments clearly before the end of the year because you need to do the supplementary appropriation nominally in sort of March, April. When you formulate a view that you need a supplementary appropriation, you still have to be cognisant that there are another two or three months left of the year where you will still potentially need to utilise the Treasurer's Reserve for unexpected expenditures. There is an element of judgment at that point as to what you would put in the supplementary appropriation and what you would put and what you would utilise some of the Treasurer's Reserve for, and then you know holding back some of the Treasurer's Reserve for potentially things that happen.

CHAIR - But noting that if you use some money from the Treasurer's Reserve you can top it up from own-source revenues.

Mr FERRALL - Yes - but only to the extent you have got additional revenues and you do not always have additional revenues.

The FMA also provides for expenditure to be incurred for what is called emergency purposes. This provision has not been used since the commencement of the FMA. We did not even need it through COVID but the Treasurer is required to get written approval of the Governor for such expenditure, and it also requires the Auditor-General to prepare a report related to the specifics of the emergency, and that must be provided to the Governor; the Auditor-General may request an explanation from the Treasurer or relevant minister before preparing a report. The previous provisions under the old FMAA were very similar and they had not been utilised either. It is the last resort, I guess, you go to in terms of the emergency provisions.

I did flag, when we went through the COVID scenario, that in a circumstance where you potentially could not recall parliament for, say, supplementary appropriation and there was expenditure which had to be encured, it might have used that provision.

CHAIR - The fact that we did not need it during that period does not mean you will not in the future, but is it necessary to have it there with all the other mechanisms that are in the act? Going back to your comments that parliament is supreme and parliament should have the final say over a lot of these things, it is public money after all.

Mr FERRALL - I think it is not unreasonable to have an ultimate backstop in terms of - I cannot speak for the Governor, but I cannot imagine the Governor would agree to funding under an emergency provision if parliament was available.

Mr WILLIE - But if parliament can meet remotely, you probably would not need this clause.

Mr FERRALL - Probably. This provision goes back 30 years, ultimately, because it was similar in the previous act and parliament could not meet remotely.

Mr WILLIE - Still cannot.

Mr FERRALL - Yes. And if you had a circumstance where, for some extraneous reason, parliament could not meet and something happened that did require additional expenditure in a true emergency sense, I think you do need at least a capacity to deal with it.

I will just deal now with rollovers and unspent appropriations. In accordance with section 23 of the FMA, if an amount appropriated to an agency remains unspent at the end of the financial year, the Treasurer may determine that an amount of that unexpended appropriation is to be issued and applied from the Public Account in the following years. That allows funding to go from one year to another. The FMA imposes a 5 per cent rollover cap at the agency level to appropriations in the annual appropriations act in effect for the relevant financial year. It is effectively any initial appropriation plus supplementary appropriation multiplied by 5 per cent; that is the maximum rollover that an agency can request. The determination to be made by the Treasurer must specify the agency and item in the appropriation act, the total amount and the purpose. The determination will be made generally before the end of the year but, in a practical sense, sometimes it can be made a day or two after the end of the financial year, with regard to the timing. Where funding is no longer required in the current budget year or an upcoming year, savings should be declared by an agency.

Rollovers occur quite a lot across agencies. That is a provision which enables particularly things like capital projects where you might not have completed them, as Mr Willie indicated a while ago, you have got a provision to enable you to roll over capital funding for the project that is continuing, but you have not effectively cashed it out the door in the year of appropriation.

Mr WILLIE - It was you, Chair, who indicated that.

CHAIR - On that point, we have seen some agencies that have large budgets, so 5 per cent is quite a substantial amount, but they are still applying for RAFs to meet shortfall when they have this money they are going to roll forward. Can you talk about how that works and whether that is an appropriate mechanism, or should they be required to use up their budget allocation, acknowledging that the RAF might be for something different from what the money is there for the other -? Maybe that is the answer but I am interested in that decision.

Mr FERRALL - That is the answer. If we are providing advice to the Treasurer in relation to agency RAFs, we do look at their rollovers and other funding sources; we also look at whether there might be a saving in another area within the agency as well, which would then enable you to use a transfer provision as opposed to a RAF.

We look at all of those aspects in putting our advice together, but it is challenging. To use the capital example, if there is a project that has not expended all of its funds this year, it is still going, it is going to be completed in the first half of next year, it is not in the appropriation

for that coming year so the rollover provision would enable the unspent funds of that capital to roll into the next financial year.

At the same time, the agency could have an entirely different issue related to recurrent expenditure and over-expenditure where it puts in a RAF, so you do get RAFs and rollovers occurring, but we try to balance up whether you need a RAF or whether you can use transfer provisions and whether there are other appropriate mechanisms.

CHAIR - Capital expenditure makes sense because we know those things can be weather-dependent and all sorts of stuff. With recurrent expenditure, say, in a department where you could not fill positions and so you have had that money allocated for those positions but you have not been able to fill them and thus the money sits there, obviously that money is not going to be spent on those people because they are not there and they were not there, hopefully they might be recruited and engaged within the first few weeks of the new financial year, so how is that treated with regard to whether we should roll this over when actually it is not going to be spent on that purpose?

Mr FERRALL - There are two sorts of examples you could have in that case. You could have one where we have got an ongoing program that commenced some time ago and we have got savings from salaries from this year because we have not been able to fill positions. In reality, if you have got an ongoing program and it is in the budget for next year, you do not actually need the money because you have not had the people. I think your point is that this year, if you didn't have the people, you didn't spend it. Even if you have the people next year, if it is in your budget going forward, you do not need twice the money. In those circumstances, we would probably recommend to the Treasurer that he did not approve that particular roll-forward.

However, if you had an example where there was funding in this year's budget for a program that did involve people and it was a time-limited program, that is, we didn't have permanent funding for it, we still have to do the activity but we have not managed to recruit in the current financial year, and we think we are going to be able to get it done in part of the next financial year, then it probably is appropriate to enable a rollover. So, there are different circumstances -

CHAIR - Is it up to the head of agency to provide all that necessary detail to enable Treasury to prepare the advice?

Mr FERRALL - We don't make the decision -

CHAIR - But you will prepare the advice for the Treasurer.

Mr FERRALL - but we will prepare the advice for the Treasurer to consider. Again, to your point of being 'swamped by reports to parliament' - we get swamped at the end of the year by these sorts of things as well.

CHAIR - I can imagine, with RAFs and rollover requests.

Mr FERRALL - The more detailed information that you try to consider, the more challenging it is to try to do that in a very compressed time frame.

Mr WILLIE - In terms of that discussion, if I can give a practical example like the 100 TAFE teachers the Government committed to, they weren't able to recruit all of those teachers in the first year. Can you recall what happened after that in that practical example, whether there was a rollover or whether they thought in this environment it is too hard to recruit so we'll just allocate the same amount the following year?

Mr FERRALL - TAFE is funded from a grant from State Growth so I can't tell you offhand what happened with that grant. My understanding would be that the grant was provided to TasTAFE and they have retained that and they will utilise it going forward.

Mr WILLIE - Okay. I am sure there are lots of examples.

CHAIR - That's why the Treasurer is swamped.

Mr FERRALL - Chair and committee, are you still fine with still going through this act?

CHAIR - Yes. I hope everyone is finding it helpful.

Mr FERRALL - In terms of whole-of-government reporting, the requirements for quarterly reporting are in Part 5 of the act and the following whole-of-government reports are required to be published. These are:

- September Quarterly Report that's no later than 45 days after the Auditor-General's report has been prepared;
- Revised Estimates Report which is no later than 15 February in the financial year to which it relates;
- December Quarterly Report this report is the report of actuals up to December and that's no later than 15 February.

CHAIR - Published?

Mr FERRALL - Yes, published.

• March Quarterly Report - which is generally published in the budget papers if an appropriation bill is tabled within 45 days at the commencement of a financial year, or no later than 15 May.

CHAIR - Will budget papers get printed?

Mr FERRALL - Yes, if budget papers get printed. They always have been.

CHAIR - They were the bits that got missed off this year though, weren't they?

Mr FERRALL - Only a few pages. You can control just about everything except the printer.

- Preliminary Outcomes Report which is only provided under certain circumstances. That's no later than 15 August; and
- Treasurer's Annual Financial Report which is no later than 31 October.

The Revised Estimates Report presents the detailed financial information, including revised Estimates for the current year and revised forward Estimates, so that's effectively a mid-year report. It provides an explanation of the variations between the original budget and the revised Estimates and the assessment of the government's performance against its Fiscal Strategy, as I mentioned earlier. The mid-year report fiscal strategy update needs to be included as well.

CHAIR - Tony, on that, are we likely to see in the RER this coming year a line-up with the fiscal strategies as outlined in the budget papers?

Mr FERRALL - Yes, unless there's a change to the Fiscal Strategy, the current Fiscal Strategy needs to be reported in the RER.

The Preliminary Outcomes Report is required to be prepared if the preliminary outcome results for the previous financial year differ materially from the estimated outcome published in the budget. When we put the budget forward we do an estimated outcome. We tend to do that, again, some time before the end of the year. It's generally likely that the Preliminary Outcomes Report is required because usually, at least in my time I've made the judgment that there's a difference between the estimated outcome published in the most recent budget and what we're seeing as at 30 June. Mostly, if not always, there will be a Preliminary Outcomes Report presented.

CHAIR - Tony, is 'material variation' defined in the definitions? I can't remember now.

Mr FERRALL - No.

CHAIR - Can you just give us a description of how that is assessed, by what measure?

Mr FERRALL - It is not numeric, simplisticly put, and it can't be. If you started to try to do it as a percentage, what would that mean? Is it 5 per cent against the operating balance? Is it 5 per cent against the estimated capital expenditure? There is a whole variety of factors you would need to bring into account as to whether it is material or not. My judgment has been that if it is different, then it is probably going to be material because somebody will have an interest in it somewhere, as to why the capital is down a bit or why your recurrent [expenditure?] is up a bit or whatever else it might be. I have tended to form the view that it will nearly always be material if there is a difference. I mean, quite clearly, if you ended up with \$10 or a couple of hundred or couple a million across all measures, you'd say that it is probably not material, but there could be circumstances where, even though that might not be material in the global budget, they could be material because of the specific nature of them.

Mr WILLIE - This is one of those broad interpretations that you talked about at the start?

Mr FERRALL - Yes.

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CHAIR - And is that your interpretation, as the Secretary?

Mr FERRALL - I think it is just a statement if it is materially different. In practice, it has been, in my judgment, that we'll produce a Preliminary Outcomes Report.

The Treasurer's Annual Financial Report presents audited statements for the General Government Sector and the Total State Sector, including audited Public Account information and also mandatory statistical information. The Treasurer's Annual Financial Report is ordered [or audited?]by the Auditor-General and is published no later than 31 October. It is tabled before each House of Parliament on or before 31 October.

On other whole-of-government reporting, section 24 of the FMA outlines the requirements for the Treasurer to prepare supplementary estimates after the end of each financial year. The statement will include all of the information as required under the FMA. This is where you pick up the transfers of appropriation, the utilisation of Treasurer's Reserve, variation in appropriations for Commonwealth grants, any emergency expenditure that has been authorised by the Governor, and it also picks up rollovers from unexpended appropriations.

While the FMA requires only the total value of each of these authorisations, the Supplementary Estimates Statement breaks down the authorisations by agency. The statement is published in the Preliminary Outcomes Report, unaudited, and in the Treasurer's Annual Financial Report, audited.

Agency reports - the requirements to prepare an annual report are included in the State Service Act. The FMA requires that if an agency is required to prepare an annual report, the accountable authorities are required to include annual financial statements in that annual report. Agency annual reports must include the Auditor-General's report and must be tabled in parliament by 31 October each year, which is why you get all of them on the 30th. As also previously highlighted, a report is required to be prepared on the abolition of an agency, and this is also required to be submitted to the Auditor-General. With the recent abolition of an agency, there was a report submitted by the Auditor-General and the report was tabled in parliament.

Mr WILLIE - Going back to the discussion where they are all tabled on one day, some agencies would have them prepared before that day and there are parliament sitting days. It just seems to be that they are all -

CHAIR - They do stagger them a little in that week. You get Tasrail's and - sometimes TasNetworks's is early, but Hydro's is always on the last day.

Mr FERRALL - In part, it is to do with the Auditor-General's workload as well. I mean, using Treasury as an example, we have not necessarily been able to get the Auditor-General's final certification; even though we have prepared our report some time previously, we have to wait for that final certification.

CHAIR - Also, don't you need to wait until you have all the final results from the agencies to report on the Special Deposits and Trust Fund and the Specific Purpose Accounts - for the TAFR?

Mr FERRALL - Yes. I am not sure there is anything you can do about the sheer volume. One way of changing it, you'd have to change the reporting cycle from June on June, and that would bring in a whole raft of other challenges. For a whole-of-state consolidation as at June, we would have to consolidate with interim figures. You just need more time in parliament.

Mr WILLIE - Oppositions would agree with that.

CHAIR - The Government may not.

Mr FERRALL - The next section is about eight or ten slides and I wasn't going to go through those. I have covered most of them but it goes through each key section, provides what the responsibility is and then gives a bit of a description about how that occurs. It is probably more for information than to go through it, but it also covers off some of the reporting in Treasury's reporting system, links to the mandatory data requirements et cetera that we have. This is getting into the bottom level of how we operate and work with agencies; I thought it might be of interest in your consideration, but I won't go through those unless you want me to.

I have covered what they are in a responsibility sense, but it gives a bit more colour and movement. If the committee is happy, I was going to move to page45 and provide some comments or views around what I think are some possible areas for improvement.

The first one is management and reporting of Specific Purpose Accounts. The 2021-22 TAFR - Treasurer's Annual Financial Report - shows that about \$3.4 billion of transactions occurred through Specific Purpose Accounts out of total transactions of about \$10.7 billion. In that year, approximately 30 per cent of expenditure from the Public Account went through SPAs as opposed to from an appropriation through parliament. The difference between the original budget which was published, which was \$2.9 billion, and the final outcome reported in TAFR was another half a billion, so in the original budget we indicated that \$2.9 billion worth of transactions would be going through the SPAs in relation to retained revenues and expenditures. But the final outcome was about half a billion higher than that and if you take the sum of the two, the \$3.4 billion, then it is almost 30 per cent of the transactions through the Public Account by dollar value.

Whilst estimated SPA receipts and expenditure are published in the budget papers - they are in there as estimated balances, or receipts and expenditures - limited detail is provided in regard to specific receipts and expenditures at an agency level. iIn a technical sense, they are not necessarily able to be scrutinised at Estimates committees because they are not forming part of the appropriation. It doesn't mean they are not. I know there are conversations and scrutiny of them but they don't form part of the appropriation.

Quarterly variations in Estimates are provided to the Treasurer for approval, but there is no requirement for these variations to be published and there is nothing required in terms of explanations of apparent variations through the year. Detailed agency budget chapters also do not provide estimated outcome figures at an agency level. If you look at the budget papers, in budget paper 1 we provide an estimated outcome for the GGS but within agency chapters, there is no equivalent presentation of estimated outcome.

CHAIR - Despite my asking for it many times, but Health do give it now. That is my first question, first line item, and they hand them over. So they're available.

Mr FERRALL - Yes, they are available. In my view, they should be available.

CHAIR - They should be printed in the budget papers. It means an extra line, I appreciate that, and it squashes things up a bit, but it is an important piece of information.

Mr FERRALL - We might have to turn it around maybe, make it go the other side. I think it is important information. One of the areas of improvement, I think, is to include that estimated outcome in agency chapters. It does not necessarily have to require amendment to the legislation. I think ultimately it is a matter of whether or not the treasurer of the day wants to do it or not do it.

CHAIR - Tony, on this, I asked for this and some of them were quite horrified because they do not bring budget paper 1 with them to the table. Anyway, aside from that, the output groups - not just at the high level of the agency, but I ask for it at output level. Is that a reasonable expectation?

Mr FERRALL - It probably gets more challenging to do that at output level. It could be done in time but I think in a practical sense, Treasury gets the information at the trilogy level, your general government financial statements - effectively, operating statement and balance sheet. We get it at that level. We need that to do the consolidation to come up with a whole lot of the General Government Sector anyway. That bit is pretty easy. When you go to the next level of potentially some of the other tables in the budget papers at the output level, it is probably not as robust anyway, in terms of its efficacy at that point.

CHAIR - If it does give a disclaimer that this could change and I accept all that, but it was very helpful in the Health portfolio because of this claim that we are spending - as we do every year - record funding in Health. The significant overspend in each of those line items was not just in one, it was across the whole lot in the estimated outcome. Okay, so what is the estimated outcome as opposed to the budget for the coming year? Not the previous budget because they do not bear that much similarity.

Mr FERRALL - The budget is largely detailed on a budget-to-budget comparison rather than an estimated outcome-to-budget comparison. In my view, it would be enhanced if all three were published, with the appropriate riders in terms of whether or not they are accurate. I am also of the view that we should provide a statement of agency SPA transactions at an agency level within the agency chapters.

CHAIR - That would really help.

Mr FERRALL - That should include the proposed purposes of opening and closing balances. If you include the SPA transactions and you have, say, an opening balance and a closing balance, particularly a closing balance because if the proposed purpose is for particular expenditure in the coming financial year, then that ought to be made -

CHAIR - This is in the budget?

Mr FERRALL - Yes, in the budget papers.

CHAIR - Yes, again, it will not be the final balance, obviously. It will be at a point in time.

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Mr FERRALL - No, but there is an estimated balance. Those particular changes do not necessarily require legislative change. It is not a matter for the act per se, but I think they would enhance any reporting and any potential scrutiny of the appropriation.

CHAIR - Assuming that you do report the opening and closing balances of SPAs at an agency level, because it is not a part of the appropriation - a pretty fair game in budget Estimates, I know - but would it be reasonable to ask questions then about why there is a significant difference or whatever, if there was?

Mr FERRALL - I think it would be reasonable. In a technical sense, the budget is only the appropriation bill; in a narrow sense, purely the required financial statements, which would only be probably the GGS-level financial statements anyway. If you took that at its most narrow point, that is probably all that is required to be presented. But I think having more detail like this at an agency level, whether or not you can prosecute that in an Estimates process I think is ultimately a question for parliament as to how it forms the Estimates committee and what in enables the Estimates committees to do.

Mr WILLIE - I guess the approval to spend then facilitates these transactions.

CHAIR - It depends on how the motion is framed to refer the budget to the committee, probably.

Mr FERRALL - Secondly, there are a couple of things I'd raise in relation to the Supplementary Estimates Statement. There are two aspects to that. One is the information included with the statement and the other is the timing. The Supplementary Estimates Statement presents the supplementary estimates of all expenditure from the Public Account that is authorised under sections 20, 21, 22 and 30. It's effectively where the treasurer of the day has utilised his or her authorities under the act to either transfer appropriations or provide a RAF or various other things.

The Supplementary Estimates Statement is required to be included with the Preliminary Outcomes Statement - that's in an unaudited form, which it is - and also with TAFR, in an audited form. That satisfies the legislative or tabling requirements, but there's no requirement to provide additional information relating to the reasons or purpose of the determinations made. The Houses ultimately see a table with, across the top, five sections of the act and, going down, a series of numbers with agency name on the other side.

CHAIR - The Legislative Council does not accept that as adequate.

Mr FERRALL - No, and we, as you know, provide further support or explanation so that the Treasurer or the Leader [of the Government] in the upper House can address the Legislative Council's issues or questions. My proposition is that there's no reason why you can't include those in the Supplementary Estimates Report that's published with the preliminary outcomes and published with the TAFR.

CHAIR - Are you saying, Tony, that section 24 could be amended to require that to make it really clear on a policy position?

Mr FERRALL - Yes. You could. Whether or not the legislation is amended is a question for others, but I think, ultimately, it would be an enhancement of the information that's provided to have the detailed explanation of the reasons for the particular determinations. I'm not sure that the list of numbers actually does anything in terms of accountability or for ensuring that the community is appropriately informed. It needs context; it needs something. I propose that be effectively included - and detail in relation to the use of the transfer provisions, the rollovers, Treasurer's Reserve, variations to SPPs and other Commonwealth funding.

In regard to timing, most of those determinations are made late in the financial year, but they're not necessarily all made late in the financial year. Again, I don't see any fundamental reason why you couldn't be required to table a statement quarterly, including annual return if appropriate. Where a determination is made, I think it's quite reasonable that that determination is then made public through a quarterly statement, which could be tabled.

CHAIR - That would require a change to section 24(1), which I have asked for in the past, too.

Mr FERRALL - The old act had a quarterly tabling -

CHAIR - Which was mostly zero to save[?], but - hmm.

Mr FERRALL - Again, in terms of just openness and transparency, I think there's no reason it can't be done on a quarterly basis, and if the answer is there's no determinations, then it's not a particularly onerous tabling task.

CHAIR - No. On that, Tony, it would also flag if there were additional state-source revenues available, but you could say that the Treasurer's Reserve increased.

Mr FERRALL - We don't table anything on the Treasurer's Reserve. The Treasurer's Reserve can only increase at the last point in the financial year, when you think about it. If you were sitting in December and we thought the revenues for the year were going to be higher, you've got to ensure that it doesn't go down in the second half of the year, so we don't do anything in terms of changing the Treasurer's Reserve in a within-year sense.

CHAIR - Acknowledging it is not money, is asking about what their balance in the Treasurer's Reserve is at any time a reasonable question to be asking? In Februrary or March, whenever we're back -

Mr FERRALL - You would get that quarterly if you had this quarterly report. What it would show is that if there's zero commitments against the Treasurer's Reserve in the first quarter then it's still what it was at the start, but if it's the first or second quarter and there's \$50 million or \$20 million of commitment, or whatever it might be, then that would be disclosed in that quarterly statement.

The third area I would probably suggest for improvement is in relation to the Treasurer's Instructions. As members would be aware, with the introduction of the new act, we move to what we called a more principles-based approach to the Treasurer's Instructions. They've got generally less detail and less prescription in them than the old Treasurer's Instructions we had previously. I think that has left some gaps in regard to specific compliance from agencies. Whilst for some Treasurer's Instructions it's quite appropriate for the instructions to be written

in the sense as a principle, I think there are some elements and some instructions where conformance and sort of standardisation and clear practices is probably more warranted across agencies. Also, not all but some agencies are raised with me that they'd welcome more direction in relation to some Treasurer's Instructions because principles are sometimes too wide and difficult for them to interpret, and also trying to ensure that they can be confident they've done the right thing as opposed to thinking they have because they think they're in the right space, as opposed to maybe a direction in some cases. Treasury had always intended to this after the introduction of the FMA. Again, I would flag that the reality is, the FMA has only been in place since 2019, so it's only really in place for three years. One of those years it was sort of a lost cause for everybody, for various reasons. It hasn't actually been in that long and I think it's an appropriate time to look at it, particularly to start going through the Treasurer's Instructions and look at which ones ought to be more explicit in detail and those which might stay as principles-based.

CHAIR - That would be a job for Treasury to do?

Mr FERRALL - Yes. It's not a small job either. If you go through the Treasurer's Instructions -

CHAIR - How many all up are there?

Mr FERRALL - In Treasury?

CHAIR - Yes. Treasurer's Instructions, not people.

Mr FERRALL - Oh, Treasurer's Instructions.

Mr WILLIE - Is there a routine review sort of process to work through?

Mr FERRALL - We don't really. We keep trying to, but like every agency, we just get swamped with other things. The intention always was that they would be reviewed after a period of time of the implementation of the act. As I said, it's probably about the right time now the act's really been in place for two, two-and-a-half years.

Ms PETERSON - We have 21 financial control Treasurer's Instructions, four on financial reporting, two on budget, and then there are procurement ones as well.

Mr WILLIE - Should there be a routine framework review within the act?

Mr FERRALL - I probably wouldn't flag that a routine is necessary. Good practice is that everything should be reviewed periodically. I wouldn't like to see that they must all be reviewed - I mean, it'd be a bit like you getting all the reports in parliament, if every two years, Treasury had to review all of the TIs. The way they get reviewed at the moment is more in relation to where we see an issue and there needs to be something revised in the TI potentially, or where we issue - or get feedback, or issue a new TI sometimes.

Mr WILLIE - Or if you see a bad decision that kind of complies with the TI?

Mr FERRALL - To be fair, I don't think we see many what I would couch as bad decisions. I think there is an element though where good people are doing their best to conform,

but if you've given them very wide parameters, it can be challenging for them sometimes. Then, when you ask somebody, if the principle is appropriate financial management, you get a different views as to what that might mean.

CHAIR - To look at how that might occur if there was to be a review more broadly to look at which - clearly, there are some TIs that are more principles-based than others, as you've identified, would you go to the departments and ask them for feedback on that?

Mr FERRALL - I think we'd have to do it as a broad review with consultation. Again, there's a number of competing parties, I guess, ultimately, in terms of the Treasurer's Instructions. There will be different views from stakeholders as to how broad or how principled they should be, or how strict or black letter. I think we'd have to work through that and sort of consult both with departments and probably the Public Accounts Committee and others as well.

In terms of establishing better-practice guidelines, we've had discussions about guidelines in other forms, too, but guidelines are just guidelines. They don't have any legislative weight, unlike the Treasurer's Instructions. Do you think that there's not actually that document now?

Mr FERRALL - No, there are better-practice guidelines. We have those. They are intended to literally give guidance underpinning a principle, but I think in some - but not all - cases, it just gets more challenging for agencies to try to follow the requirements of a principle even with a guideline.

CHAIR - So you probably need the review.

Mr FERRALL - Lastly, there are some other what I call minor issues around the act. I think there are some provisions in the act which would benefit from redrafting and in some cases improving definitions. For example, the definition of the Public Account can be challenging even though it might seem simple because a Special Purpose Account or a Specific Purpose Account is within the Public Account, and so is the appropriation, in a sense. When you start talking about the Public Account, within the act itself the definition is actually used, in my view, in two slightly different ways in a couple of the clauses in the act. I think it is a tidy-up, not a fatal flaw, but it would make it a bit easier.

There are also some areas in the act where we talk about 'account' and it probably means a ledger as opposed to a bank account. Now, that's again generally apparent from the context which is related to the specific provision. I think it is easy for people to get confused between whether it is a ledger account or it is a bank account per se. I think there is some tidying-up around those provisions which would then help clarify some of the drafting in the current bill.

CHAIR - When you look at the definition of 'accounts', it really talks about ledgers doesn't it, as opposed to where the money sits?

Mr FERRALL - Yes, and it talks about an 'authorised deposit-taking institution' but when you go into the act and you start to look at accounts and where it's used, it gets -

CHAIR - It gets blurred.

Mr FERRALL - If you understand what we believe is intended, it is not confusing. I think it needs some clarity.

Lastly, in terms of provisions, in the supply and supplementary appropriation bills, or the sections in relation to supply and supplementary appropriation bills, there is no specific reporting or supporting information requirements for both the supply and the supplementary appropriation bills. Although governments have always provided additional supporting information, there is no requirement to do that. I think there ought to be a specific provision included in the act to specify what additional information requirements are, similar to section 19, which deals with the ordinary appropriation. Practically, it has to be less than that because that is supported by the budget papers. I think there should be an explicit provision detailing, or at least indicating, what supporting information would be required.

CHAIR - With both supply and supplementary appropriation bills, there is a second reading speech that often outlines some of that. But you're suggesting a little bit more detail. It's probably different if you're just buying a power station, which was quite a few years ago, just one thing, so it is easy to identify what the money was for, but where there's a range of things, which often it is, a more formal breakdown as papers attached to the bill, notionally.

Mr FERRALL - Yes. The budget papers currently form supporting information for the bill; there's an explicit reference in the bill that's tabled in parliament, which is how you do your chasing down from a high-level appropriation down to an output level; you can only do that in the budget papers. There is no similar provision in relation to supply or supplementary appropriation. I think it is less of an issue with supply because what you are doing is enabling the continuation of the ordinary services of government through that supply period, if you introduce a supply bill. But I think with a supplementary appropriation, there possibly or potentially could be some greater transparency by providing more detailed information supporting it.

Again, from my history, all governments have provided that information effectively through speeches or through other aspects when they seek passage of a supplementary appropriation, but it probably warrants having a specific document tabled which provides more of that rather than relying in the speech or the questions in the debate, et cetera.

Mr WILLIE - With regard to the Auditor-General's submission, have you had time to read that and what do you think about the recommendations he has put forward.?

Mr FERRALL - No, I have not gone through his submission in detail. Apologies.

Mr WILLIE - No, that is all right.

CHAIR - That was my question, too. I will look more of it up on our website. I am wondering whether you would be willing to comment on some of the things that he has identified that are not necessarily along the lines that your suggestions cover. He raises ethical considerations, for example, with regard to the role and function of governments in their spending. For example, the long title of the act states it 'provides for the management of the public finance to the state of Tasmania in an economical, efficient and effective manner' and he is wondering, particularly in light of some of the moves in the Commonwealth and other areas, whether 'ethical' should be included in that consideration.

Mr FERRALL - I am not against that sort of consideration but I think you have to be very careful of what that might mean. There is no totally objective view of 'ethical'.

CHAIR - I hope we do act ethically anyway.

Mr FERRALL - We do, but there can be differing judgments as to how ethical something is or isn't.

CHAIR - And whose ethics we are talking about.

Mr FERRALL - You could run into some strange views around whether it is ethical for particular activities to occur in a public hospital, for example, but there would be different views on that. I would be careful if there are additional requirements that people are trying to meet in that sort of respect, and even with the existing ones, to be fair to the people who are trying to implement the legislation, there ought to be clear definitions of what the expectation is.

Mr WILLIE - You have put forward some recommendations that you talked about today, such as transparency around Specific Purpose Accounts.

CHAIR - Yes, some similar areas. We could always write to you if we want to get some more explanation on some of those matters.

Mr FERRALL -Yes, happy to.

CHAIR - Thank you, Tony, it has been really helpful to hear your thoughts today, having used the act now for three years now. It is a bit of a blur, one of those years, as you said. As a user and someone who is trying to understand how it is supposed to work and what level of reporting I can expect to see, it does need to be a bit clearer in some spots; in order for us to get any open and transparent reporting, that is important.

I don't know whether you want to go near this area, but in the Public Accounts Committee we were talking about the funding for the Treasurer's Reserve for election commitments, when there are other mechanisms like supplementary appropriations and a budget, obviously, acknowledging sometimes the time frames there. As I did say to our previous witness, the government of the day, newly elected on the back of election commitments, controls a sitting schedule, and get us back fairly quickly if they wanted to, one would expect, because we turn up when they say. Do you think there is an issue there and it should be a more separate and transparent process of funding for those purposes?

Mr FERRALL - The process, as I have said to the Public Accounts Committee, was and is transparent. I don't think there is an issue of transparency; I think, probably from a parliamentary point of view, or maybe even a political point of view, it is a question of the timeliness of that transparency and whether, when those commitments were in the subsequent appropriation bills, there was appropriate scrutiny of those at the time and whether, if members of parliament had a concern about them, they should have dealt with them at that point. But if you adopted the proposal in terms of having the supplementary Estimates reported effectively quarterly, then those RAFs would have been reported on a more timely basis, which might have assisted people in their views or their debate.

CHAIR - That is another way of more timely reporting of it, even though that is the decision that is made as opposed to a decision that has to get the approval of parliament.

Mr FERRALL - Yes. Parliament has given the treasurer of the day the capacity to utilise the Treasurer's Reserve for a whole range of very appropriate reasons. In my view, the only real question in relation to the specific matter you have mentioned is whether or not transparency could be enhanced by maybe more timely reporting of those matters, which I think it could be with a quarterly report.

Mr WILLIE - We heard from the previous witness that if that process is used that it should be gazetted; does that not happen?

Mr FERRALL - Well, what I would question or ask is, what does gazetting do, as opposed to it being reported and tabled?

Mr WILLIE - Well, I suppose it is effectively the same thing, isn't it?

Mr FERRALL - Purely, if gazetted means putting it in the *Gazette*, I am not sure, apart from when the *Gazette* used to be nailed on the door of various places so people could read it and see it, I am not sure in the current world order that that would add much in terms of public awareness and being made transparent. I'm not against it, but it is just another step.

Mr WILLIE - Reporting mechanism.

CHAIR - Tony, in that case, if there was a RAF- or the Treasurer's Reserve, by way of RAF - utilised to fund election commitments, there would be no way that you could then push that out to the very end of the financial year legitimately, could you? We know that within departments, they will try to manage within their allocation; that is when they get to the end and think, 'Oh, actually, we're not going to make it without some additional funding in this area' and we talked about that earlier. We would expect them to do that and use the funds they have available to try to manage within their budget, but an election commitment is a new expenditure, something that is not part of their budget, obviously, because it would have been in the budget, so it is not in the budget. If we did the more frequent quarterly reporting, are you fairly confident it would show up there rather than be pushed out to a June RAF?

Mr FERRALL - It should be. An accountable authority cannot expend money on something they do not have an appropriation for or some other lawful means, so if it was a new purpose, then the mechanism for that is not an ordinary RAF approved by the Treasurer; as a new purpose, it would have to be a RAF approved by the Governor and then, instead of it being reported quarterly, it would be shown in the report. I think the framework is appropriate; it is just a question about the timing of some of those things.

A government which is elected has to be enabled with the capacity to put in place its broad election commitments. That seems to stand to reason to me that if there are lawful mechanisms in the Financial Management Act which enable the government to facilitate its commitments of the day on a timely or a reasonably timely basis, then that is what they are authorised to do.

Mr WILLIE - Do you think there is scope for guidelines and things like that around grant funds in addition to the Financial Management Act to enhance transparency?

Legislative Council Government Administration A Thursday 15 June 2023

Mr FERRALL - The comment I would make is that different jurisdictions deal with this differently but most of them have a similar set of challenges around how particular commitments might be dealt with. My personal view is the Commonwealth probably has a slightly better framework - I'm not saying it is perfect but -

Mr WILLIE - Even if it is ignored.

Mr FERRALL - It does have a better framework, particularly in relation to grants administration because it is effectively a requirement that there is an existing grant program that the particular commitments are assessed against. Again, I agree it is not perfect but it might be another way of dealing with it.

Mr WILLIE - There is a bit more accountability.

CHAIR - Would that sit outside the Financial Management Act though, or would it sit within it?

Mr FERRALL - I think it would probably be outside the Financial Management Act.

CHAIR - The Charter of Budget Responsibility?

Mr FERRALL - Well, I don't know; I think you are probably leading more into the Constitution Act in terms of how things occur around elections. They are all acts and it could be put in any act, but it is not purely a financial management issue.

Mr WILLIE - And outside the scope of this inquiry.

CHAIR - Is there anything you wish you had told us that you haven't, Tony?

Mr FERRALL - What about things I've told you that I shouldn't have?

CHAIR - That's a matter for you.

Mr FERRALL - No, no, that's fine, and we will get those other bits and pieces to you.

CHAIR - Thank you.

THE WITNESSES WITHDREW.

The committee adjourned at 12.24 p.m.

Appendix C – Treasurer's Reserves, PRS



Parliamentary Research Service

Parliament House, Hobart 7000

Date: 14 March 2023 Ref: 6611

Author: Parliamentary Research Service

Treasurer's Reserves

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Introduction

Each State deals with the appropriation of its funds in slightly different ways, Tasmania has a Treasurer's Reserve provided for in the *Financial Management Act 2016*; which is the focus of this paper; no other State runs a Treasurer's Reserve.

Some Australian States have what is called a Treasurer's Advance, such as Western Australia, Victoria and Queensland, while New South Wales calls theirs State Contingencies and South Australia only has an appropriation by the Governor.

Not all Financial Management Acts have a specific section outlining these appropriations, some jurisdictions simply just deal with them in the normal appropriation process such as New South Wales and Victoria.

Information has been compiled from relevant Financial Management Acts in each State, Treasury and Parliamentary websites. The Northern Territory and the Australian Capital Territory have not been looked at in the context of this paper.

This paper focuses on Australian States, the Federal Government and New Zealand. New Zealand has its own approach to appropriations as can be seen by the information provided from the appropriations guidelines issued by New Zealand Treasury.

It does not appear that these appropriations have additional reporting requirements other than the reporting structures set up in each respective Act to report on all Government spending in each Jurisdiction.

I have not included the Tasmanian provisions as it is assumed the reader is familiar with these already.

Western Australia

Financial Management Act 2006

Part 2 — Accounts

Division 1 — Public Ledger

7. Public Ledger

The Treasurer is to cause to be established and maintained, under the separate heads directed by the Treasurer, a Public Ledger consisting of the following accounts —

- (a) the Consolidated Account;
- (b) the Treasurer's Advance Account;
- (c) the Treasurer's special purpose accounts.

9. Treasurer's Advance Account

The Treasurer's Advance Account referred to in section 7(b) may be operated by the Treasurer for the purposes referred to in, and in accordance with, section 28 and any Treasurer's Advance Authorisation Act for the relevant financial year.

28. Advances, Treasurer may authorise etc.

- (1) The Treasurer may authorise advances to be made
 - (a) on the terms and conditions determined by the Treasurer
 - (i) for the temporary financing of works and services of the State (other than works and services referred to in paragraph (b)); or
 - (ii) to a public authority; or
 - (iii) to the credit of a special purpose account; or
 - (iv) for the purchase of stores;
 - or

(b) on the terms and conditions determined by the Treasurer for the temporary financing of works and services undertaken —

(i) in conjunction with, or on behalf of, the Commonwealth, another State, a Territory, a local government or other person; or

(ii) by the Commonwealth, another State, a Territory, a local government or other person on behalf of the State.

(2) In subsection (1) (a) —

public authority means —

- (a) a Minister of the State; or
- (b) an agency, authority or instrumentality of the State; or
- (c) a local government; or

(d) a body, whether corporate or unincorporate, that is established or continued for a public purpose by or under a written law.

- (3) Advances made under subsection (1)(a) in a financial year are
 - (a) to be charged in that year to the Treasurer's Advance Account; and

(b) to be recovered from the persons to whom or which, or on whose behalf, the advances were made.

(4) Advances made under subsection (1)(b) in a financial year are —

(a) to be charged in that year to the Treasurer's Advance Account; and

(b) to be recovered from the Commonwealth, other State, Territory, local government or other person to, or on whose behalf, the advances were made.

(5) An amount of an advance made under subsection (1)(a) or (b) that is recovered is to be credited to the Treasurer's Advance Account.

(6) An advance made under this section —

(a) is to be recovered before the end of the financial year for which the advance is authorised under subsection (1); or

(b) is to be subject to a further authorisation under that subsection.

29. Expenditure under s. 27 and 28 limited

(1) Subject to subsections (2) and (3), the total expenditure that may be authorised under sections 27(1) and (2) and 28(1) in a financial year cannot exceed an amount equal to 3% of the total amount appropriated for the previous financial year by the Appropriation Acts.

(2) For the purpose of determining the total amount referred to in subsection (1) in respect of a financial year, any advance made under section 28(1)(a) or (b) that has been recovered in that financial year, whether in respect of that financial year or a previous financial year, is to be disregarded.

(3) Expenditure that exceeds the limit specified in subsection (1) may be authorised by a Treasurer's Advance Authorisation Act to make payments under section 27(1) or (2) or to make advances for the purposes referred to in section 28(1).

[Section 29 amended: No. 12 of 2021 s. 9.]

Part 5 — Reports

Division 1 — Treasurer's reports

59. Financial reports and statements, application of *Government Financial Responsibility Act 2000*

The Treasurer's duties with respect to financial reports and statements are set out in the *Government Financial Responsibility Act 2000.*

Treasurer's Advance Authorisation Act 2020

3. Authorisation of expenditure to make payments in respect of extraordinary or unforeseen matters or to make advances for certain purposes

(1) Expenditure that exceeds the limit specified in the *Financial Management Act 2006* section 29(1) is authorised in the financial year ending on 30 June 2020 to make payments or advances in accordance with section 29(3) of that Act.

(2) Payments and advances are authorised to be made under subsection (1) that do not in total exceed \$1 000 000 000.

New South Wales

New South Wales uses a State contingencies approach this is appropriated within the *Appropriation Act* each year and example of this is in the 2022 Act:

Appropriation Act 2022

19 Appropriation to Treasurer for State contingencies

This Act appropriates the sum of \$100,000,000 to the Treasurer out of the Consolidated Fund for State contingencies for the year 2022–23.

35 Variations—State contingencies

The Treasurer may authorise the payment of a sum appropriated for a purpose by this Act or the <u>Appropriation (Parliament) Act 2022</u> that is more than the sum specified for the purpose if—

(a) the Treasurer is of the opinion that the additional sum is reasonably necessary because of a State contingency, and

(b) an equivalent sum is not paid out from the sum appropriated to the Treasurer by section 19.

Appropriation Act 2022 – S35

State Contingencies

Section 35 is available if an agency needs additional sum because of a State contingency (expenditure incurred in relation to unforeseen events), only if an equal amount is not paid by the Treasurer under section 19.¹

Government Sector Finance Act 2018

Division 4.2 Appropriation

4.12 Details of payments made from State contingencies appropriation to Treasurer

(1) This section applies if a sum is appropriated to the Treasurer by an annual Appropriation Act for State contingencies (the *Treasurer's State contingencies appropriation*) for a particular annual reporting period for the NSW Government.

(2) The Treasurer must cause details of the payments of sums from the Treasurer's State contingencies appropriation to be included in the Budget Papers for the next annual reporting year for the NSW Government.

¹ <u>https://www.treasury.nsw.gov.au/budget-financial-management/nsw-budget/appropriations</u>

Victoria

Victoria's <u>Budge Operations Framework</u> 2017 outlines dealings with the Treasurer's Advance in this State.

The framework defines a Treasurer's Advance as:

"An annual appropriation to the Treasurer to meet urgent expenditure claims that were unforeseen at the time of the Budget. Amounts advanced under this authority are reported to and sanctioned by the Parliament in a subsequent year's Annual Appropriation Bill."²

Guidance for treasurer's advances is found at page 31 and 32 of the Budge Operations Framework:

"Treasurer's Advance for urgent and unforeseen claims

Mandatory requirements TREASURER'S ADVANCE (TA)

1.3.1 Process and requirements for Treasurer's Advance requests

(a) A Department must discuss all Treasurer's Advance funding requests with DTF, including advising of the quantum of the funding sought, prior to any correspondence being prepared in relation to the request.

(b) In preparing a letter from a Minister to the Treasurer seeking a Treasurer's Advance, a Department must ensure that the letter includes:

(i) the reasons for the funding request, including whether the request is urgent and unforeseen;

(ii) the quantum of the funding sought;

(iii) confirmation that there are no other sources available to fund the request;

(iv) how the funding request aligns with Government objectives;

 $\left(v\right)$ any proposed adjustments to output and financial performance targets arising from the request; and

(vi) any funding variations previously approved by the Treasurer or the relevant Cabinet committee for the program or output seeking an advance.

1.3.2 Reporting on Treasurer's Advance expenditure

All expenses and obligations to which any Treasurer's Advance is applied must be reported in the financial year in respect of which the advance(s) was made.

1.3.3 Restrictions on Treasurer's Advance

Any unapplied component of a Treasurer's Advance in a given year lapses at the end of the year. Departments are not permitted to carry over a Treasurer's Advance to the following year.

² Budget Operations Framework, p 6

Guidance Definition

The Treasurer's Advance (TA) represents a specific appropriation made available to the Treasurer each year as part of the annual Appropriation Act, to meet any '... urgent claims that may arise before Parliamentary sanction is obtained'. Parliamentary sanction is obtained through the tabling in a subsequent financial year's annual Appropriation Bill, which includes a schedule outlining all payments made against TA in that previous financial year.

Additional warrant is not required to access TA.

Conditions

TA capacity is limited to the amount that appears in Schedule 1 of the Appropriation Act under DTF. As such, the Treasurer will initially only provide approval in-principle for successful funding requests. The final source of funding for this supplementation will be reviewed by DTF and confirmed by the Treasurer towards the end of the financial year, taking into account total TA capacity and other available sources of Departmental appropriation authority.

TA may be applied to output or asset funding requests. This is determined by the Treasurer informed by advice from DTF.

Reporting

Accountability for use of the TA is also met through the presentation of a summary of each year's expenditure in the State's Annual Financial Report which is tabled in the Parliament after the end of each financial year.

Application and assessment process

A Minister may apply for budget supplementation from TA by submitting a letter of request to the Treasurer.

Each request is assessed by DTF and advice is provided to the Treasurer. The Treasurer will then determine whether or not to fund the request.

Please note the following:

For new policy decisions made by Cabinet or a sub-committee that requires a TA, refer to Section 4.2 Central Contingencies for guidance on such requests. A TA request is for funding in the current financial year only. If changes in funding are required in the other forward estimates years, this should be foreshadowed in the TA request and a submission should then be made as part of the annual budget process.

Approval notification

The Treasurer will provide return correspondence to the Minister making the request. DTF will also advise the Department on the following if the funding request is approved:

- (a) the source of the funding;
- (b) the revenue limit; and
- (c) adjusted output and financial performance targets (if relevant)."

Further discussion is had in the guidelines around central contingencies which mentions Treasurer's advances:

"Mandatory requirements CENTRAL CONTINGENCIES

4.2.1 Process and requirements for requests to access central contingencies In requesting access to funding from central contingencies for previously approved Government funding decisions, a Department must ensure the request documentation includes:

(a) the reasons and context for the request;

- (b) the quantum of the funding sought;
- (c) reference to the Government decision to support the request;
- (d) how the funding request aligns with Government objectives;

(e) any proposed adjustments to output and financial performance targets arising from the request; and

(f) any funding variations previously approved by the Treasurer or the relevant Cabinet Committee for the program or output.

4.2.2 Reporting on expenditure from central contingencies

All expenses and obligations to which any funding from central contingency is applied, if related to funding from the Treasurer's Advance, must be reported in the financial year in which the funding was provided.

4.2.3 Restrictions on central contingencies

Any unapplied component of funding from central contingency from a Treasurer's Advance in a given year lapses at the end of the year. Departments are not permitted to carry over contingency funding sourced from Treasurer's Advance to the following year.

Guidance

Definition

Central contingencies are provisions established by government for future expenditure which have not yet been allocated to specific departments. These contingencies are held and managed by DTF.

Government may set aside central contingencies to provide for:

- service growth;
- new initiatives in future budgets;
- Government decisions which for various reasons, are not recorded in the relevant Department's or agency's financial statements at that time;
- future cost pressures; and
- urgent and unforeseen expenditure.

Central contingencies for outputs and assets are outlined in the notes of the estimated financial statements and are categorised by 'decisions made but not yet allocated' and 'funding not allocated to specific purposes'.26 Treasurer's Advance may form a part of the central contingencies.

Application and assessment process

A Minister is required to submit a request to the Treasurer or relevant Cabinet committee to request release of budget funding for a specific project, initiative or policy that is held in a central contingency.

Advice is provided by DTF to the Treasurer or the relevant Cabinet committee, who will decide whether to approve the release of the central contingency to the Minister.

Approval notification

Departments shall be advised if the release from the central contingency is approved.

Reporting

Accountability for use of the TA, within the context of the central contingencies, is also met through the presentation of a summary of each year's expenditure in the State's Annual Financial Report which is tabled in the Parliament after the end of each financial year."³

³ Budget Operations Framework p 58-59

The *Appropriation (2021-2022) Act 2021* appropriates the Department of Treasury and Finance in Schedule 1 of the Act:

	0000/0004	0004/0000
	2020/2021	2021/2022
Item	Budget	Estimate
	\$'000	\$'000
1. Provision of outputs (section 29 of the Financial Management Act 1994 applies)	525 291	579 292
 Additions to the net asset base (section 29 of the Financial Management Act 1994 applies) 	123 451	147 120
3. Payments made on behalf of the State	5 246 079	4 004 495
4. Advance to Treasurer to enable Treasurer to meet urgent claims that may arise before Parliamentary sanction is obtained, which will afterwards be submitted for Parliamentary authority	11 678 961	16 021 327
Total Appropriation	17 573 782	20 752 234

DEPARTMENT OF TREASURY AND FINANCE⁴

South Australia

South Australia does not have a Treasurer's Advance, they have an appropriation by the Governor. Advice received from the South Australian Parliamentary Research Service, sourced from Treasury and Finance SA is as follows:

I have received the following advice from the Department of Treasury and Finance.

In South Australia, we have similar provisions under the *Public Finance and Audit Act 1987* that enable the Government to meet unforeseen calls on its budget during the course of the financial year.

⁴ <u>https://content.legislation.vic.gov.au/sites/default/files/2021-06/591261bs1.pdf</u>

The wording in the Act does not refer to a Treasurer's Reserve, but instead refers to the Governor's Appropriation Fund.

Discussion

Section 12 of the Public Finance and Audit Act authorises the Governor to approve appropriation from the Consolidated Account each financial year up to 3% of the amounts included in the previous year's Appropriation Act.

Each year there is a submission to Cabinet to seek approval for the Governor in Executive Council to approve the appropriation of funds from the Consolidated Account to the public purposes of the State.

The funds appropriated are referred to as the Governor's Appropriation Fund.

The Department of Treasury and Finance administers appropriations to agencies from the Governor's Appropriation Fund in accordance with the approval from the Treasurer and financial controls governing public accounts.

Public Finance and Audit Act 1987

Division 2—Appropriation by Governor for previously authorised purposes and appropriation for other purposes

12—Appropriation by Governor

(1) The Governor may, in any financial year, appropriate from the Consolidated Account to the public purposes of the State, an amount not exceeding the maximum prescribed by subsection (2).

(2) The maximum amount that may be appropriated under subsection (1) is—

(a) three per cent of the total of the amounts set out in the annual Appropriation Acts for appropriation from the Consolidated Account in respect of the previous financial year; less

(b) any amounts previously appropriated under this section and not recouped under subsection (4).

(3) Money appropriated under subsection (1) may be issued and applied by the Treasurer for the public purposes of the State during the financial year in which it is appropriated.

(4) Any money appropriated for any purpose by the Governor pursuant to this section in any financial year may be recouped to the Governor's Appropriation Fund out of any money subsequently voted by an annual Appropriation Act that is passed in the same financial year, and thereafter the balance of the Governor's Appropriation Fund will be increased by the amount so recouped

(5) For the purpose of determining the total amount that may be appropriated by the Governor in accordance with this section each amount so appropriated will be included once only in that determination despite the fact that it is, for any reason, recorded more than once in the Consolidated Account or in a schedule to that account.

(6) In this section—

Governor's Appropriation Fund in relation to a financial year means the money that the Governor is by subsection (1) authorised to appropriate in that year;

public purposes of the State includes any purpose for which money is, under the provisions of any Act, required to be paid out of money to be provided or appropriated by Parliament.

Further the Act requires quarterly reporting:

Part 4—Miscellaneous

40—Treasurer's quarterly statement

(1) The Treasurer must publish a statement in the Gazette in respect of each quarter setting out the following—

(a) details of the amounts credited to and issued from the Consolidated Account;

(b) a summary of differences between those amounts and the amounts of money credited to and issued from the Consolidated Account during the corresponding quarter in the previous financial year;

(c) any explanation that the Treasurer considers necessary of differences between the Treasurer's forecasts of the amounts to be credited to and issued from the Consolidated Account and the amounts in fact credited and issued.

(2) In this section—

quarter means a period of 3 months ending on 30 September, 31 December, 31 March or 30 June.

Queensland

Financial Accountability Act 2009

34 When part of vote for treasury department may be applied for headings of another department

(1) This section applies if-

(a) an amount (the *Treasurer's advance*) is included in the vote for the treasury department for a financial year for purposes that may be delivered by any department; and

(b) the Treasurer is satisfied a particular department (the *delivering department*) is to achieve 1 or more of the purposes by delivering a departmental service, administered item or equity adjustment for which the vote for the delivering department for the financial year did not provide or sufficiently provide.

(2) The Treasurer may pay to the delivering department a part of the Treasurer's advance that the Treasurer considers reflects the value of the service, item or adjustment to be delivered in the financial year by the delivering department.

(3) The Treasurer may pay an amount to the delivering department even though the amount appropriated to the department under the relevant annual appropriation Act for the financial year will be exceeded.

(4) The Treasurer must make appropriate entries for the payment in the accounts of the treasury department and the delivering department.

35 Unforeseen expenditure

(1) Subsection (2) applies if the Governor in Council decides, on the recommendation of the Treasurer, during a financial year or within the further 4 weeks, that expenditure is required from the consolidated fund for the financial year for which—

(a) there is no appropriation; or

(b) there is an appropriation but the making or charging of the expenditure to a department's vote would mean the amount allocated to the vote would be exceeded.

(2)The Governor in Council may authorise the expenditure (the *unforeseen expenditure*) to be—

(a) made before an appropriation of an amount for the expenditure; and

(b) charged as unforeseen expenditure to the consolidated fund; and

(c) allocated, as directed by the Governor in Council, to 1 or more of the department's headings.

36 Entries in Treasurer's consolidated fund operating account for unforeseen expenditure

If an amount is paid from the consolidated fund as unforeseen expenditure for a financial year, the Treasurer must, in the Treasurer's consolidated fund operating account for the financial year, enter the amount to 1 or more of the headings stated in the Governor in Council's authority for the unforeseen expenditure.

Australian Commonwealth

Advance to the Finance Minister: a quick guide

Updated 9 October 2020

Economic Policy Section

"Several mechanisms are included within the Commonwealth Budget to provide flexibility to the Government for dealing with, or reflecting, unforeseen or unexpected occurrences.

One of those mechanisms is the Advance to the Finance Minister (AFM), which provides a flexible source of appropriation that may, subject to certain conditions, be expended on any purpose the Government chooses.

Another mechanism—the Contingency Reserve—adjusts the presentation of the overall budget balance to reflect the general tendency of programs to cost more than anticipated, and for certain known contingencies that the Government considers likely to occur.

The AFM attracted attention in 2017 when its use to conduct the same-sex marriage postal ballot by the Australian Bureau of Statistics was the subject of a High Court challenge. More recently, the Advance to the Finance Minister has been used to provide increased capacity for unforeseen additional COVID-19 expenditures.⁵"

How it works

"Section 10 of the <u>Appropriation Act (No. 1) 2019–2020</u>, <u>Appropriation (Coronavirus</u> <u>Economic Response Package) Act (No. 1) 2019–2020</u> and the <u>Supply Act (No. 1) 2020–</u> <u>2021</u> (No. 1 Acts) illustrate how the AFM works.

Subsection 10(2) of the No. 1 Acts allow the Finance Minister to make a Determination under the AFM mechanism. The Determination is a non-disallowable legislative instrument.

The Determination records the schedule to which an additional allocation is being made and the amount.

The Determination is deemed to have the same effect as if the *Appropriation Act* were amended to increase the appropriation to the entity by that amount.

The Finance Minister may make a Determination only if satisfied that there is an urgent need for expenditure, in the current year, that is not provided for, or is insufficiently provided for already, in any *Appropriation Act* because:

- something was omitted or understated in error or
- the expenditure was unforeseen at the last moment that it was possible to include it as an item in the Appropriation Bill prior to introduction.

A similar provision is found in the <u>Appropriation Act (No. 2) 2019–2020</u>, <u>Appropriation</u> (<u>Coronavirus Economic Response Package</u>) <u>Act (No. 2) 2019–2020</u> and the <u>Supply Act (No. 2) 2020–2021</u> (No. 2 Acts). The difference being that the No. 1 Acts deal with the 'the ordinary annual services of the Government' and No. 2 Acts concern 'other annual services of the Government'.

Typically, the AFM is established in the first *Appropriation Acts* each year and then replenished, if needed, whenever supplementary *Appropriation Acts* are passed.

The Finance Minister may not make Determinations for amounts that total more than the cap set in subsection 10(3) of the No. 1 Acts and subsection 12(3) of the No. 2 Acts.⁶"

New Zealand

New Zealand's <u>A Guide to Appropriations</u> issued by the Treasury Department discusses the approach New Zealand takes to appropriations. There does not appear to be anything similar to a Treasurer's Reserve or Advance.

⁵

https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Librar y/pubs/rp/rp2021/Quick_Guides/AdvanceFinanceMinister

⁶ Ibid

"Appropriations provide a Minister with the authority from Parliament to spend public money or incur expenses or liabilities on behalf of the Crown. This guide explains why they are necessary and how they are used.

Unappropriated Expenses and Capital Expenditure and Unauthorised Capital Injections

- Expenses and capital expenditure that exceed the appropriated amount, fall outside the scope of the appropriation, are not in the prescribed period or are not covered by an appropriation at all have not been appropriated by Parliament and are therefore unappropriated.
- Capital injections made without authority under an Appropriation Act (or approval under s25A PFA 1989) are unlawful unless validated by Parliament in an Appropriation (Financial Review) Act.
- Several remedies exist under the PFA 1989 for a situation of unappropriated expenditure or unauthorised capital injections.
- Treasury releases a circular each year detailing the deadlines that departments need to meet for each of these remedies.
- The Auditor-General also exercises a controller function (see page 21) to monitor the compliance of departments with appropriations.

Order in Council (s26A PFA 1989)

- Ideally, unappropriated expenditure should be met from existing resources within the vote.
- Under s26A of the PFA an Order in Council may transfer resources between output expense appropriations within a single vote, so long as the transfer does not increase the recipient output expense appropriation by more than 5% and the Order in Council is made prior to 30 June.
- A department must still obtain authority to incur expenses in advance of the Order in Council. As the Order in Council is unlikely to be made until near the end of June, departments need to seek interim authority under Imprest Supply.
- Only one transfer can be made to an appropriation each year.
- Transfers cannot be made from MYAs, PLAs and RDAs.

Minister of Finance Approval (s26B PFA 1989)

- The Minister of Finance may approve expenses or capital expenditure in excess of appropriations within the following limits:
 - expenditure must be within the scope of an existing appropriation
 - the expenditure in excess of the appropriation must be incurred in the last three months of the fiscal year, and
 - the cumulative total of such approvals for a single appropriation may only be up to the greater of \$10,000 or 2% of the appropriation.
- Where possible, departments should seek approval before the expenditure is incurred.

- If adequate justification exists, it is possible to gain a retrospective approval from the Minister of Finance. This should be avoided though as the expenditure will be illegal at the time that it is incurred. If the justification is not adequate, validating legislation under s 26C will be required.
- Unlike an approval under s26A this approval is only a 1 step process. Therefore Imprest Supply is not required as the Minister of Finance's approval is final.
- This approval cannot apply to breaches of capital injection authorities.

Interim Authority under Imprest Supply

- If a potential breach of appropriation is identified in advance and does not meet the criteria for approval under s26A or s26B, then a department should seek interim authority under Imprest Supply in advance of the expenditure being incurred.
- Anticipated breaches in the following areas should seek interim authority under Imprest Supply:
 - Capital injections that have not been authorised in an Appropriation Act or that are in excess of such authority.
 - Expenses or capital expenditure outside the scope of an appropriation (ie, where no appropriation exists).
 - Expenses or capital expenditure in excess of the amount of an appropriation where the use of s26A or s26B is not appropriate.
- Interim authority under Imprest Supply usually requires Cabinet approval unless it falls within an authority joint Ministers have from Cabinet.

Validating Legislation (s26C PFA 1989)

- Validating legislation is the most serious remedy for unappropriated expenditure and should be used only when none of the other options is available.
- Validation provides retrospective approval for:
 - o exceeding capital injection authorities
 - expenses or capital expenditure outside the scope of appropriation (ie, where no appropriation exists), or
 - expenses or capital expenditure in excess of the amount of an appropriation that is not able to be addressed through the other remedies.
- It is important to note that, if an appropriation has been exceeded during the year (either in respect of amount or scope), and a department has subsequently sought a change in the appropriation, this change only applies for the appropriation going forward. The initial breach must be validated (usual course of action) or approval obtained from the Minister of Finance under s26B PFA 1989."

Appendix D – Ex gratia Payments, PRS



Parliamentary Research Service

Parliament House, Hobart 7000

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Author: Parliamentary Research Service

Financial Management Act - Ex gratia Payments

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Introduction

The Overview: Tasmania's Financial Management Framework document states:

"The financial management framework of the Tasmanian Public Sector is underpinned by legislation and policies that support robust financial management practices and processes for the State. A sound financial management framework promotes economical, efficient and effective resource allocation and management, and assists the Government to deliver goods and services to the community that provide value for money.

Tasmania's financial management framework has undergone significant reform since the early 1990's. The key reforms include:

• implementation of whole-of-government accrual budgeting and reporting;

• improving the efficiency and accountability of government businesses, including the introduction of guidelines to support good corporate governance practices;

• introduction of the *Charter of Budget Responsibility Act 2007* to provide a framework to improve fiscal policy outcomes by requiring a fiscal strategy statement based on principles of sound fiscal management and regular reports of the Government's fiscal performance;

• introduction of the *Audit Act 2008* to strengthen and modernise the role of Tasmania's Auditor-General;

• introduction of quarterly reporting through the *Financial Management and Audit Amendment Act 2012*; and

• introduction of the *Charter of Budget Responsibility Amendment Act 2015*, to strengthen the principles of sound fiscal management.

More recently, Parliament passed the Financial Management Act, effective from 1 July 2019. The Act is a significant reform that modernises and streamlines the financial management of the State's General Government Sector. The Act replaces the *Public Account Act 1986* and the remaining provisions of the *Financial Management and Audit Act 1990*.

The key legislation underpinning financial management of the Tasmanian Public Sector includes:

• Tasmanian legislation – the *Constitution Act 1934*, the *Charter of* Budget Responsibility Act, the Audit Act, the Financial Management Act, Appropriation Acts, enabling legislation of State authorities, the Government Business Enterprises Act and portfolio Acts of Government Business Enterprises and State-owned Companies;

• Treasurer's Instructions – issued under the authority of the Financial Management Act and the Government Business Enterprises Act; and

• Australian Government legislation - the Corporations Act."

Working from this context of the financial management framework in Tasmania this paper focuses on two questions referred to the Parliamentary Research Service for consideration:

- Does any Tasmanian Legislation define ex gratia payments, if not, do other jurisdictions?
- Do other Financial Management Acts reference "ethical decision making' in their Acts

With regard to the second question a search was done of all the State Jurisdictions for the word "ethical". No Financial Management Act at a State or Territory level appeared to mention ethical decision making within these Acts.

Ex gratia Payments

The <u>New South Wales Justice</u> website provided the best explanation for what an ex gratia payment for Government is, it states "an ex gratia payment is made in the exercise of the prerogative power of Government. A payment may be made if a person has suffered a financial loss or other detriment directly as a result of the workings of Government. This detriment must be of a nature which cannot be remedied or compensated through recourse to legal proceedings (or where it is impractical to do so)."

No Financial Management Act contained a definition of ex gratia however most contained a section for authorising and payment of these discretionary payments to occur. Below are the relevant sections of the jurisdictions Acts.

Tasmania

Tasmania's DPP defines ex gratia as the following:

"Out of grace; as a matter of favour (of a payment made without any admission of legal liability). [Latin]"¹

The Tasmanian Government's 2010 Position Paper on the Review of Tasmania's Financial Management Framework at page 25 noted that:

"Currently, there are no statutory provisions in Tasmania for the authorisation and payment of ex gratia payments. The Australian Government's Financial Management and Accountability Act 1997 provides that the Finance Minister may approve an act of grace payment. Queensland's Financial Accountability Act 2009 includes a provision for special payments from departmental accounts, with a "special payment" being defined to include ex gratia and ex contractual payments.

Consideration should be given to including, within the proposed FMA, provisions for the authorisation and payment of discretionary ex gratia payments."

¹ <u>https://www.dpp.tas.gov.au/glossary</u>

In 2016 the *Financial Management Act 2016* passed the Tasmanian Parliament it included the following Section:

55. Ex gratia payments

(1) If the Treasurer is satisfied that it is appropriate to do so because of special circumstances, the Treasurer may authorise an amount to be paid to a person even though the payment would not otherwise be authorised by law or be required to meet a legal liability.

(2) A payment under this section may be made subject to conditions.

(3) If a condition imposed under <u>subsection (2)</u> on a payment is breached, the amount paid may be recovered as a debt due to the State in a court of competent jurisdiction.

This Act does not give a statutory definition of ex gratia payments but as proposed in the 2010 paper it does give a statutory framework for these payments. Other Tasmanian Acts that have enabled the payment of ex gratia payments to aggrieved groups such as the *Stolen Generations of Aboriginal Children Act 2006* which was set up to allow Government to make ex gratia payments also do not provide for a statutory definition of "ex gratia payment".

New South Wales

The Government Sector Finance Act 2018 provides for Act of grace payments:

5.7 Act of grace payments

(1) A Minister may, if satisfied that there are special circumstances or circumstances of a kind prescribed by the regulations, authorise an amount to be paid to a person on behalf of the State (an *act of grace payment*) under this section even though the payment is not—

- (a) otherwise authorised by or under law, or
- (b) required to meet an obligation.

(2) An act of grace payment is subject to any terms and conditions that the Minister may decide to impose.

(3) If a term or condition of an act of grace payment is contravened by the recipient of the payment, the payment may be recovered from the recipient by the Crown in a court of competent jurisdiction as a debt due to the Crown.

(4) A Minister may delegate the function of making act of grace payments (including in relation to the imposition of terms and conditions for payments) only to—

(a) an accountable authority for a GSF agency, or

(b) any person employed in or by a Public Service agency if the agency is responsible to the Minister under an administrative arrangements order made for the purposes of section 50C of the <u>*Constitution Act 1902*</u>, or

(c) any other entity (or an entity of a kind) prescribed by the regulations.

(5) Act of grace payments are to be made using money that is otherwise lawfully available.

(6) This section does not limit any power, privilege or right conferred on a Minister or any other person by another law to make payments as an act of grace (whether or not for or on behalf of the Crown or the State).

Victoria

Victoria deals with ex gratia payments through a FRD see FRD 11 on the <u>Victorian</u> <u>Government Financial Reporting and Directions Guidance</u> website.

Western Australia

The Financial Management Act 2006 also makes provision for acts of grace payments:

80. Act of grace payments

(1) If the Treasurer is satisfied that it is appropriate to do so because of special circumstances, the Treasurer may authorise an amount to be paid to a person even though the payment would not otherwise be authorised by law or required to meet a legal liability.

(2) The Treasurer cannot authorise the payment under this section of an amount that exceeds the amount prescribed by the regulations for the purposes of this subsection unless that payment is approved by the Governor.

(3) A payment under this section may be made subject to conditions and, if any such condition is breached, the amount paid may be recovered as a debt due to the State in a court of competent jurisdiction.

(4) A request or recommendation to make a payment under this section may be made to the Treasurer in accordance with the Treasurer's instructions.

Queensland

The *Financial Accountability Act 2009* makes provision for special purpose accounts of which special payments, such as ex gratia payments, can be paid into.

Schedule 3 Dictionary

special payments includes ex gratia expenditure and other expenditure that is not under a contract.

69A Special purpose accounts

(1)This section applies in relation to the accountable officer of a department that is responsible for administering an Act that—

(a)establishes a fund; and

(b)requires accounts for the fund to be kept as special purpose accounts of the department.

(2) The accountable officer must establish the accounts (the *special purpose accounts*) necessary—

(a) to account for contributions made to the fund, moneys paid from the fund and other transactions made in relation to the fund; and

(b) to produce the financial statements and information mentioned in $\underline{\text{section 69}}(1)(b)$, to the extent the statements or information must include matters in relation to the fund.

(3) To remove any doubt, it is declared that special purpose accounts are not, and do not form part of, departmental accounts.

83A Special purpose financial institution accounts

(1) This section applies in relation to a department's special purpose accounts.

(2) The accountable officer of the department must establish the accounts necessary for administering the special purpose accounts (the *special purpose financial institution accounts*), and conduct banking arrangements for the special purpose accounts, with the financial institutions approved by the Treasurer.

(3) An amount may be paid from the special purpose financial institution accounts only if the payment is authorised under the <u>Act</u> that requires the keeping of the special purpose accounts.

(4) To remove any doubt, it is declared that special purpose financial institution accounts are not departmental financial institution accounts.

South Australia

The Public Finance and Audit Act 1987 sets up special deposit accounts in South Australia:

special deposit account means an account established under <u>section 8</u>;

8—Special deposit accounts

(1) The Treasurer, or a person to whom the Treasurer has delegated the Treasurer's powers under this subsection, may establish and maintain a special deposit account for an approved purpose of, or relating to, a government department.

(2) Money payable to the Crown in relation to an approved purpose must, at the direction of the Treasurer, be credited to a special deposit account opened for that purpose.

(3) The Treasurer may credit any money appropriated or provided in accordance with law for an approved purpose to a special deposit account opened under this section for that purpose.

(4) The Treasurer may, without Parliamentary appropriation, issue and apply any money standing to the credit of a special deposit account for the purpose for which that account was opened.

(5) Any surplus of income over expenditure standing to the credit of a special deposit account must, at the direction of the Treasurer, be credited to the Consolidated Account.

(6) Subject to this section special deposit accounts must be operated in accordance with the Treasurer's instructions.

(7) The Treasurer, or a person to whom the Treasurer has delegated the Treasurer's powers under this subsection, may approve a purpose of, or relating to, a government department for the purposes of this section and may vary or revoke such an approval at any time.

- (8) A reference in <u>subsection (5)</u>—
 - (a) to income extends to income accrued but not received; and
 - (b) to expenditure extends to costs incurred but not paid.
- (9) In this section—

approved purpose means a purpose of, or relating to, a government department approved for the time being under <u>subsection (7)</u>.

Australian Capital Territory

The *Financial Management Act 1996* provides for acts of grace payments:

130 Act of grace payments

(1) If the Treasurer considers it appropriate to do so because of special circumstances, the Treasurer may authorise the payment by a directorate or territory authority of an amount to a person (the *payee*) although the payment of that amount (the *relevant amount*) would not otherwise be authorised by law or required to meet a legal liability.

(2) The authorisation may provide for the relevant amount to be paid by—

(a) more than 1 instalment and on the dates specified in the authorisation; or

(b) periodical payments of an amount, and for the period, specified in the authorisation.

(3) An authorisation may be expressed to be subject to conditions to be complied with by the payee.

(4) If a condition is contravened, the Treasurer may by written notice addressed to the last-known address of the payee require the payee, within 30 days of receipt of the notice, to pay an amount equal to all or part of the relevant amount.

(5) If the payee does not pay the amount specified in the notice under subsection(4), the amount may be recovered by the Territory as a debt.

(6) If the payment of an amount by a directorate or territory authority is authorised under this section, the Treasurer must—

(a) direct that the amount be paid from an existing appropriation for the directorate or territory authority stated by the Treasurer; or

(b) authorise payment of the amount under section 18 (Treasurer's advance); or

(c) authorise payment of the amount by appropriation to the relevant directorate or territory authority.

(7) The public money of the Territory is appropriated for subsection (6) (c).

(8) A payment made by a directorate or territory authority under this section must be reported in notes to the financial statements of the directorate or territory authority that relate to the financial year when the payment was made.

(9) The notes must indicate in relation to each payment under this section the amount and grounds for the payment.

(10) The notes relating to a payment under this section must not disclose the identity of the payee unless disclosure was agreed to by the payee as a condition of authorising the payment.

Northern Territory

The Financial Management Act 1995 makes provision for ex gratia payments:

37 Ex gratia payments

(1) Notwithstanding anything contained in this Act, if the Treasurer is satisfied that, by reason of special circumstances, it is proper to do so, the Treasurer may direct the payment of an amount of money ex gratia.

(2) Subsection (1) does not authorise a payment of money ex gratia unless the special circumstances arose in the course of the business of the Government of the Territory and unless money is lawfully available to make the payment.

Appendix E – Tasmania's Financial Management Framework, Department of Treasury and Finance, 15 June 2023

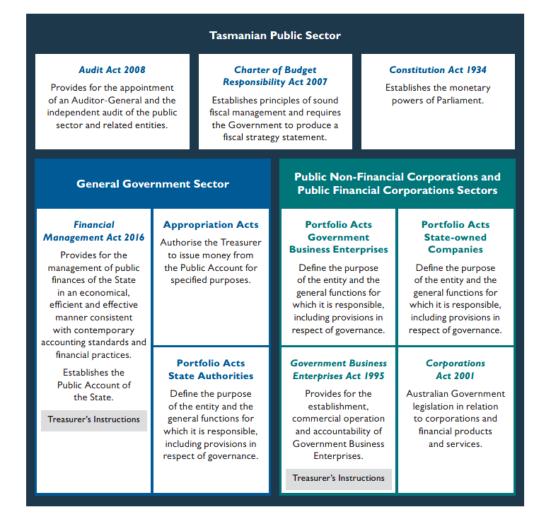
Tasmania's Financial Management Framework

15 June 2023

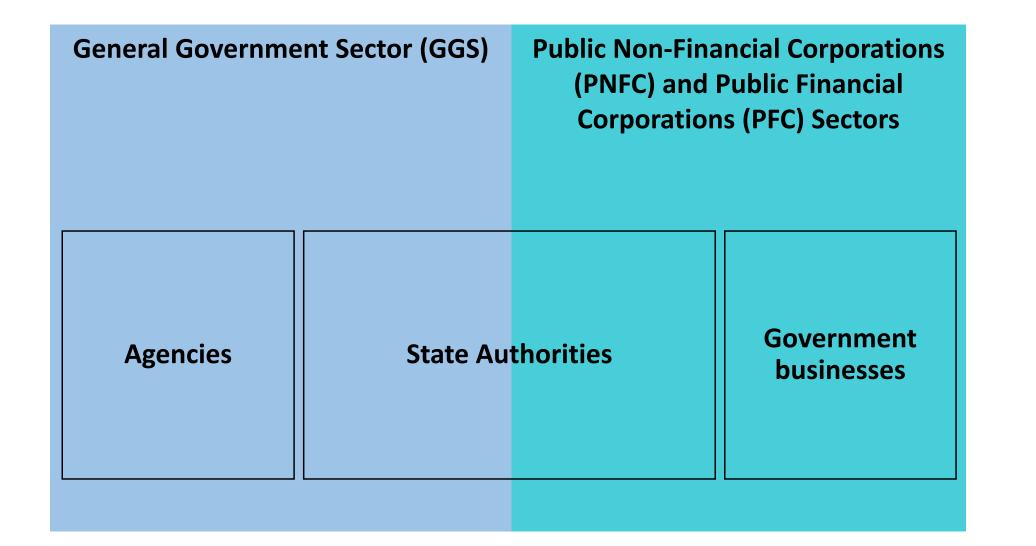
Department of Treasury and Finance

Legislative Framework and other Governance documents

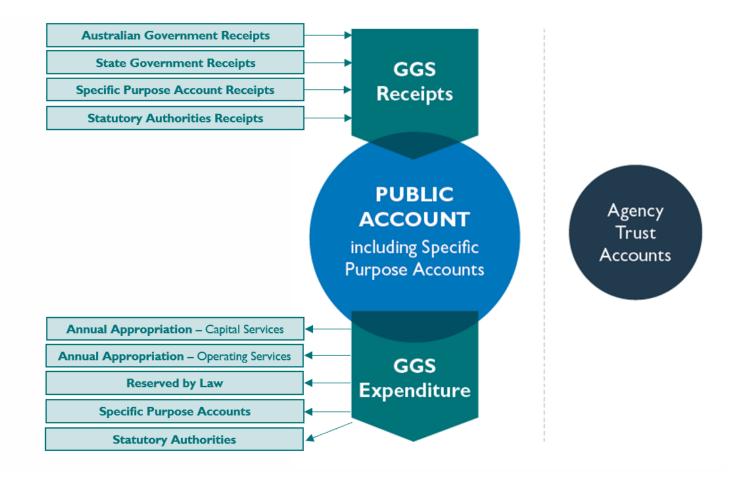
Legislative Framework



ABS Classification Framework



The Public Account



Charter of Budget Responsibility Act 2007

The Charter of Budget Responsibility Act also:

- specifies the required contents of a fiscal strategy;
- requires regular reports to provide for the assessment of the Government's fiscal performance;
- requires the publication of a Pre-Election Financial Outlook Report under certain circumstances;
- establishes a process for costing the election policies of parties represented in the House of Assembly; and
- requires the tabling in Parliament of a report on the sustainability of State finances every five years.

Financial Management Act 2016

The Financial Management Act 2016 (FMA) commenced on I July 2019.

It replaced the Public Account Act 1986 and the Financial Management and Audit Act 1990.

The objective of the FMA is to improve the efficiency, effectiveness and transparency of government financial management in Tasmania's General Government Sector.

Financial Management Act cont.

The FMA builds on the strategic principles from the Charter of Budget Responsibility Act by ensuring:

- expenditure is in accordance with the law;
- financial management processes are appropriate;
- that all public property is managed and accounted for;
- appropriate stewardship of all assets and liabilities; and
- the effective and efficient use of resources.

Other legislation

The **Constitution Act 1934** establishes the monetary powers of Parliament and enables money to be receipted to and expended from the Public Account.

It provides for annual **Appropriation Acts**.

The **Audit Act 2008** provides for the appointment of an Auditor-General and the independent audit of the public sector and related entities.

The Auditor-General is required to provide an independent view on the financial and operational position and management of the State's agencies and businesses.

Other legislation cont.

The **Public Accounts Committee Act 1970** establishes the structure, powers and responsibilities of the Public Accounts Committee.

The Committee has broad ranging powers that enable it to enquire into matters relating to the management, administration or use of public finances or any matter that it considers relates to public finances.

The **Public Works Committee Act 1914** establishes the Parliamentary Standing Committee on Public Works to oversight large scale construction projects.

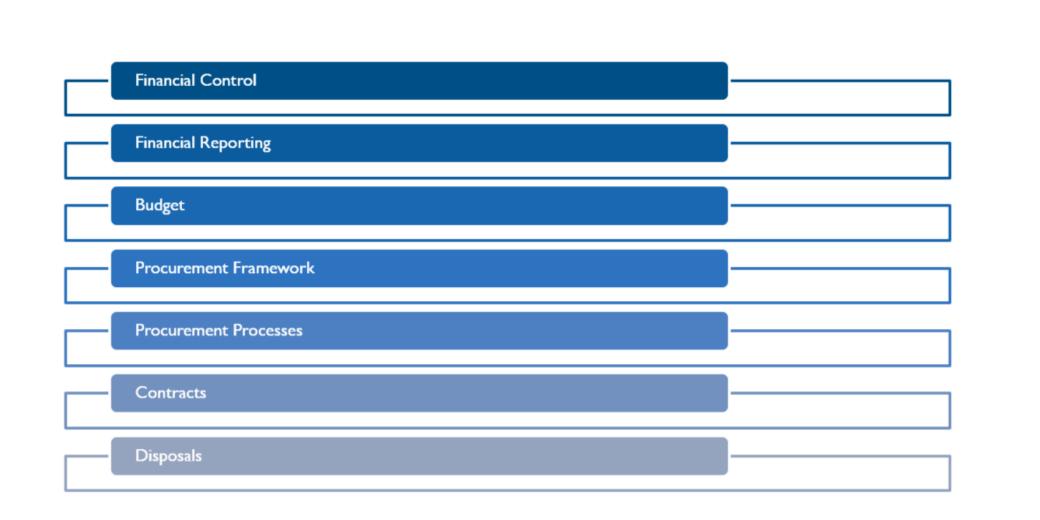
Other legislation cont.

The **State Service Act 2000** provides for the establishment of the agencies and authorities to which the FMA applies.

It also provides for the establishment of the office of Head of Agency (who also fulfil the role of Accountable Authority for each agency under the FMA).

The State Service Act requires all Heads of Agencies to ensure that their agency is operated as efficiently as possible.

Treasurer's Instructions



Budget Papers

The FMA requires that an Appropriation Act in any particular year must be accompanied by a Statement in the Budget Papers that shows:

- Estimated receipts of the Public Account;
- Estimated expenditure from the Public Account;
- Major General Government Sector financial statements required to be prepared in accordance with Australian Accounting Standards.

Requirements of the Financial Management Act 2016

Accountable Authorities

Accountable Authorities are responsible to the appropriate Minister for the financial management of their agency (for agencies under Part 1 of Schedule 1);

Accountable Authorities for those agencies under Part 2 of Schedule I are responsible for the financial management of their agency.

The Accountable Authority can delegate any functions or powers under FMA – except the power of delegation.

Expenditure from the Public Account

Expenditure from the Public Account requires appropriate authorisation under the FMA.

An Accountable Authority can only draw money from the Public Account in accordance with:

- a Treasurer's Expenditure Control Authority;
- estimated expenditure approved by the Treasurer in relation to Specific Purpose Accounts (under section 17(10) or (11) of the Act); and
- any other written law (including Reserved by Law).

SPAs are established by the Treasurer under the FMA.

SPAs are held within the Public Account for a defined purpose only.

All expenditure from a SPA must be in accordance with the purpose of that Account as approved by the Treasurer (or delegate).

Agency Trust Accounts

Agency Trust Accounts can be established by the Treasurer under the FMA but can only be used for the purposes that the Treasurer has approved in establishing the Account.

Agency Trust Accounts are not part of the general operations of an Agency or Government and are only established in limited circumstances.

Agency Trust Accounts are held outside the Public Account.

Budget Management

Accountable Authorities are responsible for managing agency appropriations, both within the current year as well as across the Forward Estimates.

TI-BI Budget Management provides further guidance to agencies.

Additional mechanisms exist to assist with within-year Budget management.

Transfers of Appropriation

The FMA allows the Treasurer to make good deficiencies in appropriations out of any surplus arising (or saving effected) across items within the Schedule to an Appropriation Act.

Transfers can be utilised to offset Budget pressures, where surpluses have arisen or savings are identified within an Agency.

Treasurer's Reserve

The FMA provides for the Treasurer to consider the provision of additional appropriation funding to an agency through the Treasurer's Reserve for expenditure which:

- could not, in the opinion of the Treasurer, have been foreseen; and
- is necessary for efficient financial management.

Treasurer's Reserve cont.

The amount is limited by:

- any amount that is appropriated in the Appropriation Act; plus
- any additional receipts generated during the year, less additional Australian Government receipts.

The amount of the Treasurer's Reserve appropriated **may not exceed 2.5 per cent** of the total appropriation in the Appropriation Act for that financial year.

Treasurer's Reserve cont.

Requests for Additional Funds can be approved by the Treasurer where a purpose is provided for in the Appropriation Act.

Requests for additional funds are required to be approved by the Governor where the purpose has not already been provided for in the Appropriation Act.

Where insufficient funding is available within the Treasurer's Reserve, a Supplementary Appropriation would need to be considered by Parliament.

Emergency Expenditure

The FMA provides for expenditure to be incurred for emergency purposes.

The Auditor-General to prepare a report related to the specifics of the emergency and must provide this report to the Governor.

The written approval of the Governor must be obtained.

These emergency provisions have not been used since the commencement of the FMA.

Rollovers of unspent Appropriations

Where an amount of an appropriation is unexpended by an agency in any year, the agency can apply to the Treasurer for an amount to be rolled over to the following year.

The amount determined by the Treasurer must not exceed **five per cent** of an Agency's appropriation for that financial year.

The process is generally completed around 30 June in the year to which it relates.

Savings are to be declared by agencies where funding is no longer required.

Whole-of-Government Reporting

FMA requires the Treasurer to publish a number of whole-ofgovernment reports within set timeframes.

The process and content of these reports is detailed in the legislation.

Key reports include the:

- September Quarterly Report;
- Revised Estimates Report;
- December Quarterly Report;
- March Quarterly Report;
- Preliminary Outcomes Report (under certain circumstances); and
- Treasurer's Annual Financial Report (TAFR).

Whole-of-Government Reporting cont.

A Supplementary Estimates Statement is also required to be included in the Preliminary Outcomes Report and Treasurer's Annual Financial Report.

The Statement includes (where appropriate):

- transfers of appropriations in the Public Account;
- Funding approved through the Treasurer's Reserve;
- variations of appropriations for Commonwealth Grants;
- emergency expenditure authorised by the Governor; and
- rollovers of unexpended appropriations.

Agency Annual Reports

The FMA requires the Accountable Authority of an Agency to prepare annual financial statements of the Agency for each financial year.

The financial statements are required to be prepared in accordance with the relevant Treasurer's Instructions and submitted to the Auditor-General for audit.

Agency Annual Reports (including the Auditor-General's report) must be tabled in Parliament by 31 October in each year.

Separate reporting is also required on the abolition of an agency.

Section	Responsibility	Description
10	The Treasurer must keep accounts of all transactions affecting the Public Account. The system of accounting for all transactions affecting the Public Account is to be based on – (a) generally accepted accounting principles; or (b) Government Finance Statistics	 This requirement is managed through Treasury owned systems. The Public Account Reporting System for actuals and the Budget Information Management System for budget estimates. These systems reflect the structure of the Public Account. These systems hold information consistent with the Treasury Financial Reporting System Mandatory Data Requirements Manual that are imposed under Treasurer's Instruction which enable reporting based on GAAP/GFS. Agencies provide data and information that are reported in these systems.
11(1)	The Treasurer must properly record all expenditure from the Public Account.	Treasury's systems of accounts are established to properly record expenditure from the Public Account. This is specified in the Treasury Financial Reporting System Mandatory Data Requirements Manual. At a General Government Sector level, expenditure is tracked and publicly reported on an agency, portfolio, and output level.

Section	Responsibility	Description
(4)	The Treasurer may cause to be opened the accounts he or she considers necessary for the purpose of recording transactions in connection with the Public Account.	This section allows for Treasury to establish accounts within the Public Account to manage transactions.
(6)	 Any money borrowed by, or on behalf of, the State is to be recorded through an account of the State established for that purpose – (a) by the Treasurer; or (b) by an Agency, if the money has been borrowed pursuant to a determination under section 53. 	This section requires that borrowings are to be recorded in the Public Account as approved by the Treasurer. There is a specific borrowings account held in FG.
13(1)	An accountable authority may, with the prior approval of the Treasurer, open and maintain one or more authorised deposit-taking institution accounts for the purpose, and subject to any terms and conditions that the Treasurer determines.	This section relates to the establishment of bank accounts. Agency bank accounts were established under FMA as part of implementation and are opened and closed by Treasury based on requests from agencies (as appropriate) and approval from the Treasurer.
		Further requirements for Accountable Authorities in relation to bank accounts are included in TI FC-7 <i>Managing</i> <i>Receipts, Payments and Bank Accounts</i> and associated Better Practice Guidelines

Section	Responsibility	Description
14	An officer must not cause any authorised deposit-taking institution account of an Agency maintained under this Part to be overdrawn, except with, and subject to, the approval of the Treasurer.	Agencies are to ensure that bank accounts are not overdrawn, unless approved by the Treasurer. Treasury manages the process for overdraft approval, based on the advice on the circumstances of this requirement by the agency.
15	An accountable authority must ensure that all public money or other money collected or received is paid each day, or at other intervals approved by the Treasurer, into an authorised deposit-taking institution account maintained in accordance with this Act or any other written law.	This section relates to agency banking frequency. Further requirements for Accountable Authorities in relation to bank accounts are included in TI FC-7 <i>Managing Receipts,</i> <i>Payments and Bank Accounts</i> and associated Better Practice Guidelines.
		Variations to banking frequency are approved for specific circumstances - for example, for PWS in regional areas for park fees in the low season and to a specified amount.
		Treasury manages requests from agencies on variations to banking frequency.

Section	Responsibility	Description
16	An accountable authority of an Agency is to, in respect of all money paid into or out of the Public Account or Agency Trust Account in respect of that Agency, establish and maintain accounts, and accounting and financial information systems, in accordance with this Act and with the Treasurer's Instructions.	 This section imposes a responsibility for Accountable Authorities to establish and maintain accounts to manage transactions. This is specified in the Treasury Financial Reporting System Mandatory Data Requirements Manual as per the Treasurer's Instructions FR-1 Agency Data Requirements which specifies the structure of the systems accounts on the agency side that must be maintained to provide the data required in PARS and BIMS.
17(1)	 The Treasurer may – (a) establish one or more Specific Purpose Accounts for any money kept in the Public Account; and (b) specify the purposes for which a Specific Purpose Account is to be used, including to provide for future obligations; and (c) determine the Agency that is to be responsible for administering 	 This section relates to the establishment of the Specific Purpose Accounts in the Public Account, and specifying the administering agency (and associated Accountable Authority). Treasury prepares establishment documentation for approval by the Treasurer. TI FC-20 Specific Purpose Accounts and associated Better Practice Guidelines outline the process and requirements for establishing a SPA.

Section	Responsibility	Description
17(6)	If any money has been credited to a Specific Purpose Account without the approval of the Treasurer, the Treasurer may direct that the money be transferred to another account, in the Public Account, determined by the Treasurer.	This section is utilised as required in the circumstance where money is in a SPA without approval under FMA. This section allows the Treasurer to direct that these funds to another account in the Public Account (ie. SPA or Public Account balance).
17(7)	The Treasurer may – (a) accept, and credit to an appropriate Specific Purpose Account, deposits of money belonging to, or appropriated or set aside for the use of, the State or an Agency; and (b) allow interest on those deposits at the rates approved by the Treasurer.	This section is utilised to establish approval for agencies to retain funds within approved agency SPAs. Revenue retention arrangements were grandfathered as part of FMA transition using this section. Updates are required to revenue retention documentation for changes to agency structures (as appropriate) and for new sources of revenue. This documentation specifies the revenue that can be retained in a SPA by source. TI FC-20 Specific Purpose Accounts and associated Better
		TI FC-20 Specific Purpose Accounts and associated Better Practice Guidelines outline the process and requirements for revenue retention.

Section	Responsibility	Description
17(8)	The Treasurer may accept, and credit to an appropriate Specific Purpose Account, money granted or loaned to the State by the Commonwealth that is – (a) to be applied for specified purposes prescribed by or under a Commonwealth Act; or	This section provides for the authority for Australian Government funds to be held within a SPA Accounts. There is an Australian Government Management Account in Finance-General to manage National Partnership Payment receipts.
	 (b) received by the State on condition that it be applied for purposes referred to in paragraph (a); or (c) received by the State in accordance with an agreement made between the State and the Commonwealth in respect of the purposes for which that money may be spent – and may, without any authority other than this Act, issue and apply that money for the purposes for which it was granted or loaned. 	Australian Government receipts, such as GST and SPPs are receipted and appropriated from the Public Account, unless otherwise approved to be retained in and expended from an agency SPA (ie, NHRA receipts or COPEs). Only those receipts specified in revenue retention documentation can be receipted and expended from an agency SPA.

Section	Responsibility	Description
17(10)	 The Treasurer is to – (a) approve, as part of the development of the annual Appropriation Act; and (b) report to Parliament in the Budget Papers – the estimated receipts and expenditure in relation to each Specific Purpose Account. 	The Treasurer approves, as part of the Budget Development process, estimated SPA receipts and expenditure based on information from agencies and advice from Treasury. Chapter 4 of Budget Paper No. I <i>The Budget</i> publishes the estimated receipts and expenditure for the upcoming Budget year for each SPA.
18(1)	The Treasurer may establish Agency Trust Accounts for the receipt of money by the State or an Agency to be held in trust.	This section relates to the establishment of Agency Trust Accounts. TI FC-21 Agency Trust Accounts and associated Better Practice Guidelines provide specific requirements and guidance in regard to Agency Trust Accounts.
20(1)	If, in an Appropriation Act, an amount is specified opposite an item in the Schedule to that Act as estimated expenditure on that item and the Treasurer is of the opinion that the amount is deficient, the Treasurer may make good the deficiency out of any surplus arising, or saving effected, in relation to another item specified in that Schedule.	This section relates to Transfers of Appropriations Agencies submit requests for approval to transfer existing appropriations in accordance with section 20 of the FMA through BIMS. Generally, these are considered through End of Year Budget processes. Approval of the transfer is based on the nature of the specific transfer. Requirements regarding End of Year Budget processes are included in TI-BI <i>Budget Management</i> and the associated better practice guidelines.

Section	Responsibility	Description
21(1)	The Treasurer may, in any financial year, issue and apply from the Public Account, for expenditure, the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is necessary for efficient financial administration – (a) an amount that is contingently appropriated by an Appropriation Act for the relevant financial year; and (b) if receipts, additional to the total estimated receipts specified in a statement accompanying an Appropriation Act, are generated within that financial year – the amount of those additional receipts less any amount of Commonwealth money received by the State.	 This section relates to agency Requests for Additional Funds (RAFs) from the Treasurer's Reserve. This is for an additional appropriation for an existing purpose and is submitted through BIMS. Generally, these are considered by the Treasurer through End of Year Budget processes. Requirements regarding End of Year Budget processes are included in TI-BI <i>Budget Management</i> and the associated better practice guidelines. This includes that requirement that Accountable Authorities must manage their agency consistent with these principles, which is further extended in Budget TI-BI <i>Budget Management</i> which requires the AA to manage their agency budget on the basis that supplementary funding will not be provided.
21(3)	(3) <u>Subsection (1)</u> does not authorise expenditure for a purpose other than a purpose mentioned in an Appropriation Act then in force, unless the Governor has, in writing, approved that expenditure.	RAFs for a <u>new</u> purpose require approval from the Governor, prior to approval under section 21(1). This also generally occurs through the End of Year Budget Processes.

Section	Responsibility	Description
23(1)	The Treasurer may determine that an amount of that unexpended appropriation which, in total, does not exceed 5 per cent of that Agency's appropriation is to be issued and applied from the Public Account in the following financial year	This section relates to rollovers of unspent appropriations from the current financial year to the following financial year to a maximum of five percent of the agency's appropriation. Approval (through determination) occurs as part of End of Year Budget Management processes based on consideration of requests from agencies submitted through BIMS. Treasury calculates the cap for rollovers as part of the management of End of Year Budget Management processes.
24(1)	 The Treasurer, after the end of each financial year, is to prepare supplementary estimates of all expenditure from the Public Account that is authorised as transfers of appropriations, RAFs for existing and new purposes, and rollovers. These Supplementary Estimates are subject to audit by the Auditor General and included in the Preliminary Outcomes Report (if published) and the Treasurer's Annual Financial Report each year. 	Treasury prepares the supplementary estimates statement following the conclusion of the annual End of Year Budget processes and includes this statement in the reports as required. Treasury also provides information to the Tasmanian Audit Office to assist with the audit of this information.

Section	Responsibility	Description
25	An accountable authority must not draw money from the Public Account except in accordance with – (a) a Treasurer's expenditure control authority; or (b) estimated expenditure approved by the Treasurer pursuant to section 17(10) or (11); or (c) any other written law.	 This section specifies that an Accountable Authority must ensure that funds are not drawn from the Public Account without the appropriate authority. This relates to agency appropriations and expenditure of SPA funds. Specific requirements are outlined in TI B2 <u>-</u> Authority for Expenditure from the Public Account and the associated Better Practice Guidelines. From time to time during the year, the Treasurer will issue revised TECAs to incorporate approved variationsto appropriations throughout the year. Revised SPA expenditure approval amounts are issued by Treasury on a quarterly basis.
26(1)	 The Treasurer may issue and apply out of the Public Account the amounts that are required to provide – (a) advances to Agencies, the accounts of which are kept in the relevant Agency; and (b) special advances to Agencies for specific purposes, pending adjustment when actual expenditure on those purposes is made. 	This section is applied in exceptional circumstances to provide an agency with a funding advance.This section has not been utilised since the commencement of the FMA.

Section	Responsibility	Description
27(1)	The Treasurer may, in any financial year before the passing of an Appropriation Act for that year, issue and apply in accordance with this section the amounts that may be necessary to meet the current and accruing requirements for that year.	 Section 27 relates to the supply provisions. Section 27 is utilised in instances where Royal Assent for the Appropriation Bills has not occurred prior to the commencement of the financial year but will occur soon after. Costs incurred in this period are deemed to be part of the Appropriation Acts when Royal Assent occurs. Where there is a late Budget or if Royal Assent is expected to be delayed by a number of weeks, a Supply Bill will be prepared to ensure agencies have sufficient funding to meet current and accruing costs. The need for supply is determined each year dependent on the anticipated and actual date of Royal Assent.
		The supply provisions were not required for the 2022-23 Budget.

Section	Responsibility	Description
28(1)	The Treasurer, from time to time, is to issue a Treasurer's expenditure control authority to the appropriate Minister for the purpose of issuing and applying money from the Public Account in accordance with an Appropriation Act.	 This section provides the Treasurer to issue a TECA throughout the year. A TECA provides a limit for an agency to draw down as appropriation funding from the Public Account. Specific requirements around TECAs are outlined in TI B2 <u>-</u> Authority for Expenditure from the Public Account and the associated Better Practice Guidelines. The Treasurer will issue revised TECAs to incorporate
		approved variations to appropriations throughout the year as required.
30(1)	In cases of emergency, if it is necessary to incur expenditure from the Public Account – (a) in excess of an amount authorised to be spent by an item in a Schedule to an Appropriation Act; or	This section provides specific authority in relation to expenditure in emergency circumstances and stipulates requirements on the Treasurer, Governor and Auditor-General in these circumstances.
	(b) for a purpose not provided for by Parliament –	This section would be utilised in exceptional circumstances, if required.
	the Treasurer must obtain the written authority of the Governor.	The section was not used in response to the COVID-19 pandemic.

Section	Responsibility	Description
35(1)	The Treasurer is to publish a report (the September quarterly report for the three months ending on 30 September) no later than 45 days after the Auditor- General's report has been prepared pursuant to section 16(2) of the Audit Act 2008.	The September quarterly report is produced by Treasury each year using information from PARS and is available on the Treasury website.
36(1)	The Treasurer is to publish a report (the revised estimates report) no later than 15 February in the financial year to which it relates.	The Revised Estimates Report is produced by Treasury based on information in PARS, BIMS and from other sources.
36(6)	 The revised estimates report is to contain in respect of the major Public Account statements disclosed in the Budget Papers – (a) original estimates of Public Account receipts and expenditures disclosed in the Budget Papers for the current financial year; and 	 The RER includes updated estimates for Public Account receipts and expenditure for the current financial year, compared to original Budget estimates. Consistent with the Budget, revised estimated receipts and expenditure for the Forward Estimates period are also published (this is an additional disclosure not required under
	(b) revised estimates of Public Account receipts and expenditures for the current financial year.	FMA).

Section	Responsibility	Description
37	 The Treasurer is to publish a report (the December quarterly report for the period of 6 months ending on the previous 31 December) no later than 15 February in the financial year to which it relates. It is to include GGS Statements, SPA Account Balances, Public Account receipts and expenditure, and other information as required. 	Treasury prepares the actual data to support the December quarterly report, which is usually published in the RER, unless an RER is published early.
38	 The Treasurer is to publish the March quarterly report by no later than 15 May in the financial year to which it relates. If a Bill for an Appropriation Act is tabled within 45 days before the commencement of the financial year to which it relates, the Treasurer is to publish a report (the March quarterly report with results for the period of 9 months ending on the previous 31 March) which is to be included in the Budget Papers. It is to include GGS Statements, SPA Account Balances, Public Account receipts and expenditure, and other information as required 	 The March quarterly report is usually included in the Budget Papers. This is a requirement if the Budget is tabled within 45 days of the end of the financial year. If included as part of the Budget papers, the March quarterly report is included in the Estimated Outcome information in Budget Paper No. 1. If the March quarterly report is not included in the Budget Papers due to the timing of the publication of the Budget, the quarterly report is published separately on the Treasury website.

Section	Responsibility	Description
39(1)	 On receiving advice from the Secretary of Treasury that the preliminary actual outcomes for the previous financial year materially vary from the revised estimated in the Budget Papers., the Treasurer is to publish a report (the preliminary outcomes report) for the previous financial year by no later than the 15 August immediately following the financial year to which the report relates. This report is to include preliminary outcomes compared to the original Budget estimates. 	This report is referred to as the Preliminary Outcomes Report and is prepared by Treasury based on the advice of the Secretary of Treasury.
40(1)	The Treasurer is to prepare an annual financial report for each financial year, no later than the 31 October immediately following the financial year to which the report relates.	This report is referred to as the Treasurer's Annual Financial Report and is prepared by Treasury.

Areas for Improvement

Management and Reporting of Specific Purpose Accounts

- Volume of Transactions
- Variations in Transactions
- Purposes of Balances Held

Supplementary Estimates Statement

- Information included with Statement
- Timing

Treasurer's Instructions

- Treasurer's Instructions principles based
- Black letter Instruction removed from previous TIs
- Better practice guidelines published

Other (minor) Issues

- Inconsistencies in Act
- Improved definitions
- Supply and Supplementary Appropriation Bills

Questions

Appendix F – Principles and Rules of the Australian Bureau of Statistics



Home > Statistics > Classifications > Standard Economic Sector Classifications of Australia (SESCA) > 2021

Latest release

Standard Economic Sector Classifications of Australia (SESCA)

Contains institutional sector and associated classifications used in the compilation and publication of national accounts and related statistics

Reference period: 2021

Released 3/12/2021

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Introduction

Preface

This publication describes the suite of economic sector classifications used by the Australian Bureau of Statistics (ABS) to produce macro-economic statistics including National Accounts, Government Finance and International Accounts statistics as well as other component economic indicators. The classifications are:

- Standard Institutional Sector Classification of Australia (SISCA);
- Public/Private classification;
- Level of Government classification;
- Jurisdiction classification; and
- Type of Legal Organisation (TOLO).

The classifications are shown in detail, while the data downloads show correspondences between the revised SISCA, the previous SISCAs and the 2008 SNA classification.

David Gruen Australian Statistician

What's new

The ABS has completed a minor update of the Standard Economic Sector Classifications of Australia (SESCA). The concepts described in this publication are consistent with those presented in the SESCA 2008 Version 1.1 publication. Updates have been made to align SESCA with changes made to the Banking Act (1959), and scope changes to Australia's economic territory. Changes have also been made to improve usability.

Reason for this SESCA update

The update of SESCA was prompted by a need to clarify how market and non-market producers are classified to institutional sector. In addition, this version:

- modifies scope and definition of SISCA classes within SISCA Group 212 Depository Corporations to align with changes to the Banking Act 1959, effective from May 2018;
- clarifies class definitions for reinsurance companies across life and non-life insurance sectors by defining scope of SISCA class 2132- Life Insurance Corporations and SISCA class 2133- Non-Life Insurance Corporations;
- updates Australia's Economic Territory due to changes in the treatment of the Joint Petroleum Development Area (JPDA);
- identifies how market and non-market producers are classified to institutional sector;
- improves the definition of government units;
- updates excel correspondence tables to include correspondence between SISCA 2021, SISCA 2008 and SNA 2008; and
- corrects minor errors in the SISCA 1998 to SISCA 2008 correspondence table.

Standard Institutional Sector Classification of Australia classification changes

• Classes 2121 Banks:

- Class name change to "Authorised Deposit-Taking Institutions" to align with changes to the Banking Act 1959, effective from May 2018. The change removed the distinction between bank and non-bank Authorised Deposit-Taking Institutions (ADIs), allowing ADIs to use the word "bank" without restriction.
- Change in scope with the addition of Building societies and Credit unions as inclusions.
- Class 2129 Other Depository Corporations:
 - Class name change to "Other Broad Money Institutions" to align with changes to the Banking Act 1959, effective from May 2018.
 - Change in scope with the exclusion of Building societies and Credit unions.
- Classes 2132 Life Insurance Corporations and 2133 Non-Life Insurance Corporations:
 - Minor changes to the description and inclusions to clarify the treatment of reinsurance across the different insurance classes.

Australia's Economic Territory change

• Changes to scope of Australia's economic territory as as result of the Timor Sea Maritime Boundaries Treaty, effective from 2019, led to changes to the treatment of the Joint Petroleum Development Area (JDPA).

Other changes

- Global change of "market and non-market operator" usage to "market and non-market producer" to align with 2008 SNA.
- Minor changes to definitions of "Unit of classification" to make the distinction between the "Unit of classification" and "Institutional sector".
- Minor changes to the definition of "Government units" through revision to the definition of statutory authorities.
- Changes to excel correspondence tables in data downloads to include correspondence between SISCA 2021, SISCA 2008 and SNA 2008; and to correct minor errors in the SISCA 1998 to SISCA 2008 correspondence table.

Overview

Purpose of the SESCA

The purpose of sector classifications is to identify and group economic units which share common organisational and operational characteristics for the purpose of economic analysis. Sector classifications provide an integrated framework for the collection, analysis and dissemination of sector data for the economy. This publication describes the following classifications:

- Standard Institutional Sector Classification of Australia (SISCA);
- Public/Private classification;
- Level of Government classification;
- Jurisdiction classification; and
- Type of Legal Organisation (TOLO).

Many of the macro-economic statistics produced by the ABS are classified by sector, including the National Accounts, Balance of Payments (BOP) and International Investment Position (IIP) statistics, Government Finance Statistics (GFS), and other financial statistics.

Unit of classification

Statistical units are the entities about which data are collected or tabulated.

Specific units are used for different statistical purposes, e.g. producing units are used in compiling industry statistics and institutional units are used in compiling financial statistics. This publication describes institutional units and their classification.

International standards

Statistical standards enable meaningful comparisons to be made between Australia's economy and the rest of the world.

The classifications discussed in this publication are aligned to classifications and concepts in the System of National Accounts, 2008 (2008 SNA). 2008 SNA provides the basis for the production of a transparent and integrated set of economic statistics which is internationally comparable. In addition to 2008 SNA, the classifications in this publication include elements drawn from the classifications used in the International Monetary Fund's (IMF) sixth edition of the Balance of Payments and International Investment Position Manual (BPM6) and the IMF's Government Finance Statistics Manual 2014.

The ABS adheres to internationally accepted standards. This ensures that Australian statistics are comparable with other countries that apply the standards. These statistical standards are developed in consultation with national statistical agencies, including the ABS, and other bodies with an interest in internationally comparable statistics.

Previous national classifications

This publication replaces SESCA 2008 (Version 1.1) which was also based on the institutional unit classifications articulated in the System of National Accounts, 2008 (2008 SNA).

Overview of this edition

Concepts

The 'Unit of classification' section provides an outline of the statistical units applied to the classifications in this publication. Statistical units are the entities about which information is compiled. They are defined in a consistent way to enable users of statistics to make valid comparisons of information compiled from different statistical sources and to enable composite pictures of the Australian economy to be drawn.

The 'Key concepts' section provides definitions such as control, market and non-market producers, Australia's economic territory and residence. These concepts underpin the classification of units to institutional sector, Public/Private and Level of Government classifications and the definition of the national economy. They facilitate analysis of sectoral data through the formation of homogeneous categories in these classifications.

Classifications

The Standard Institutional Sector Classification of Australia (SISCA) is a classification of institutional units which provides a framework for dividing the Australian economy into institutional sectors. These sectors group institutional units which have similar economic functions and structural characteristics. SISCA is the classification used to distinguish between market and non-market producers.

The Public/Private classification divides the Australian economy into the Public Sector (resident units controlled by government) and the Private Sector (all other resident units).

The Level of Government classification divides the Public Sector into levels on the basis of control and underpins the production of GFS.

The Jurisdiction classification divides the Public Sector into classes based on the government which exercises control over a particular institutional unit. The classes refer to the Governments of the Commonwealth and the individual states and territories.

The Type of Legal Organisation (TOLO) classification is applied to business entities and subdivides them into classes on the basis of their legal organisation. This classification provides structures for presenting information on the characteristics of businesses in Australia and in analysis of employing units.

Explanatory notes and correspondences

The explanatory notes and data downloads provide additional information about these classifications. Within the explanatory notes, the Appendix details the ABS economic units model. A glossary of the main terms used in the SESCA and an abbreviations list is also

provided. The data downloads include a series of correspondences which provide links between SISCA 1998, SISCA 2008 and SISCA 2021, as well as the relationship between SISCA and the 2008 SNA institutional sector classification, highlighting areas of difference.

Implementation of classifications in Australian Bureau of Statistics publications

Of the classifications included in this publication, none of the updates will have a major impact on published statistics.

Concepts

Unit of classification

Introduction

Statistical units are businesses, government entities, households or other entities about which statistics are compiled. They are defined in a consistent way to enable users of ABS statistics to make valid comparisons of information compiled from different statistical sources and to enable composite pictures of the economy to be drawn.

The basic statistical unit that is classified by sector is the institutional unit. An institutional unit is one that is able to:

- own or exchange goods and assets in its own right;
- make economic decisions and engage in economic activities for which it is held directly responsible and accountable at law;
- enter into contracts and incur liabilities on its own behalf; and
- compile a complete set of accounts, including a statement of financial position.

In some instances it is statistically advantageous to recognise as separate institutional units some entities which do not meet the above criteria. Although these units do not exist as separate institutional units from their owners, and therefore are not institutional units in their own right, where they operate autonomously and keep a full set of accounts, notional institutional units are created to enable their separate collection.

Institutional units can be originated either formally or informally. They can be created formally, either individually, as in the case of some government authorities through an Act of Parliament; or as a specific type of unit, as in the case of corporations through the Corporations Act 2001. The law establishes the existence of such entities as separate from their owners or members. Institutional units can also be created informally, such as a household formed by individual members sharing a dwelling. The ABS statistical unit is considered an approximation to the institutional unit as defined by 2008 SNA. There are, however, some differences between the institutional unit and the practices adopted for the ABS Business Register as outlined in the ABS Economic Units Model Appendix.

Types of institutional units

There are four types of institutional units:

- Corporations;
- Government units;
- Non-profit institutions; and
- Households.

The institutional sector classification of the institutional units is presented in the suite of sectorial classifications.

Corporations

A corporation is 'a legal entity, created for the purpose of producing goods and services for the market, that may be a source of profit or other financial gain to its owner(s); it is collectively owned by shareholders who have the authority to appoint directors responsible for its general management' (2008 SNA, paragraph 4.39).

Corporations are typically:

- created by processes of law that establish their existence as independent from their shareholders, including other institutional units (i.e. other corporations, household unincorporated enterprises, government units and NPIs) that may own shares or other equity in the corporations;
- created for the purpose of market production;
- owned by shareholders who receive a distribution of profits in proportion to their shareholdings; and
- fully accountable at law for their actions, obligations and contracts and are liable to pay taxes (i.e. they are a legal entity).

The company structure of corporations enables profits to be distributed to their shareholders.

Examples of corporations are proprietary companies, limited liability companies and no liability companies.

Some incorporated entities are prohibited from distributing profits to their shareholders or members. Most companies limited by guarantee and all incorporated associations fall into

this category. These types of institutional units are Non-Profit Institutions (NPIs) and are discussed later in this chapter.

As noted earlier, to qualify as a corporation a unit must be a recognised legal entity. The exception to this rule is where notional institutional units are created for 'foreign branches', or unincorporated enterprises owned by non-resident units (see 'Key concepts' for further detail on the concept of residence). To qualify as a notional institutional unit, a foreign branch must:

- have the same relationship to its owners as a corporation has to its shareholders;
- have a full set of accounts, including a statement of financial position; and
- be a market producer.

Artificial subsidiaries and holding corporations whose activities are confined to owning the controlling level of equity in the group are not recognised as separate institutional units. For statistical purposes these are merged with the parent unit.

Government units

Government units are 'legal entities established by political processes that have legislative, judicial or executive authority over other institutional units within a given area'. (2008 SNA, paragraph 4.117).

The principal functions of government units are:

- to provide goods and services to individuals or the community at large;
- to redistribute income and wealth; and
- to engage in non-market production.

The majority of government units are readily identifiable as their operations are mainly financed from taxation and they redistribute income by means of transfers (e.g. subsidies, grants, welfare payments) or engage in other forms of non-market production, such as the provision of government services (e.g. defence, education, health services, economic advice) free of charge or at nominal prices.

To qualify as a separate legal entity, a government unit must:

- have funds of its own, raised by taxing other institutional units or received as transfers from other government units;
- have authority to disburse some, or all, of such funds in the pursuit of its policy objectives; and
- have authority to borrow funds on its own account.

Units that do not meet all of these criteria are treated as part of a larger government unit, i.e. the collective legal entity comprising all government units included in the public

accounts. Included in this collective legal entity are departments and agencies operating from the public accounts of the parent government.

The exception to this rule is where notional institutional units are created from entities which are part of the public accounts. These are usually government entities that do not exist as separate legal entities from the collective parent government unit, but that operate autonomously in the market. To be recognised as a notional institutional unit of government, a unit must:

- have the same relationship to its owners as a corporation has to its shareholders;
- have a full set of accounts, including a statement of financial position; and
- be a market producer.

In practice, notional institutional units of government will only be created where they engage in significant market activity.

Statutory authorities and companies created by legislation or regulation which operate outside the public accounts, along with local government authorities, qualify individually as government units.

A Statutory Authority is a public sector agency set up by an Act of Parliament, more or less independent of day-to-day ministerial control, usually not bound by public service procedures to the same extent as ordinary departments, and which is responsible finally to Parliament.

In the event of dissolution of units under government control, the assets are returned to the government. As a result, units under government control do not meet the nondistribution criteria set out for NPIs detailed below.

Non-Profit Institutions (NPIs)

Non-Profit Institutions (NPIs) are defined as 'legal or social entities created for the purpose of producing goods and services whose status does not permit them to be a source of income, profit or other financial gain for the units that establish, control or finance them'. (2008 SNA, paragraph 4.83).

NPIs must have an enabling instrument which includes a clause that prohibits the NPI from distributing income, profit or other financial gain to its establishing, controlling or financing unit. This includes benefitting from the sale of assets in the event of the dissolution of the unit.

The productive activities of NPIs may generate either surpluses or deficits but any surpluses they make cannot be appropriated by the establishing, controlling or financing institutional unit. For this reason, they are frequently exempted from various kinds of taxes.

The main characteristics of NPIs are they:

- are created by processes of law that establish the NPI's separate existence from the units that establish, finance, control or manage them;
- have purpose statements set out in articles of association;
- are associations with members who have equal voting rights and limited liability with respect to the NPI's operations;
- cannot distribute profits to members (the term 'non-profit institution' reflects the embargo on distribution of financial gains and is not intended to imply that NPIs cannot make a profit); and
- are self-governing, with their direction usually vested in a group of officers, an executive committee or a similar body elected by a majority of members.

Self governing units "dissolves themselves by their own authority". A unit that is 'selfgoverning' retains full responsibility for the economic risks and rewards entailed by its operations, and its governing body has the authority to dissolve the unit and legally dispose of its assets. (Satellite Account on Non-profit and Related Institutions and Volunteer Work 2018, paragraph 3.64).

Households

A household is 'a group of persons who share the same living accommodation, who pool some, or all, of their income and wealth and who consume certain types of goods and services collectively, mainly housing and food' (2008 SNA, paragraph 4.149).

Individual members of households are not treated as institutional units because many assets are owned (and liabilities incurred) jointly by two or more members of a household. Income can be pooled, and expenditure decisions are often made for the household as a whole. As a result, the household as a whole, including all individual members, is considered to be an institutional unit.

Where an unincorporated enterprise is entirely owned by a household, it is treated as an integral part of that household.

Some members of households engage in market production through unincorporated enterprises such as sole proprietorships, partnerships and trusts.

Partnerships can be comprised of partners belonging to different households.

The liability of the owners of unincorporated businesses is unlimited. As a result, these businesses are treated as household units since all the assets of the household, including the dwelling itself, are at risk if the enterprise goes bankrupt. The institutional unit of each

household involved in the partnership therefore represents the individual members of the household as well as the share of the unincorporated partnership owned by each household.

The exception to this rule is where notional institutional units are created from unincorporated enterprises within household units. These are usually unincorporated enterprises that do not exist as separate legal entities from the household institutional unit, but:

- have the same relationship to their owners as a corporation has to its shareholders;
- have a full set of accounts, including a statement of financial position;
- are market producers; and
- are assessable for income tax purposes as companies.

Examples of the types of unincorporated enterprises recognised as notional institutional units include unincorporated financial enterprises (except for financial auxiliaries); unincorporated partnerships of companies and trading trusts; and all other unincorporated enterprises assessable for income tax purposes as companies.

Key concepts

This chapter provides explanations of the key concepts that underpin the classification of units to institutional sector, Public/Private and Level of Government classifications and the definition of the national economy. They facilitate analysis of sectoral data through the formation of homogeneous categories in these classifications.

See all key concepts

Control

Control is used to delineate the public and private sectors and to identify artificial subsidiaries and holding corporations in groups of corporations.

Control is the ability of one entity (other than a household institutional unit) to determine another entity's financial and operating policies governing the entity's strategic or long-term directions. A controlled entity is known as a subsidiary. The entity that exercises control is known as the parent.

As outlined in the Corporations Act 2001, an entity may exercise control through:

- holding majority ownership of shares;
- holding majority of the voting interest where decisions are not made on a one share: one vote basis;

- determining the composition of the entity's board; or,
- being in a position to cast, or control the casting of, the majority of votes that might be cast at a general meeting.

The control exercised by a parent need not necessarily extend to control over the day-today operations of the subsidiary. The officers of the subsidiary would normally be expected to manage these in a manner consistent with and in support of its overall objectives. Similarly, it also does not necessarily extend to the direct control over any professional, technical or scientific judgments, as these would normally be viewed as part of the core business of the subsidiary.

Control may be exercised by a government unit over a corporation, other government unit or NPI. Corporations can exercise control over other corporations. NPIs can control corporations.

Corporations

In general, control of a corporation is exercised by the shareholders collectively. A corporation has a board of directors, appointed by the shareholders, that is responsible for the corporation's policy and appoints the senior management of the corporation.

Government units may control a corporation through a variety of mechanisms. In addition to those listed in "Control" section of Key concepts, governments may exercise control of corporations through:

- appointing the board or its key members through legislative, regulatory or contractual means;
- appointing key personnel such as the chief executive;
- controlling key committees;
- determining corporate policy or programmes through other means such as legislation, regulation, contractual arrangements, golden share arrangements, or loan conditions; or,
- acting as guarantor or accepting the risk associated with the corporation's activities.

Government regulation of an industry or a group of entities does not in itself indicate control of a unit's corporate policy. Similarly legal entities created by legislation are not necessarily controlled by government. The Australian Government, for example, oversees the Corporations Act 2001 but does not control every entity created under this Act.

Other entities

A trust is a legal arrangement whereby a trustee manages an asset on behalf of the beneficiaries of the trust. This can involve overseeing business activity on behalf of the beneficiaries. The terms of the arrangement are set out in the trust deed. A trust is controlled in the same manner as a corporation. For example an entity may control the trust through majority ownership of the trust units. The trustee acts in accordance with the trust deed and is not considered to be in control of the trust.

Artificial subsidiaries

An artificial subsidiary is defined as a subsidiary that is wholly owned by a parent entity and is strictly confined to providing services to the parent entity of the subsidiary, or other entities under common control.

Artificial subsidiaries are created to place the parent entity in an advantageous position. They may receive benefits from minimising taxes, minimising liabilities in the event of bankruptcy or to secure other advantages under tax or corporations legislation. Artificial subsidiaries can be the nominal employer of staff who is contracted to other subsidiaries. Typical services provided by artificial subsidiaries to their parents include transport, purchasing, sales, financial services, computing services, communications, security, maintenance and cleaning.

Artificial subsidiaries are not treated as separate institutional units because they are considered to be artificial in nature and an integral part of the parent corporation. They lack the autonomy to operate independently. Artificial subsidiaries are merged into the unit in the group from which they were artificially split.

Holding corporations

A holding corporation owns controlling levels of equity in a group of subsidiary corporations. Broadly speaking there are three types of holding corporations defined by their activities:

- Holding corporations whose activities are confined to owning the controlling levels of equity;
- Holding corporations whose principal activity is owning and directing the group; and,
- Holding corporations whose principal activity is not confined to owning and controlling the group.

Holding corporations whose principal activity is confined to owning the controlling level of equity in the group are not regarded as separate institutional units. They are merged with their largest subsidiary.

Holding corporations whose activity is owning and directing the group are regarded as separate institutional units.

Holding corporations whose activity is not confined to owning and controlling the group are also regarded as separate institutional units.

Market and non-market producers

Market producers are units which respond to market forces. Market producers make decisions about what to produce and how much to produce in response to expected levels of demand and expected costs of supply and are exposed to the risks associated with this production. Market producers adjust supply either with the goal of making a profit in the long run or, at a minimum, covering capital and other costs.

A market producer is identified through a range of attributes. A primary indicator is the expectation of the recovery of a considerable proportion of its production costs through sales income. Other factors, such as consistency across jurisdictions, may also be taken into account when determining whether units are either market or non-market producers.

Market producers are classified to the following SISCA sectors:

- 1 Non-Financial Corporations,
- 2 Financial Corporations or
- 4 Households

Non-market producers are not likely to respond to changes in economic conditions in the same way as market producers. Their economic behaviour is influenced by the receipt of material financial support in the form of transfers such as grants and donations.

Non-market producers are classified to the following SISCA sectors:

- 3 General Government or
- 5 Not-Profit Institutions Serving Households (NPISH)

Non-Profit Institutions (NPIs) may be either market or non-market producers.

Australia's economic territory

Australia's economic territory is the area under the effective control of the Australian government. It includes the land area, airspace, territorial waters, including jurisdiction over fishing rights and rights to fuels and minerals. Australia's economic territory also includes territorial enclaves in the rest of the world. These are clearly demarcated areas of land, located in other countries and which are owned or rented by the Australian government for diplomatic, military, scientific or other purposes.

Specifically, the economic territory of Australia consists of:

- Geographic Australia which includes Cocos (Keeling) Islands and Christmas Island;
- Norfolk Island;
- Australian Antarctic Territory;
- Heard Island and McDonald Islands;

- Territory of Ashmore Reef and Cartier Island;
- Coral Sea Islands; and,
- Australia's territorial enclaves overseas.

Geographic Australia is defined by the Australian Statistical Geography Standard (ASGS) and is a subset of Australia's economic territory.

The Joint Petroleum Development Area (JPDA) was considered joint territory between Australia and East Timor prior to 30 August 2019. The Maritime Boundary Treaty (MBT) took effect on 30 August 2019 and divided the JPDA into two sub-regions:

- JPDA excluding Greater Sunrise
- Greater Sunrise

The Greater Sunrise sub-region remains a joint territory between Australia and Timor-Leste and the JPDA excluding Greater Sunrise sub-region became the economic territory of Timor-Leste.

Residence

Residence is used to define resident institutional units and to ultimately distinguish between Australia's national economy and the rest of the world. This concept underpins Australia's National Accounts and Balance of Payments statistics.

A unit's economic activity should be attributed to only one country based on residence. The residence of each institutional unit is the economic territory with which it has the strongest connection - its centre of predominant economic interest. An institutional unit can only be a resident of one economic territory.

If a unit has operated (or intends to operate) in Australia for one year or more, it is regarded as having a centre of economic interest in Australia.

The ownership of land and structures within the economic territory of Australia is deemed sufficient justification to record a centre of economic interest in Australia on the grounds that the property can be used for production. Where production activities are undertaken, a resident institutional unit (an Australian subsidiary or an Australian Branch) is recognised.

Where a non-resident owner does not have any economic interest other than ownership of the land and structures, ownership of this land and structures is treated as having been transferred to a notional resident institutional unit in Australia.

A special treatment concerns units using mobile equipment, such as ships, aircraft, drilling rigs and platforms, outside the economic territory in which the units are resident. Generally the operations are considered to be resident of the economic territory where they are undertaken and a resident institutional unit is recognised in that economic territory. There are two exceptions:

- Operations in international waters or airspace which are attributed to the economy of residence of the operator; and,
- Tax and licensing authorities in the economic territory do not recognise the operator as resident.

Unincorporated enterprises (other than notional institutional units) are not separate institutional units from their owners and, therefore have the same residence as their owners.

A household is considered to have a centre of economic interest in Australia when it maintains a dwelling in Australia that household members use as their principal residence. Generally, when a household member leaves to live in another country for a period of a year or more, the member is no longer treated as part of that household except where the individuals:

- Maintain their principal residence in Australia;
- Return regularly to their main household in Australia;
- Study abroad; or,
- Receive medical treatment abroad.

Technical assistance personnel on long-term assignments are treated as residents of the country in which they work.

The following categories of persons are also treated as residents:

- Non-diplomatic staff of international agencies located in Australia who intend to stay more than 12 months;
- The Australian recruited staff of foreign embassies, consulates, military bases, etc. in Australia; and,
- Australian crews of ships, aircraft, or other mobile equipment operating partly, or wholly, outside the economic territory.

International organisations such as the United Nations and its agencies and the International Monetary Fund (IMF), are not considered to be residents of any national economy, including those in which they are located or conduct their affairs. They are treated as non-residents by all economies. However, persons working for these organisations are treated as residents of the economies in which they live.

An elaboration of the concept of residence can be found in Balance of Payments and International Investment Position, Australia, Concepts, Sources and Methods, 2011.

Classification of units

Temporary changes in control or function

The structure and intent of businesses can sometimes change over time such that the classification of a unit can be affected. This can occur for many reasons, including changes to legislation, business restructuring, subsidisation levels and the privatisation of public entities. These changes could theoretically result in a change to the sector classifications applied to the unit.

Temporary fluctuations based on minor shifts in control or function should not be reflected in the unit's sector classification. Resistance factors are applied which reduce 'flipping' of units between classes from year to year. This ensures that any changes in classification reflect relatively permanent changes in the function of the business.

Any change to the control or function of a unit must be in place for a minimum of two years before sectoral classification changes can be applied. For example, any relatively minor changes to the level of subsidisation a unit receives which puts it above or below the chosen market cost recovery threshold must remain in place for a minimum of two years before sectoral classification changes can be applied.

Consistency across jurisdictions

Certain types of government units perform the same economic functions but receive different levels of government financial support and risk. Strict application of the rules to each unit might result in a minority of units falling into a different sector. Where uniform classification is regarded as an overriding consideration, the same classification is applied to each government unit of the same type across different jurisdictions. The treatment of each type is explicitly stated within the relevant class within SESCA. These can be identified by references in the includes and excludes.

Standard Institutional Sector Classification of Australia (SISCA)

Introduction

The Standard Institutional Sector Classification of Australia (SISCA) provides a framework for dividing the Australian economy into institutional sectors. These sectors group institutional units which have similar economic functions and structural characteristics. SISCA is the classification used to distinguish between market and non-market producers.

SISCA numbering system

The numbering system adopted in the SISCA has a hierarchical structure, where a 1-digit numeric code denotes the sector, a 2-digit code denotes the subsector, a 3-digit code denotes the group, and a 4-digit code denotes the class. For example:

Level classification category

Hierarchial level	Institutional unit
Sector 2	2 Financial Corporations
Subsector 21	21 Financial Intermediaries
Group 214	214 Financial Investment Funds
Class 2141	2141 Money Market Funds

In the example above, the 'Financial Corporations' sector is represented by the numeric code 2. The 'Financial Intermediaries' subsector is represented by code 21. The 'Financial Investment Funds' group is represented by code 214, and the 'Money Market Funds' class is represented by code 2141.

If there is only one subsector within a sector, the 2-digit code is the 1-digit sector code followed by a zero. For example:

3 General Government

• 30 General Government

If there is more than one subsector within a sector, the subsector codes are created using the 1-digit sector code followed by numbers starting with one. For example:

2 Financial Corporations

- 21 Financial Intermediaries
- 22 Financial Auxiliaries
- 23 Captive Financial Institutions and Money Lenders

The same convention applies to groups and classes. For example:

2 Financial Corporations

- 21 Financial Intermediaries
 - 211 Reserve Bank of Australia
 - 2110 Reserve Bank of Australia
 - 213 Pension Funds and Insurance Corporations
 - 2131 Pension Funds
 - 2132 Life Insurance Corporations

• 2133 Non-Life Insurance Corporations

Where there is an 'other' group or class, the number nine is used. These categories include units belonging to the sector, but they may be diverse in nature or may not be sufficiently significant to justify separate groups or classes in their own right. For the purposes of the classification, they are grouped together and treated as separate categories to retain the homogeneity of the other categories within the classification. For example:

2 Financial Corporations

- 21 Financial Intermediaries
 - 212 Depository Corporations
 - 2121 Authorised Deposit-Taking Institutions
 - 2129 Other Broad Money Institutions

SISCA sector, subsector, group and class codes and titles

1 Non-Financial Corporations

- 10 Non-Financial Corporations
 - 100 Non-Financial Corporations
 - 1001 Non-Financial Investment Funds
 - 1009 Other Non-Financial Corporations

2 Financial Corporations

- 21 Financial Intermediaries
 - 211 Reserve Bank of Australia
 - 2110 Reserve Bank of Australia
 - 212 Depository Corporations
 - 2121 Authorised Deposit-Taking Institutions
 - 2129 Other Broad Money Institutions
 - 213 Superannuation Funds and Insurance Corporations
 - 2131 Superannuation Funds
 - 2132 Life Insurance Corporations
 - 2133 Non-Life Insurance Corporations
 - 214 Financial Investment Funds
 - 2141 Money Market Funds
 - 2142 Non-Money Market Financial Investment Funds
 - 219 Securitisers and Other Financial Intermediaries
 - 2191 Securitisers
 - 2199 Other Financial Intermediaries
- 22 Financial Auxiliaries

- 220 Financial Auxiliaries
 - 2200 Financial Auxiliaries
- 23 Captive Financial Institutions and Money Lenders
 - 230 Captive Financial Institutions and Money Lenders
 - 2301 Central Borrowing Authorities
 - 2309 Money Lenders and Other Captive Financial Institutions
- 3 General Government
- 30 General Government
 - 300 General Government
 - 3000 General Government
- 4 Households
- 40 Households
 - 400 Households
 - 4000 Households

5 Non-Profit Institutions Serving Households

- 50 Non-Profit Institutions Serving Households
 - 500 Non-Profit Institutions Serving Households
 - 5000 Non-Profit Institutions Serving Households

6 Rest of the World

- 60 Rest of the World
 - 600 Rest of the World
 - 6000 Rest of the World

A table showing correspondences between the 2008 SNA institutional sector classification and SISCA 2021 and 2008, can be found in the Data downloads section. The remainder of this chapter discusses the composition of each of the SISCA sectors and subsectors.

The resident economy consists of SISCA Sectors 1 to 5 inclusive.

Sector 1 – Non-Financial Corporations

This sector consists of all resident corporations and notional institutional units mainly engaged in the production of market goods and/or non-financial services and holding companies with mainly Non-Financial Corporations as subsidiaries. Also included are NPIs that mainly engage in market production of goods and non-financial services, market producers controlled by government, and investment funds investing in predominantly non-financial assets such as infrastructure and property.

Subsector 10 - Non-Financial Corporations

Group 100 – Non-Financial Corporations

Class 1001 - Non-Financial Investment Funds

This class consists of all Non-Financial Investment Funds. These are collective investment schemes, operated through trusts and corporations. They raise funds by issuing shares and/or units to the public, either via a prospectus or a distribution channel such as a platform. Investors are able to dispose of their holdings through well-developed secondary markets such as a stock exchange or through readily accessible redemption facilities. The investment funds pool and directly invest in predominantly long-term non-financial assets such as property or infrastructure.

Investment fund shares or units are generally not close substitutes for deposits.

Includes

- Infrastructure funds investing in resident assets (e.g. airports, pipelines, roads)
- Listed and unlisted infrastructure trusts investing in resident assets
- Listed and unlisted property trusts investing in resident assets

Exclusions/References

- Film funds are included in Class 1009 Other Non-Financial Corporations
- Non-financial investment syndicates which are not open to public subscription are included in Class 1009 Other Non-Financial Corporations
- Agricultural investment funds are included in Class 1009 Other Non-Financial Corporations
- Funds predominantly investing in financial assets are included in the relevant classes within Group 214 Financial Investment Funds
- Funds with overseas property investments are included in Class 2142 Non-Money Market Financial Investment Funds

Class 1009 - Other Non-Financial Corporations

This class consists of all Non-Financial Corporations mainly engaged in the production of market goods and/or non-financial services, other than Non-Financial Investment Funds.

Includes

• Agricultural investment funds (including pine tree, olive, flower or fish farming investment funds)

- Branches of non-resident enterprises providing non-financial goods and services
- Film funds
- Holding companies with mainly non-financial corporations as subsidiaries
- Non-financial investment syndicates which are not open to public subscription
- Non-profit institutions which provide market non-financial goods and services
- Public non-financial corporations

Exclusions/References

- Publicly listed property trusts are included in Class 1001 Non-Financial Investment Funds
- Government owned corporations and notional institutional units which are non-market producers are included in Class 3000 General Government

Sector 2 - Financial Corporations

This sector consists of all market producers that produce financial services, including the Central Bank. It therefore includes all resident corporations and notional institutional units mainly engaged in financial intermediation and provision of auxiliary financial services. Holding companies with mainly financial corporations as subsidiaries are also included, as are private and government-controlled market NPIs that mainly engage in financial intermediation or production of auxiliary financial services.

Subsector 21 - Financial Intermediaries

Financial Intermediaries are institutional units that engage in financial transactions in open markets by incurring liabilities for the purpose of acquiring financial assets.

Group 211 - Reserve Bank of Australia

Class 2110 - Reserve Bank of Australia (RBA)

This class includes only the RBA, which has responsibility for monetary policy, issuing banknote currency, holding Australia's international reserves, holding reserve deposits and providing banking services to the Commonwealth.

Includes

• Reserve Bank of Australia

Exclusions/References

• Finance industry regulators are included in Class 2200 Financial Auxiliaries

Group 212 - Depository Corporations

Class 2121 - Authorised Deposit-Taking Institutions

This class consists of all financial resident Financial Corporations and notional institutional units which are licensed to operate as banks. They have liabilities in the form of deposits or deposit substitutes such as short term certificates.

Includes

- Australian branches of overseas banks
- Australian owned banks
- Building societies
- Credit unions

Class 2129 - Other Broad Money Institutions

This class consists of corporations engaged in the provision of finance that are Australian Prudential Regulation Authority (APRA) registered entities (i.e. Registered Financial Corporations (RFCs) not elsewhere classified). Money market corporations operate primarily in wholesale markets, borrowing from, and lending to, large corporations and government agencies.

Includes

- Money market corporations
- Pastoral finance companies, finance companies and general financiers

Exclusions/References

- Intra-group financiers
- Cash management trusts
- Authorised deposit-taking institutions (i.e. Banks, Credit unions)
- Non money market funds
- Securitisers

Cash management trusts are included in Class 2141 Money Market Funds; and Intra-group financiers are considered to be artificial corporations and are classified along with the parent unit.

Group 213 – Superannuation Funds and Insurance Corporations

Class 2131 - Superannuation Funds

This class consists of all funds that provide retirement benefits for specific groups of people. They own assets and liabilities and undertake financial transactions in the market.

Includes

- Approved deposit funds (superannuation)
- Autonomous funds established for the benefit of public sector employees
- Superannuation funds that are regarded as complying funds for the purposes of the Superannuation Industry Supervision Act

Class 2132 - Life Insurance Corporations

This class consists of all corporations which provide life insurance (including reinsurance).

Includes

- Friendly societies
- Life insurers
- Life reinsurers

Exclusions/References

- Non-life insurers (including reinsurers) are included in Class 2133 Non-Life Insurance Corporations; and
- Life insurance brokers are included in Class 2200 Financial Auxiliaries

Class 2133 - Non-Life Insurance Corporations

This class consists of all corporations that provide non-life insurance cover (including reinsurance).

- Accident insurers
- Consumer credit insurers
- Discretionary mutual funds providing professional indemnity cover
- Fire insurers
- General insurers
- Health insurers
- Motor vehicle insurers
- Owners' liability insurers
- Non-life reinsurers
- Third party insurers
- Travel insurers
- Workers compensation insurers

Exclusions/References

- Life insurers (including reinsurers) are included in Class 2132 Life Insurance Corporations; and
- Insurance brokers are included in Class 2200 Financial Auxiliaries

Group 214 - Financial Investment Funds

Class 2141 - Money Market Funds

This class consists of all Money Market Funds. These are collective investment schemes, such as cash management trusts and cash common funds, that are constituted as legal entities. They raise funds by issuing shares or units to the public, either via a prospectus or a distribution channel such as a platform. The proceeds are invested primarily in money market instruments, money market shares/units, and transferable debt instruments with a residual maturity of less than one year, bank deposits, and instruments that pursue a rate of return that approaches the interest rates of money market instruments.

Money market fund shares or units may be regarded as a close substitute for deposits.

Includes

- Cash common funds
- Cash management trusts
- Money market funds

Exclusions/References

• Cash management accounts offered by depository corporations are included in Class 2129 Other Broad Money Institutions

Class 2142 - Non-Money Market Financial Investment Funds

This class consists of all Non-Money Market Financial Investment Funds. These are collective investment schemes, operated through trusts or corporations, which are constituted as legal entities. They raise funds by issuing shares or units to the public, either via a prospectus or a distribution channel such as a platform. The proceeds are used to purchase financial assets. The assets are owned by the investment fund, and usually managed by licensed fund managers external to the fund.

Non-money market investment fund shares or units are not close substitutes for deposits.

Investors are able to dispose of their units/shares on a well-developed secondary market such as a stock exchange or through readily accessible redemption facilities.

Includes

- Funds with predominantly overseas property or infrastructure holdings
- Listed and unlisted equity trusts investing in resident and non-resident assets
- Listed and unlisted infrastructure trusts investing in non-resident assets
- Listed and unlisted non-resident property trusts investing in non-resident assets
- Listed and unlisted mortgage trusts (unit trusts)
- Listed investment companies
- Non-cash common funds

Exclusions/References

- Investment funds which predominantly invest in Australian non-financial assets are included in Class 1001 Non-Financial Investment Funds
- Financial investment syndicates which are not open to public subscription are included in Class 2309 Money Lenders and Other Captive Financial Institutions

Group 219 - Securitisers and Other Financial Intermediaries

Class 2191 - Securitisers

This class consists of specially created units known as special purpose vehicles (SPVs) which hold pooled assets such as residential mortgages, commercial property loans and credit card debt. These are packaged as collateral backing for bonds or short-term debt securities, referred to as asset backed securities and are then sold to investors.

Includes

• Securitisers

Class 2199 - Other Financial Intermediaries

This class consists of all financial Intermediaries not elsewhere classified. Included in this class are various housing finance schemes established by state governments to assist first home buyers and development funds and depository funds operated by religious institutions.

- Commercial financiers
- Co-operative housing societies
- Economic development corporations owned by governments
- Religious institution depository funds
- Religious institution development funds

• State government housing schemes

Subsector 22 Financial Auxiliaries

Group 220 – Financial Auxiliaries

Class 2200 - Financial Auxiliaries

This class consists of all units providing auxiliary financial services that are closely related to, and designed to facilitate, financial intermediation. Units in this class are not Financial Intermediaries because they do not incur liabilities.

Includes

- Actuarial service providers
- Claim adjusters and assessors
- Commodity futures brokers or dealers
- Derivative dealers
- Finance brokers or consultants
- Financial regulators not funded through government revenue
- Flotation companies
- Fund managers
- Holding companies with mainly financial corporations as subsidiaries
- Insurance agency
- Insurance brokers or consultants
- Loans brokers or consultants
- Money changers
- Securities brokers or consultants
- Security valuations
- Share registry
- Stock brokers or traders
- Stock exchange
- Trustees or nominees
- Units engaged in trading or broking carbon credits

Exclusions/References

• Financial industry regulators funded through parliamentary appropriations and taxation revenue are included in Class 3000 General Government

Subsector 23 - Captive Financial Institutions and Money Lenders

Captive financial institutions are characterised by having a balance sheet holding financial assets, usually on behalf of other companies. These institutions are usually legal entities such as corporations, trusts, or partnerships established by their parent unit for a specific

and limited purpose. Captives typically have little or no employment or operations and usually do not undertake significant production.

Money lenders are units providing financial services where most of either their assets or liabilities are not transacted on open financial markets. Also included are units which provide financial services exclusively from their own funds, or funds provided by a sponsor, to a range of clients and incur the financial risk of the debtor defaulting.

Group 230 - Captive Financial Institutions and Money Lenders

Class 2301 - Central Borrowing Authorities (CBAs)

This class consists of all Central Borrowing Authorities (CBAs) established by each state and territory government. CBAs primarily provide finance for public corporations and notional institutional units and other units owned or controlled by the government. They also arrange the investment of surplus funds. CBAs raise funds predominantly by issuing securities. They also engage in other financial intermediation activity for investment purposes, and may participate in the financial management activities of the parent government.

Includes

• Central Borrowing Authorities

Class 2309 - Money Lenders and Other Captive Financial Institutions

This class consists of units providing financial services, except CBAs, where most of either their assets or liabilities are not transacted on open financial markets. Also included here are units which provide financial services exclusively from their own funds, or funds provided by a sponsor, to a range of clients and incur the financial risk of the debtor defaulting.

- Brass-plate companies
- Conduits
- Corporations engaged in lending (e.g. student loans, import/export loans) from funds received from a sponsor such as a government unit on non-profit institution
- Financial investment syndicates which are not open to public subscription (e.g. mortgage syndicates)
- Holding companies with predominantly international assets and liabilities
- Money lenders
- Pawnshops that predominantly engage in lending

- Shelf companies
- Shell companies
- Venture capital funds which do not meet the investment fund criteria

Sector 3 - General Government

Subsector 30 General Government

Group 300 – General Government

Class 3000 - General Government

This class consists of all non-market producers which are controlled by government. It includes government units (as defined in 'Unit of classification') of the Australian Government, each state and territory government, and all local governments. It also includes NPIs controlled by government that are non-market producers.

Includes

- Courts
- Government departments
- Governor General's Office
- Future and Sovereign Wealth Funds
- NPIs controlled by government that are non-market producers

Exclusions/References

• Government owned corporations and notional institutional units engaged in market production are included in the relevant classes in Sector 1 Non-Financial Corporations or Sector 2 Financial Corporations

Sector 4 - Households

Subsector 40 - Households

Group 400 - Households

Class 4000 - Households

This class consists of all resident households (as defined in 'Unit of classification'). Included are all unincorporated enterprises that are owned and controlled by households, other than those which are recognised as notional institutional units.

Includes

Households

- Partnerships
- Sole proprietors
- Trusts

Exclusions/References

• Unincorporated enterprises which qualify as notional institutional units are included in the relevant classes in Sector 1 Non-Financial Corporations and Sector 2 Financial Corporations

Sector 5 - Non-Profit Institutions Serving Households (NPISH)

Subsector 50 - Non-Profit Institutions Serving Households (NPISH)

Group 500 – Non-Profit Institutions Serving Households (NPISH)

Class 5000 - Non-Profit Institutions Serving Households (NPISH)

This class consists of all non-market producers which are not controlled by government. It therefore includes all resident NPIs providing goods and services to households free or at prices that are not economically significant. Included here are NPIs that are mainly financed from household member subscriptions and produce benefits primarily for the household members and NPIs created for philanthropic purposes which are financed mainly from donations or government grants.

Includes

- Aid agencies
- Charities
- Consumers' associations
- Cultural clubs
- Learned societies
- Political parties
- Recreational clubs
- Relief agencies
- Religious institutions
- Social clubs
- Sports clubs
- Trade unions

Exclusions/References

- NPIs which are market producers are included in Sector 1 Non-Financial Corporations or Sector 2 Financial Corporations
- NPIs which are non-market producers and controlled by government are included in Sector 3 General Government

• NPIs that are mainly financed from business member subscriptions and produce benefits primarily for the business members are included in the relevant classes in Sector 1 Non-Financial Corporations or Sector 2 Financial Corporations

Sector 6 - Rest of the World (ROW)

Subsector 60 Rest of the World (ROW)

Group 600 - Rest of the World (ROW)

Class 6000 - Rest of the World (ROW)

This class consists of all non-resident units that enter into transactions, or have other economic links, with Australian resident units.

Includes

- Australian tourists overseas staying greater than 12 months (aside from exceptions outlined in key concepts)
- Foreign tourists in Australia staying less than 12 months
- Foreign students

Public/Private classification

Introduction

The Public/Private classification provides a standard for the compilation of statistics that involve dividing the resident economy into broad economic sectors depending on whether or not they are controlled by government.

The Public/Private classification divides the economy into two sectors:

- 1. Public (government units and units controlled by government); and
- 2. Private (all other units).

For the purposes of the Public/Private classification, government control of corporations is assessed against the criteria outlined in 'Key concepts'. This does not include government regulation of an industry or group of entities. Similarly entities created by legislation are not necessarily controlled by government. Government authority to determine the general policy of a corporation usually comes from legislation that is specific to the individual corporation over which control is exercised.

Instances can arise in which the Public and Private Sectors share ownership of a corporation. In such cases, the corporation is allocated to the sector that has effective

control over the activities and policy of the corporation.

Sector 1 - Public Sector

The Public Sector comprises:

- All government units as defined in 'Unit of classification'
- All institutional units and notional institutional units controlled by government as per the definition of control outlined in 'Key concepts'

Includes

- Financial corporations controlled by government
- Government agencies
- Government departments
- Non-financial corporations controlled by government
- Notional institutional units controlled by government
- Public financial corporations
- Public non-financial corporations

Exclusions/References

• Superannuation funds for public sector employees are included in the Private Sector

Sector 2 Private Sector

The Private Sector comprises all resident units operated by private enterprise, except those controlled by government.

Includes

- Household institutional units
- Private corporations
- Private notional institutional units
- Superannuation funds for public sector employees
- Unincorporated enterprises

Exclusions/References

• Notional institutional units controlled by government are included in the Public Sector

Level of Government classification

Introduction

The Level of Government classification is a standard for the compilation of statistics that involve dividing the Public Sector (as defined in the Public/Private classification) into the four class of government. These classes represent the administrative and legal arrangements of government in Australia.

Allocating a unit to a Level of Government is undertaken by determining the institutional unit deemed to exercise control (see 'Key concepts'). While Level of Government classification is consistent with 2008 SNA paragraphs 4.130 and 22.42, several qualifications must be noted:

- Social Security Funds are separately identified in the alternate structure described in 2008 SNA paragraph 4.129. As no social security funds are considered to exist within Australia, this level is not reflected within SESCA 2021;
- While NPIs controlled by government are part of the Public Sector, these units are not considered material. In practice, most NPIs controlled by government will be treated as government units and therefore classified to the General Government sector; and,
- SESCA 2021 continues to have a Control not further defined (n.f.d.) Level of Government to include Public Sector entities where control is not recognised by any government. This deviation from 2008 SNA paragraph 22.42 is a pragmatic necessity to enable separate identification of public sector entities which are excluded from charts of accounts compiled by state, territory and commonwealth governments and therefore enable reconciliation.

The Level of Government classification divides the Public Sector between:

- Commonwealth;
- State/Territory;
- Local; and
- Control n.f.d.

The National Level of Government is defined as the sum of Classes 1 and 4.

Class 1 - Commonwealth

All Public Sector units controlled by the Australian Government are classified to the Commonwealth Level of Government.

- Government units controlled by the Australian Government
- Public financial corporations controlled by the Australian Government
- Public non-financial corporations controlled by the Australian Government

Class 2 - State/Territory

All Public Sector units controlled by State/Territory governments are classified to the State/Territory Level of Government. For the purposes of the classification, these governments include:

- New South Wales Government;
- Victorian Government;
- Queensland Government;
- Western Australian Government;
- South Australian Government;
- Tasmanian Government;
- Northern Territory Government; and
- Australian Capital Territory Government.

Includes

- Government units controlled by a State/Territory government
- Public financial corporations controlled by a State/Territory government
- Public non-financial corporations controlled by a State/Territory government

Class 3 - Local

All Public Sector units controlled by a local government are classified to the Local Level of Government. Local government units are usually known as councils and are constituted through Local Government legislation. They are established to govern articulated regions within the State or Territory known variously as districts, municipalities, shires, or areas. The power to create or vary these regions usually lies with the Governor General, State Governor or a Commonwealth Minister.

For the purposes of this classification, the local government authorities referenced below also includes Norfolk Island administration, Christmas Island Shire Council and Cocos (Keeling) Islands Shire Council.

Includes

- Local government authorities
- Public financial corporations controlled by a Local Government Authority
- Public non-financial Corporations controlled by a Local Government Authority

Class 4 - Control not further defined

All public sector units where control is not recognised by any government are classified to the Control n.f.d. Level of Government.

• Public Universities

Jurisdiction classification

The Jurisdiction classification is a standard for dividing the State/Territory and Local Levels of Government (see Level of Government classification) into classes to identify the government which exercises control over a particular institutional unit. This classification is not applied to the Commonwealth Level of Government (as it does not have a state dimension) and the Control nfd Level of Government (since control has not been defined).

The Jurisdiction classification divides State / Territory and Local Levels of Government between the following nine classes:

- 1. New South Wales
- 2. Victoria
- 3. Queensland
- 4. Western Australia
- 5. South Australia
- 6. Tasmania
- 7. Northern Territory
- 8. Australian Capital Territory
- 9. Other Jurisdiction

Each unit within the Local Level of Government will be allocated to the jurisdiction responsible for the legislation under which their administration is established.

Units controlled by governments outside the first eight jurisdictions such as Christmas Island, Cocos Island and Norfolk Island are classified to Other Jurisdiction.

The institutional units which participate in unincorporated joint ventures are classified to their respective jurisdiction.

Class 1 - New South Wales

This class consists of all units controlled by the government of New South Wales.

- General government units controlled by the New South Wales government
- Public financial corporations controlled by the New South Wales government
- Public non-financial corporations controlled by the New South Wales government

• Local governments (and controlled entities) administered under New South Wales government legislation

Class 2 - Victoria

This class consists of all units controlled by the government of Victoria.

Includes

- General government units controlled by the Victorian government
- Public financial corporations controlled by the Victorian government
- Public non-financial corporations controlled by the Victorian government
- Local governments (and controlled entities) administered under Victorian government legislation

Class 3 - Queensland

This class consists of all units controlled by the government of Queensland.

Includes

- General government units controlled by the Queensland government
- Public financial corporations controlled by the Queensland government
- Public non-financial corporations controlled by the Queensland government
- Local governments (and controlled entities) administered under Queensland government legislation

Class 4 - Western Australia

This class consists of all units controlled by the government of Western Australia.

Includes

- General government units controlled by the Western Australian government
- Public financial corporations controlled by the Western Australian government
- Public non-financial Corporations controlled by the Western Australian government
- Local governments (and controlled entities) administered under Western Australian government legislation

Class 5 - South Australia

This class consists of all units controlled by the government of South Australia.

- General government units controlled by the South Australian government
- Public financial corporations controlled by the South Australian government
- Public non-financial corporations controlled by the South Australian government

• Local governments (and controlled entities) administered under South Australian government legislation

Class 6 Tasmania

This class consists of all units controlled by the government of Tasmania.

Includes

- General government units controlled by the Tasmanian government
- Public financial corporations controlled by the Tasmanian government
- Public non-financial corporations controlled by the Tasmanian government
- Local governments (and controlled entities) administered under Tasmanian government legislation

Class 7 - Northern Territory

This class consists of all units controlled by the government of Northern Territory.

Includes

- General government units controlled by the Northern Territory government
- Public financial corporations controlled by the Northern Territory government
- Public non-financial corporations controlled by the Northern Territory government
- Local governments (and controlled entities) administered under Northern Territory government legislation

Class 8 - Australian Capital Territory

This class consists of all units controlled by the government of the Australian Capital Territory.

Includes

- General government units controlled by the Australian Capital Territory government
- Public financial corporations controlled by the Australian Capital Territory government
- Public non-financial corporations controlled by the Australian Capital Territory government

Class 9 - Other Jurisdiction

This class consists of all units not controlled by another resident government

- Norfolk Island administration
- Christmas Island Shire Council
- Cocos (Keeling) Islands Shire Council

Type of Legal Organisation (TOLO) classification Introduction

The Type of Legal Organisation (TOLO) classification is used to classify institutional units according to the type of legal organisation that best describes their structure. For the purposes of TOLO, notional institutional units are classified to the same category as their parent institutional unit.

There are three types of legal organisations:

- Incorporated Private Sector Entities;
- Unincorporated Private Sector Entities; and
- Public Sector Entities.

TOLO is a two level hierarchical classification. The 1-digit numeric code relates to the group level, which provides a broad level breakdown of legal organisations, and the 2-digit code denotes the class, which provides a more detailed breakdown of legal organisations.

1 Incorporated Private Sector Entities

- 11 Proprietary Companies
- 12 Public Companies
- 13 Other Incorporated Entities

2 Unincorporated Private Sector Entities

- 21 Sole Proprietorship
- 22 Family Partnerships
- 23 Other Partnerships
- 24 Trusts regarded as Corporations
- 25 Other Trusts
- 26 Other Unincorporated Entities

3 Public Sector Entities

- 31 Government Companies
- 32 Other Government Entities
- 33 Foreign Government Entities

Group 1 – Incorporated Private Sector Entities

This group comprises all private sector entities which have a separate legal identity from their members (i.e. shareholders). They may be incorporated through the Corporations Act or other government legislation.

Class 11 – Proprietary Companies

This class consists of entities, incorporated through the Corporations Act, as proprietary companies (defined under section 45A (1) of the Corporations Act 2001). These companies have restrictions on how they may operate, for example they are not permitted to have more than 50 shareholders or offer its shares to the public.

Under the Corporations Act there are two types of proprietary companies: those limited by shares and those with unlimited liability.

Proprietary Limited companies must have at least one non-employee shareholder and must not have more than 50 non-employee shareholders. The liability of shareholders is limited to amounts unpaid on shares held by them. These companies must use Limited at the end of their name and are known as Proprietary Limited companies.

Alternatively, shareholder liability may be unlimited. These companies are known as Proprietary companies and must use Proprietary or Pty at the end of their name.

Includes

- Proprietary companies
- Proprietary Limited companies

Exclusions/References

• Public sector companies are included in Class 31 Government Companies

Class 12 - Public Companies

This class consists of entities incorporated through the Corporations Act which are:

- Limited by shares
- Limited by guarantee
- No liability

The liability of shareholders of companies limited by shares is limited to amounts unpaid on their shares. The liability of members of companies limited by guarantee is limited to the amounts that they undertake to contribute in the event of the company being wound up. Many NPIs are incorporated as public companies limited by guarantee.

The activities of 'No liability' companies are restricted to those directly involved in mining and are not entitled to calls on the unpaid price of its shares.

Also included are companies which are incorporated through state or territory legislation that are listed in prescribed financial markets such as the Australian Stock Exchange.

Includes

- Companies limited by guarantee
- Companies limited by shares
- No liability companies

Exclusions/References

• Government controlled companies are included in Class 31 Government Companies

Class 13 - Other Incorporated Entities

This class consists of entities which are incorporated through means other than the Corporations Act such as state or territory associations' acts or the Commonwealth's Corporations (Aboriginal and Torres Strait Islander) Act 2006. These entities have a legal identity separate from their members or shareholders.

Also included here are Australian branches of corporations registered overseas.

Includes

- Associations incorporated through state or territory legislation
- Australian branches of corporations registered overseas
- Cooperatives incorporated through state or territory legislation
- Incorporated Limited partnerships
- Indigenous corporations
- Strata title bodies corporate incorporated through state or territory legislation

Exclusions/References

• Companies created through state or territory legislation that are listed in prescribed financial markets such as the Australian Stock Exchange are included in Class 12 Public Companies

Group 2 – Unincorporated Private Sector Entities

Class 21 - Sole Proprietorship

This class consists of single owner entities which do not operate through an incorporated entity. The owner of the business is personally responsible for all business decisions and liabilities.

Includes

• Sole proprietorships

Class 22 - Family Partnerships

This class consists of partnerships formed by members of the same family who enter into a formal agreement to conduct business. As with sole proprietorships the partners are personally responsible for business decisions and liabilities.

Includes

• Family partnerships

Class 23 - Other Partnerships

This class consists of partnerships comprised of individuals who enter into a formal agreement to conduct business. Membership is not confined to members of the same family. The partners may be companies, government departments or individuals. Partners operate under their own names and are responsible for business decisions and liabilities.

Includes

- Public private partnerships
- Partnerships not involving family members
- Partnerships of companies

Exclusions/References

• Unincorporated joint ventures are not recognised as separate institutional units

Class 24 - Trusts regarded as Corporations

This class consists of all trusts which behave as corporations. A trust is a legal arrangement whereby a trustee manages an asset on behalf of the beneficiaries of the trust. This may include overseeing business activity on behalf of the beneficiaries. The terms of the arrangements are set out in the trust deed. Units in this class are all regarded as notional institutional units and are classified to the Corporations sectors in SISCA.

Includes

- Corporate unit trusts
- Superannuation funds
- Trading trusts

Exclusions/References

• Superannuation accounts not constituted as separate institutional units are not recognised in TOLO.

Class 25 - Other Trusts

This class consists of all trusts, other than those regarded as corporations. A trust is a legal arrangement whereby a trustee manages an asset on behalf of the beneficiaries of the trust. The terms of the arrangements are set out in the trust deed.

Includes

- Family trusts
- Service trusts
- Management trusts

Exclusions/References

- Unit trusts and corporate unit trusts are included in Class 24 Trusts regarded as Corporations
- Superannuation funds are included in Class 24 Trusts regarded as Corporations

Class 26 - Other Unincorporated Businesses

This class consists of unincorporated entities other than sole proprietors, partnerships and trusts. Examples of other unincorporated entities are sporting or social clubs. Legally these do not have a separate identity from their owners.

Includes

- Unincorporated associations
- Unincorporated clubs

Exclusions/References

- Incorporated associations and clubs are included in Class 13 Other Incorporated Entities
- Incorporated cooperatives are included in Class 13 Other Incorporated Entities

Group 3 – Public Sector Entities

Class 31 - Government Companies

This class consists of government units (as defined in 'Unit of classification') which are created as bodies corporate through the Corporations Act in Australia or through other legislation.

- Government controlled companies created by legislation
- Government controlled Corporations Act companies

Exclusions/References

- Government departments are included in Class 32 Other Government Entities
- Legislature units are included in Class 32 Other Government Entities
- Courts are included in Class 32 Other Government Entities
- Local governments are included in Class 32 Other Government Entities
- Statutory authorities are included in Class 32 Other Government Entities
- Marketing boards are included in Class 32 Other Government Entities

Class 32 - Other Government Entities

This class consists of all government units (as defined in 'Unit of classification') except those that are created as bodies corporate.

Includes

- Courts
- Government departments
- Legislature
- Local governments
- Marketing boards
- Statutory authorities

Exclusions/References

- Government controlled Corporations Act companies are included in Class 31 Government Companies; and
- Government controlled companies created by legislation are included in Class 31 Government Companies.

Class 33 - Foreign Government Entities

This class consists of Foreign Government Entities which operate in Australia.

Includes

• Embassies of foreign governments in Australia

Exclusions/References

• Australian embassies operating overseas are included in Class 32 Other Government Entities

Data downloads

SESCA 2021 - SISCA and SNA08 Correspondences

Correspondences between current and previous versions of the Standard Institutional Sector Classification of Australia (SISCA) together with the 2008 System of National Accounts (SNA).

Explanatory notes

ABS Business Register and The ABS Units Model (Appendix)

Introduction

The Units Model was reviewed in 2012. The previous version was introduced in 2000 in response to major taxation reforms.

ABS Units Model

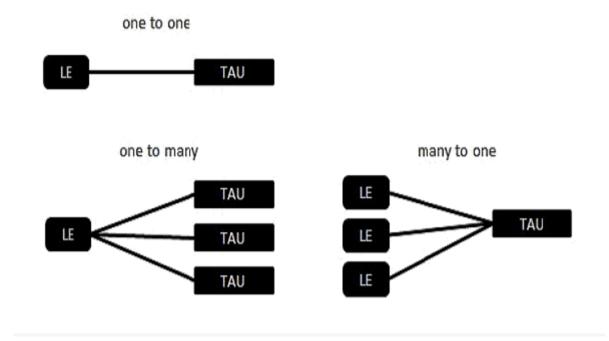
The Units Model used by the ABS in determining the structure of businesses is consistent with Australia's Corporations Law and with the definition of institutional units outlined in 2008 System of National Accounts (SNA). The model consists of:

- The Enterprise Group (EG)
- one or more Legal Entities (LEs)
- one or more Type of Activity Units (TAUs)
- one or more Locations

The EG and LE are institutional units and the TAU and Location are producing units.

The LE and the TAU are the main institutional and producing units used by the ABS to produce statistical outputs. They do not have a universal relationship with each other, e.g. one to one, one to many, many to one. A variety of relationships exist in some of the larger and more complex Australian enterprise groups.





This is a limited departure from the 2008 SNA, which states that there is a hierarchical relationship between institutional and producing units. In the 2008 SNA the enterprise (the producing view of an individual institutional unit) can be partitioned into one or more establishments. The 2008 SNA statement is true at the EG level, but not necessarily at the LE level.

Diagram 2 illustrates the nature of the relationships between the unit types in the model. The LE is represented by the ABN in the diagram, as they are usually the same.

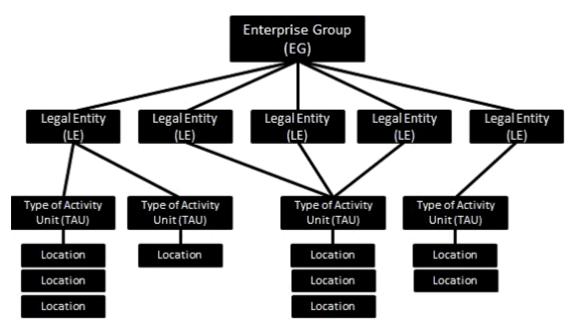


Diagram 2: ABS Units Model

Unit definitions

The Legal Entity (LE) statistical unit is defined as a unit covering all the operations in Australia of an entity which possesses some or all of the rights and obligations of individual persons or corporations, or which behaves as such in respect of those matters of concern for economic statistics. Examples of legal entities include companies, partnerships, trusts, sole (business) proprietorships, government departments and statutory authorities. Legal entities are institutional units.

The Enterprise Group (EG) is an institutional unit covering all the operations within Australia's economic territory of legal entities under common control. Control is defined in Corporations legislation. Majority ownership is not required for control to be exercised.

The Type of Activity Unit (TAU) is a producing unit comprising one or more legal entities, sub-entities or branches of a legal entity that can report productive and employment activities via a minimum set of data items. Only a small number of data items are required to be available on a quarterly basis. The data items are:

- Total capital expenditure;
- Income from the sale of goods and services;
- Wages and salaries;
- Total inventories; and,
- Total purchases and selected expenses.

A TAU can also be formed in situations where only some data items are available directly from accounts and good quality estimates can be provided.

The activity of the unit should be as homogeneous as possible. If accounts sufficient to approximate Industry Value Added (IVA) are available at the ANZSIC Subdivision level, a TAU will be formed.

Ideally, all TAUs are constructed so that two-digit ANZSIC (Subdivision) homogeneity is observed. This ensures that good quality industry estimates can be calculated by the ABS at that level. However, not all businesses are able to supply a complete set of accounts for every ANZSIC Subdivision in which they have activity.

Where a business cannot supply adequate data to form a TAU for an individual ANZSIC Subdivision, a TAU will be formed which contains activity in two or more ANZSIC Subdivisions.

A Location is a single, unbroken physical area, occupied by an organisation, at which or from which, the organisation is engaged in productive activity on a relatively permanent

basis, or at which the organisation is undertaking capital expenditure with the intention of commencing productive activity on a relatively permanent basis at some time in the future.

The exception is the agricultural location unit (farm unit) where land parcels are operated as a single property and are treated as a single location. The TAU may be subdivided into TAUstate units which cover production in each state of operation. TAU-state units are synthesised for the Labour Statistics collections. They are derived statistical units and inherit the attributes of the TAU statistical units.

Ancillary units

A business unit's productive activity is described as 'ancillary' when its sole function is to provide common types of services for intermediate consumption within the same enterprise group. These are typically services likely to be needed in most enterprise groups, whatever their principal activities. Examples are: transportation, purchasing, sales and marketing, various financial or business services, personnel, computing and communications, security, maintenance and cleaning.

Classification of units

Various classifications are applied to the units in the ABS Units Model. The main classifications applied are:

- ANZSIC for industry
- Type of Legal Organisation (TOLO)
- Type of Business Entity (TOBE) for the type of entity
- Standard Institutional Sector Classification of Australia (SISCA) for institutional sector and the public / private flag.

ANZSIC is used to classify the industry in which the TAU has productive activity. Each unit is assigned a four digit (class level) ANZSIC code which reflects the predominant industry of the TAU's economic activity. Further information on ANZSIC can be found in <u>Australian and New Zealand Standard Industrial Classification (ANZSIC) 2006</u> (https://www.abs.gov.au/ausstats/abs@.nsf/mf/1292.0) publication.

SISCA provides a framework for dividing the Australian economy into institutional sectors. These sectors group Legal Entities which have similar economic functions and share similar structural characteristics.

Statistical collections

The ABS uses the TAU unit as the statistical unit for industry and some other economic statistics collections. For some activity and labour collections, the ABS uses sub-TAU units e.g. farm units, TAU State units.

ABS business register

The ABS uses the Australian Business Register (ABR) as its primary source to identify new registrants and this information flows through to the ABS Business Register. The ABS Business Register provides the register or frame for the various business surveys run by the ABS.

Organisations are included on the ABR when they register for an Australian Business Number (ABN). The Commonwealth Government requires all government departments and agencies to make use of the ABR to reduce government imposed reporting load, and to use the ABN as the primary reference number for all dealings between government and business.

Two populations

The ABS is unable to actively apply the Units Model to all ABN registrants. Enterprise groups which are considered sufficiently complex and significant are profiled to create units according to the Units Model. These groups are known as the Profiled Population.

The remainder of ABN registrants are assumed to have simple structures. They are regarded as single legal entity, single enterprise group and single TAU units. These units are known as the Non-Profiled population.

The two populations are mutually exclusive and cover all organisations in Australia which have registered for an ABN.

Glossary

Australian Business Number (ABN)

A unique business entity identifier used by businesses in their dealings with the Australian government.

ABS business register

A list of all Australian businesses and other organisations which contains identifying and classificatory data.

Australian and New Zealand Standard Industrial Classification (ANZSIC)

The Australian and New Zealand Standard Industrial Classification (ANZSIC) has been jointly developed by the Australian Bureau of Statistics (ABS) and Statistics New Zealand (Statistics NZ). An industrial classification is one way to organise data about business units. It provides

a standard framework under which business units carrying out similar productive activities can be grouped together, with each resultant group referred to as an industry.

Artificial subsidiary

A subsidiary corporation with productive activities strictly confined to providing services to its parent corporation or other corporations in the same enterprise group. They are not treated as separate institutional units for statistical purposes.

Australian Business Register (ABR)

The list of entities registered for an ABN with the Australian Business Register. This list is maintained by the Register and is accessible to other government agencies and to businesses.

Centre of economic interest

An institutional unit has a centre of economic interest in Australia if it owns and/or operates a place of production within Australia's economic territory, or intends to operate for a year or more.

Control

The ability of one entity to determine another entity's financial and operating policies which relate particularly to the entity's strategic or long-term directions.

Corporation

A legal entity, created for the purpose of producing goods and services for the market, that may be a source of profit or other financial gain to its owner(s). It is collectively owned by shareholders who have the authority to appoint directors responsible for its general management.

Economic territory of Australia

The geographic area under the effective control of the Australian Government. It includes the land area, airspace, territorial waters, and the continental shelf lying in international waters for which Australia has jurisdiction. It includes Norfolk Island, the Cocos (Keeling) Islands and Christmas Island, and Australian embassies, consulates, military bases and similar enclaves located in other countries. The Greater Sunrise sub-region of the Joint Petroleum Development Area (JPDA) is joint territory between Australia and Timor-Leste.

Enterprise Group

A statistical unit covering all the operations in Australia of legal entities under common control.

Financial Corporation

A corporation or notional institutional unit that is mainly engaged in financial intermediation or the provision of auxiliary financial services.

Government units

Legal entities established by political processes that have legislative, judicial or executive authority over other institutional units in a given area. They are financed mainly from taxation or government transfers and are principally involved in the provision of goods and services free of charge or at economically insignificant prices.

Household

A group of persons who share the same living accommodation, who pool some, or all, of their income and wealth and who consume certain types of goods and services collectively, mainly housing and food.

Household unincorporated enterprise

An unincorporated enterprise that is owned by members of a household and is therefore included as part of the household.

Institutional unit

The basic statistical unit that is classifiable by sector. It is defined as an economic entity that is capable, in its own right, of owning assets, incurring liabilities and engaging in economic activities and transactions with other entities.

Legal Entity

The statistical unit which:

- 1. is classified to institutional sector;
- 2. is the ABS unit closest in concept to the SNA08 institutional unit, and;
- 3. is defined as a unit covering all the operations in Australia of an entity that possesses some or all of the rights and obligations of individual persons or corporations; or that behaves as such, in respect of those matters of concern for economic statistics.

Location

A single unbroken physical area occupied by an organisation at which, or from which, the organisation is engaged in productive activity on a relatively permanent basis. A location also exists where the organisation is undertaking capital expenditure with the intention of commencing productive activity on a relatively permanent basis at some time in the future.

Market producer

An entity which produces goods or services for the market which are sold at economically significant prices aimed at making a profit.

Non-Financial Corporation

A corporation or notional institutional unit that is mainly engaged in the production of market goods and/or non-financial services.

Non-market producer

An entity which produces goods and services but does not have the primary goal of making profit, increasing market share or influencing market prices or market behaviour. The costs of its economic activities are generally covered by the receipt of material financial support in the form of transfers such as grants and donations.

Non-Profit Institution (NPI)

A legal entity which:

- 1. is created for the purpose of producing goods and services, and;
- 2. whose articles of association prohibit it from being a source of income, profit or other financial gain to the units that establish, control or finance the legal entity.

Non-Profit Institutions Serving Households (NPISH)

Non-Profit Institutions which are not controlled by government and which provide goods or services to households for free or at prices that are not economically significant. Examples include churches and religious societies, sports and other clubs, trade unions and political parties.

Non-resident unit

A unit whose centre of economic interest is outside the economic territory of Australia.

Notional institutional units

Units which do not exist as separate legal entities from their owners, and therefore are not institutional units in their own right, but operate autonomously and keep a full set of accounts.

Private sector

The combination of the household sector, the NPISH sector and all resident corporations and quasi-corporations not controlled by the general government sector.

Producing units

Statistical units which:

- 1. are owned and financed by institutional units;
- 2. are so named because they exercise a degree of control over production activities, and;
- 3. comprise type of activity based units.

Public Sector

The combination of the general government sector, and all resident corporations and quasicorporations controlled by the general government sector.

Quasi-corporation

A notional institutional unit which engages in market production.

Registered Financial Corporations

Corporations registered under the Financial Sector (Collection of Data) Act 2001.

Resident unit

An institutional unit that has a centre of economic interest within the economic territory of Australia as evidenced by the location of a place of production.

Standard Institutional Sector Classification of Australia (SISCA)

A classification of institutional units which provides a framework for dividing the Australian economy into institutional sectors. These sectors group units which have similar economic functions and structural characteristics.

Statistical units

Units about which statistics are tabulated, compiled or published.

Subsidiary corporation

A legal entity controlled by a parent legal entity.

Type of Activity Unit (TAU)

A producing unit comprising one or more business entities, sub-entities or branches of a business entity that can report production and employment activities.

Type of Legal Organisation (TOLO)

The Type of Legal Organisation (TOLO) classification is used to classify institutional units according to the type of legal organisation that best describes their structure.

Abbreviations

ABN	Australian Business Number
ABR	Australian Business Register
ABS	Australian Bureau of Statistics
ANZSIC	Australian and New Zealand Standard Industrial Classification
APRA	Australian Prudential Regulation Authority
ASNA	Australian System of National Accounts
ATO	Australian Taxation Office
BOP	Balance of Payments
CBAs	Central Borrowing Authorities
GFS	Government Finance Statistics
IIP	International Investment Position
IMF	International Monetary Fund
LOG	Level of government
NPIs	Non-profit institutions
NPISH	Non-profit institutions serving households
RBA	Reserve Bank of Australia
SESCA	Standard Economic Sector Classifications of Australia
SISCA	Standard Institutional Sector Classification of Australia
TAU	Type of activity unit
TOLO	Type of Legal Organisation

Previous catalogue number

This release previously used catalogue number 1218.0

Appendix G - Response to Questions on Notice from Tony Ferrall, Secretary, DTF

Department of Treasury and Finance

The Treasury Building 21 Murray Street HOBART TAS 7000 GPO Box 147 HOBART TAS 7001 Australia Telephone (03) 6166 4444 Facsimile (03) 6173 0219 Email <u>secretary@treasury.tas.gov.au</u> Web <u>www.treasury.tas.gov.au</u>



Doc reference 23/134855

Hon Ruth Forrest MLC Chair Government Administration Committee 'A' Parliament House HOBART TAS 7000

Attention: Jenny Mannering

Dear Ms Forrest

Inquiry into the operations and application of the Financial Management Act 2016

I am writing in response to your letter of 23 June 2023 regarding my appearance before the Government Administration Committee 'A' on 15 June 2023 in relation to the operations and application of the *Financial Management Act 2016*.

Please find attached the additional material that I undertook to provide to the Committee. I have also prepared a schedule summarising key requirements under the Act and a short description in relation to each requirement.

Should you have any queries or require any further information regarding this matter, please contact me on 0419 329 862 or email <u>Tony.Ferrall@treasury.tas.gov.au</u>.

Yours sincerely

Tony Ferrall Secretary

27 June 2023

Encl

Specific Purpose Accounts - Total 33			
Account	Account Name	Agency	
S644	Tasmanian Audit Office Financial Management Account	Tasmanian Audit Office	
S523	Brand Tasmania Financial Management Account	Brand Tasmania	
S529	Office of the Director of Public Prosecutions Financial Management Account	Office of the Director of Public Prosecutions	
S511	Department of Education Financial Management Account	Department for Education, Children and Young People	
S521	Department of Education School Banking Account	Department for Education, Children and Young People	
\$530	Financial Management Account	Environment Protection Authority	
S513	Finance-General Financial Management Account	Finance-General	
S702	Unclaimed Money Account	Finance-General	
\$722	Australian Government Funding Management Account	Finance-General	
S775	Rosetta Landslip	Finance-General	
S847	Tasmanian Risk Management Fund	Finance-General	
S905	Government Car Fleet	Finance-General	
S514	Office of the Governor Financial Management Account	Office of the Governor	
S515	House of Assembly Financial Management Account	House of Assembly	
S477	Private Patient Account	Department of Health	
S510	Department of Health Financial Management Account	Department of Health	
S540	Department of Communities Tasmania Financial Management Account	Department of Communities Tasmania	
S527	Integrity Commission Financial Management Account	Integrity Commission	
S435	Workers Rehabilitation and Compensation Fund	Department of Justice	
S516	Department of Justice Financial Management Account	Department of Justice	
S741	Asbestos Compensation Fund	Department of Justice	
S518	Legislature-General Financial Management Account	Legislature-General	
S520	Department of Premier and Cabinet Financial Management Account	Ministerial and Parliamentary Support	
\$528	Office of the Ombudsman Financial Management Account	Office of the Ombudsman	
\$520	Department of Premier and Cabinet Financial Management Account	Department of Premier and Cabinet	
S540	Department of Communities Tasmania Financial Management Account	Department of Premier and Cabinet	
\$519	DPFEM Financial Management Account	Department of Police, Fire and Emergency Management	
S117	Tasmanian Forests Agreement Account	Department of Natural Resources and Environment Tasmania	
\$512	Department of Primary Industries, Parks, Water and Environment Financial Management Account	Department of Natural Resources and Environment Tasmania	
S635	Crown Lands Administration Funds	Department of Natural Resources and Environment Tasmania	
S524	State Growth Financial Management Account	Department of State Growth	
S525	Department of Treasury and Finance Financial Management Account	Department of Treasury and Finance	
S535	Tourism Tasmania Financial Management Account	Tourism Tasmania	

Agency Trust Accounts - Total 19

Account	Account Name	Agency
T002	Albatrosses and Petrels Trust A/c	Department of State Growth
T003	Provision for Land Acquisition Account	Department of State Growth
T401	Crown Law Trust Acct under section 241	Department of Justice
T404	Prisoners Earnings Deposit Account	Department of Justice
T423	Tasmanian Community Fund Account	Department of Premier and Cabinet
T434	Magistrates Court (Civil Div) Litigants	Department of Justice
T440	Tasmanian Guardianship Fund Account	Department for Education, Children and Young People
T451	Appeal Costs Fund Deposit Account Director of Pub Prosecutions Trust	Department of Justice
T452	Account Supreme Court Suitors Fund Deposit	Director of Public Prosecutions
T460	Account	Department of Justice
T466	Mines Deposit Account Patient Trust and Hospital Bequest	Department of State Growth
T470	Account	Department of Health
T478	Children Services Trust and Bequests Account	Department for Education, Children and Young People
T740	Victims of Crime Assistance Act 1976	Department of Justice
T743	Environmental Incidents Trust Account	Environment Protection Authority
T747	EPA Tasmania Financial Security Account	Environment Protection Authority
T764	Crime (Confiscation of Profits) Account	Director of Public Prosecutions
T766	Criminal Injuries Compensation Fund	Department of Justice
T829	Rental Deposit Authority Account	Department of Justice

Areas for improvement in management and reporting under the *Financial Management Act 2016*

Include Estimated Outcome in Agency Budget chapters.

Provide a statement of agency SPA transactions at Agency level within Agency chapters, including the proposed purposes of opening/closing balances.

Include a requirement to provide additional explanatory information with the Supplementary Estimates Statement, which would detail the reasons determinations have been made (ie greater detail in relation to use of the Transfer provisions; Rollovers; Treasurer's Reserve; Variations to SPP and other Commonwealth Funding).

Include a requirement to table a Supplementary Estimates Statement quarterly, including a nil return if appropriate.

Undertake a review of Treasurer's Instructions to make some more explicit (detailed).

Include specific provisions in the Act to specify additional information required to accompany Supply and Supplementary Appropriation Bills (similar to section 19 which deals with ordinary annual Appropriation Bills).

Section	Requirement	Description
Part I: P	Preliminary	
5(1)	An accountable authority must, as far as is practicable, undertake the financial management of an Agency in a manner that is consistent with the principles of sound fiscal management.	 Principles of sound financial management are defined in Part 3 of the Charter of Budget Responsibility Act 2007 (View - Tasmanian Legislation Online). Accountable Authorities must manage their agency consistent with these principles, which is further extended in Budget TI-BI Budget Management which requires the AA to manage their agency budget on the basis that supplementary funding will not be provided.
5(2)	In respect of the financial management of the State, the Government is to have regard to the principles of sound fiscal management.	This relates to financial management approach and policies of the Government. In developing advice for the Government on financial management and budget policy related matters, Treasury analysis and advice incorporates regard to these principles as demonstrated in the development of TIs and Better Practice Guidelines.
		Section 8(d) of the Charter of Budget Responsibility Act also requires that the Government's Fiscal Strategy Statement to outline how it relates to the principles of sound financial management.
		Reporting against the Fiscal Strategy is included in Budget Paper No 1, Chapter 3 of the annual Budget Papers, the Treasurer's Annual Financial Report and progress is reported in the Revised Estimates Report.

Section	Requirement	Description
6(2)	The Treasurer may, by order, determine that this Act, or any specified provision of this Act, does not apply to an Agency, or to an organisation forming part of an Agency, specified in the order.	An order is issued as required. As part of FMA implementation, orders were made about which sections apply to Statutory Authorities.
6(3)	 The Treasurer may, by order – (a) determine that this Act, or any specified provision of this Act, applies to an entity – (i) that is not specified in Part I or 2 of Schedule I; and (ii) that is not a Government Business Enterprise or a State-owned Company; and (b) determine who is to be the accountable authority for that entity. 	Occurs as required, based on specific circumstances.
6(6)	If the enabling Act of an entity in respect of which an order has been made under subsection (3) contains provisions in respect of the financial management of the entity – (a) those provisions are suspended during the period that the entity is subject to this Act, unless the Treasurer determines otherwise; or (b) if the Treasurer determines that only some of those provisions are to be suspended, those provisions are suspended during the period that the entity is subject to this Act.	This section is applied as appropriate by the Treasurer where an order has been made that FMA is to apply to an entity that is <u>not</u> on the FMA schedules under section 6(3). Section 6(6) clarifies that where FMA has been applied under section 6(3), the financial management provisions of FMA supersede the financial management provisions of enabling Acts for entities, unless specifically determined by the Treasurer.
6(7)	If the enabling Act of an Agency specified in Schedule I contains provisions in respect of the financial management of the Agency –	This clarifies that financial provisions of FMA supersede the financial management provisions of enabling Acts for entities, unless specifically determined by the Treasurer.

Section	Requirement	Description
	 (a) those provisions are suspended, unless the Treasurer determines otherwise; or (b) if the Treasurer determines that only some of those provisions are to be suspended, those provisions are suspended. 	Such a determination will be made as required. As part of FMA implementation, determinations were made about the sections of enabling Acts which would continue to apply to Statutory Authorities.
8(1)	 The Governor may, by order, amend Column I of Part I of Schedule I – (a) by omitting the name of an Agency; or (b) by inserting the name of another Agency, other than an Agency specified in Part 2 of that Schedule; or (c) if the name of any Agency specified in Part I of Schedule I is changed, by omitting the name of that Agency and inserting its new name. 	 This section is applied as required when an entity needs to be added or removed to the FMA schedules. This occurs through Order made by the Governor. The most recent amendments to schedule I occurred in relation to the restructure of the former Department of Communities Tasmania.
8(2)	The Governor may, by order, amend Column 2 of Part I of Schedule I by inserting, opposite the name of an Agency, the title or other description of an office or by omitting or amending that title or other description.	 This section is applied as required when an Accountable Authority needs to be added or removed to the FMA schedules. This occurs through Order made by the Governor. The FMA Schedules refer to the title of the position or office and are not required to be updated as the individual in the position or office changes.
8(3)	The Governor may, by order, omit Part I of Schedule I and substitute a new Part I.	This section allows for a new Part I of Schedule I to be substituted by the Governor. This section is applied as required when a number of amendments need to be made to Part I and it is administratively more efficient

Section	Requirement	Description
		to substitute a new Part I of Schedule I than make individual amendments by order.
Part 2: A	Accounts	
9	For the purposes of this Act, the Public Account of the State comprises – (a) receipts of, and expenditure from, the General Government Sector, that do not form part of a Specific Purpose Account or an Agency Trust Account; and (b) any Specific Purpose Accounts established under section 17.	This section refines what comprises the Public Account as GGS Receipts/Expenditure, including SPAs but excluding Trust Accounts.
10	The Treasurer must keep accounts of all transactions affecting the Public Account. The system of accounting for all transactions affecting the Public Account is to be based on – (a) generally accepted accounting principles; or (b) Government Finance Statistics	 This requirement is managed through Treasury owned systems. The Public Account Reporting System manages actuals and the Budget Information Management System manages budget estimates. These systems reflect the structure of the Public Account. These systems hold information consistent with the Treasury Financial Reporting System Mandatory Data Requirements Manual that are imposed under Treasurer's Instruction, which enables reporting based on GAAP/GFS. Agencies provide data and information that are reported in these systems.

Section	Requirement	Description
11(1)	The Treasurer must properly record all expenditure from the Public Account.	Treasury's systems of accounts are established to properly record expenditure from the Public Account. This is specified in the Treasury Financial Reporting System Mandatory Data Requirements Manual. At a General Government Sector level, expenditure is tracked and publicly reported on an agency, portfolio, and output level.
(4)	The Treasurer may cause to be opened the accounts he or she considers necessary for the purpose of recording transactions in connection with the Public Account.	This section allows for Treasury to establish accounts within the Public Account to manage transactions.
11(5)	 Except as otherwise provided by this or any other Act, all receipts of the State, including – (a) all money received by the Treasurer after the commencement of this Act in repayment of advances or loans made, or money borrowed, for the public purposes of the State under an Act; and 	This section specifies that all receipts of the State are to be considered receipts of the Public Account and must be credited to the Public Account, unless otherwise specified (ie. Trust Accounts).
	(b) all money borrowed for the purposes of an Appropriation Act; and	
	(c) all money received from the Commonwealth; and	
	(d) all money received by the Treasurer from the sale of lands or other property belonging to the State; and	
	(e) all money received by an Agency, unless the Treasurer determines otherwise; and	
	(f) any other receipts determined by the Treasurer –	
	are to be credited to the Public Account.	

Section	Requirement	Description
11(6)	Any money borrowed by, or on behalf of, the State is to be recorded through an account of the State established for that purpose – (a) by the Treasurer; or (b) by an Agency, if the money has been borrowed pursuant to a determination under section 53.	This section requires that borrowings are to be recorded in the Public Account as approved by the Treasurer. There is a specific borrowings account held in Finance-General.
11(7)	If an Agency is unable to determine correctly the purpose for which any money has been paid to that Agency, the money is to be retained by the Agency until the Agency has determined the purpose or the Treasurer determines the purpose for which the money is to be applied.	 This section is used in two instances. It requires that where an agency has not been able to determine the purpose of funding that it has been paid, the agency must retain this money until the purpose is determined by the agency or the Treasurer. At an operational level, agencies hold these funds in "suspense accounts" until a purpose has been determined (and is then reallocated in accordance with the purpose determined). This situation does not occur regularly.
12(1)	Other money which comes into the possession or control of an officer of an Agency – (a) is to be treated in the same manner as if it were public money; and (b) is to be paid by that officer into the Public Account or is to be accounted for in another manner that the Treasurer directs.	This section clarifies that any other money that is the possession of the agency should be treated in the same way as public account money (ie, as specified in section 11).

Section	Requirement	Description
13(1)	An accountable authority may, with the prior approval of the Treasurer, open and maintain one or more authorised deposit-taking institution accounts for the purpose, and subject to any terms and conditions that the Treasurer determines.	This section relates to the establishment of bank accounts. Agency bank accounts were established under FMA as part of implementation and are opened and closed by Treasury based on requests from agencies (as appropriate) and approval from the Treasurer.
		Further requirements for Accountable Authorities in relation to bank accounts are included in TI FC-7 <i>Managing Receipts, Payments</i> <i>and Bank Accounts</i> and associated Better Practice Guidelines
14	An officer must not cause any authorised deposit-taking institution account of an Agency maintained under this Part to be overdrawn, except with, and subject to, the approval of the Treasurer.	Agencies are to ensure that bank accounts are not overdrawn, unless approved by the Treasurer. Treasury manages the process for overdraft approval, based on the advice on the circumstances of this requirement by the agency.
15	An accountable authority must ensure that all public money or other money collected or received is paid each day, or at other intervals approved by the Treasurer, into an authorised deposit-taking institution account maintained in accordance with this Act or any other written law.	This section relates to agency banking frequency. Further requirements for Accountable Authorities in relation to bank accounts are included in TI FC-7 <i>Managing Receipts, Payments and</i> <i>Bank Accounts</i> and associated Better Practice Guidelines.
		Variations to banking frequency are approved for specific circumstances.
		Treasury manages requests from agencies on variations to banking frequency as required.
16	An accountable authority of an Agency is to, in respect of all money paid into or out of the Public Account or Agency Trust Account in	This section imposes a responsibility for Accountable Authorities to establish and maintain accounts to manage transactions.
	respect of that Agency, establish and maintain accounts, and	This is specified in the Treasury Financial Reporting System Mandatory Data Requirements Manual as per the Treasurer's

Section	Requirement	Description
	accounting and financial information systems, in accordance with this Act and with the Treasurer's Instructions.	Instructions FR-I Agency Data Requirements which specifies the structure of the systems accounts on the agency side that must be maintained to provide the data required in PARS and BIMS.
17(1)	 The Treasurer may – (a) establish one or more Specific Purpose Accounts for any money kept in the Public Account; and (b) specify the purposes for which a Specific Purpose Account is to be used, including to provide for future obligations; and (c) determine the Agency that is to be responsible for administering 	This section relates to the establishment of the Specific Purpose Accounts in the Public Account, and specifying the administering agency (and associated Accountable Authority). Treasury prepares establishment documentation for approval by the Treasurer. TI FC-20 Specific Purpose Accounts and associated Better Practice Guidelines outline the process and requirements for establishing a SPA.
17(3)	The Treasurer may direct that a Specific Purpose Account be closed.	This section provides the legislative power to close an existing SPA. The most recent SPA that has been closed was the former Department of Communities Tasmania's Financial Management Account.
17(4)	If the Treasurer directs that a Specific Purpose Account be closed, the account is, after all liabilities relating to the account have been met, to be closed by the Agency that is responsible for administering that account.	This section is only applicable if an existing SPA is to be closed. The most recent SPA that has been closed was the former Department of Communities Tasmania's Financial Management Account.

Section	Requirement	Description
17(5)	The Treasurer may direct that – (a) any money standing to the credit of a Specific Purpose Account that is not required for the purposes of that account; and (b) the balance of money standing to the credit of a Specific Purpose Account closed under subsection (3) – be transferred to another account, in the Public Account, determined by the Treasurer.	This section allows for the transfer of funds held within a SPA that are not required for the purpose of that SPA (or where it has been closed) to another account in the Public Account. That is, to another SPA or to the broader Public Account balance.
17(6)	If any money has been credited to a Specific Purpose Account without the approval of the Treasurer, the Treasurer may direct that the money be transferred to another account, in the Public Account, determined by the Treasurer.	This section is utilised as required in the circumstance where money is in a SPA without approval under FMA. This section allows the Treasurer to direct these funds to another account in the Public Account (ie. SPA or Public Account balance).
17(7)	The Treasurer may – (a) accept, and credit to an appropriate Specific Purpose Account, deposits of money belonging to, or appropriated or set aside for the use of, the State or an Agency; and (b) allow interest on those deposits at the rates approved by the Treasurer.	 This section is utilised to establish approval for agencies to retain funds within approved agency SPAs. Revenue retention arrangements were grandfathered as part of FMA transition using this section. Updates to revenue retention documentation for changes to agency structures (as appropriate) and for new sources of revenue are completed as required. This documentation specifies the revenue that can be retained in a SPA by source. TI FC-20 Specific Purpose Accounts and associated Better Practice Guidelines outline the process and requirements for revenue retention.

Section	Requirement	Description
17(8)	The Treasurer may accept, and credit to an appropriate Specific Purpose Account, money granted or loaned to the State by the Commonwealth that is – (a) to be applied for specified purposes prescribed by or under a Commonwealth Act; or (b) received by the State on condition that it be applied for purposes referred to in paragraph (a); or (c) received by the State in accordance with an agreement made between the State and the Commonwealth in respect of the purposes for which that money may be spent – and may, without any authority other than this Act, issue and apply that money for the purposes for which it was granted or loaned.	 This section provides the authority for Australian Government funds to be held within SPA Accounts. There is an Australian Government Management Account in Finance-General to manage National Partnership Payment receipts. Australian Government receipts, such as GST and SPPs are receipted and appropriated from the Public Account, unless otherwise approved to be retained in and expended from an agency SPA (ie, NHRA receipts or COPEs). Only those receipted and spent from an agency SPA.
17(10)	 The Treasurer is to – (a) approve, as part of the development of the annual Appropriation Act; and (b) report to Parliament in the Budget Papers – the estimated receipts and expenditure in relation to each Specific Purpose Account. 	The Treasurer approves, as part of the Budget Development process, estimated SPA receipts and expenditure based on information from agencies and advice from Treasury. Chapter 4 of Budget Paper No. I <i>The Budget</i> publishes the estimated receipts and expenditure for the upcoming Budget year for each SPA.
17(11)	After an Appropriation Act is passed in respect of a financial year, the Treasurer may approve a variation in the estimated receipts and expenditure in relation to a Specific Purpose Account.	This section provides the authority for the Treasurer to approve changes in the estimated receipts and expenditure for SPAs. Agencies generally submit updated SPA estimates to Treasury on

Section	Requirement	Description
		a quarterly basis, endorsed by the agency's Accountable Authority, for approval.
18(1)	The Treasurer may establish Agency Trust Accounts for the receipt of money by the State or an Agency to be held in trust.	This section relates to the establishment of Agency Trust Accounts. TI FC-21 Agency Trust Accounts and associated Better Practice Guidelines provide specific requirements and guidance in regard to Agency Trust Accounts.
18(2)	The accountable authority is to ensure that all money required or permitted by this Act or any other law in force in the State to be held in trust by the State or an Agency is credited to an Agency Trust Account.	This section requires that the Accountable Authority must ensure funds held in trust by the State are in an Agency Trust Account. This is reiterated in the processes and guidance of TI FC 21 Agency Trust Accounts.
18(4)	Each Agency must keep, in relation to each Agency Trust Account, the accounts that are specified in the Treasurer's Instructions.	TI FC-21 Agency Trust Accounts and associated Better Practice Guidelines provide specific requirements and guidance in regard to Agency Trust Accounts. Further information is also included in the Treasury Financial Reporting System Mandatory Data Requirements Manual imposed under TI FR-1.
18(5)	If any money has been credited to an Agency Trust Account without the approval of the Treasurer, the Treasurer may direct that the money be transferred to an account, in the Public Account, that the Treasurer determines.	Funds credited to an Agency Trust Account without approval by the Treasurer may be directed to be transferred into an account in the Public Account.

Section	Requirement	Description
18(6)	The Treasurer may invest, in securities approved by the Treasurer for the purposes of this section, any money standing to the credit of an Agency Trust Account.	This section allows the Treasurer to invest Trust Account balances. Such investments occur as part of borrowings and investment decisions for funds held in the Public Account.
Part 3: F	unds Management	
19(1)	A Bill for an Appropriation Act in relation to a financial year is to be accompanied by a statement in the Budget Papers showing, in respect of that financial year, the total amounts of – (a) estimated receipts of the Public Account; and (b) estimated expenditure from the Public Account; and (c) the major General Government Sector financial statements required to be prepared in accordance with the Australian Accounting Standards.	The estimated receipts and expenditure of the Public Account and the GGS Financial statements appear each year in the Annual Budget Papers. In the 2023-24 Budget, this information was presented in chapter 4 of Budget Paper No.1 <i>The Budget</i> .
20(1)	If, in an Appropriation Act, an amount is specified opposite an item in the Schedule to that Act as estimated expenditure on that item and the Treasurer is of the opinion that the amount is deficient, the Treasurer may make good the deficiency out of any surplus arising, or saving effected, in relation to another item specified in that Schedule.	This section relates to Transfers of Appropriations, where Agencies submit requests for approval to transfer existing appropriations in accordance with section 20 of the FMA through BIMS. Generally, these requests are considered through End of Year Budget processes and can be used by Accountable Authorities to manage Budget processes. Approval of the transfer is based on the nature of the specific transfer. Requirements regarding End of Year Budget processes are included in TI-BI <i>Budget Management</i> and the associated better practice guidelines.

Section	Requirement	Description
21(1)	The Treasurer may, in any financial year, issue and apply from the Public Account, for expenditure, the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is necessary for efficient financial administration – (a) an amount that is contingently appropriated by an Appropriation Act for the relevant financial year; and (b) if receipts, additional to the total estimated receipts specified in a statement accompanying an Appropriation Act, are generated within that financial year – the amount of those additional receipts less any amount of Commonwealth money received by the State.	 This section relates to agency Requests for Additional Funds (RAFs) from the Treasurer's Reserve. This is for an additional appropriation for an existing purpose and is submitted through BIMS. Generally, these are considered by the Treasurer through End of Year Budget processes. Requirements regarding End of Year Budget processes are included in TI-BI <i>Budget Management</i> and the associated better practice guidelines. This includes that requirement that Accountable Authorities must manage their agency consistent with these principles, which is further extended in Budget TI-BI <i>Budget Management</i> which requires the Accountable Authority to manage their agency budget on the basis that supplementary funding will not be provided.
21(2)	The Treasurer's Reserve may not, in total, exceed 2.5% of the total appropriation in the Appropriation Act for that financial year.	Treasury calculates the maximum value of the Treasurer's Reserve as required.
21(3)	Subsection (1) does not authorise expenditure for a purpose other than a purpose mentioned in an Appropriation Act then in force, unless the Governor has, in writing, approved that expenditure.	RAFs for a <u>new</u> purpose require approval from the Governor, prior to approval under section 21(1). This generally occurs through the End of Year Budget Processes.

Section	Requirement	Description
22(1)	 If - (a) an appropriation is to be funded in whole or in part by a payment made to the State, by the Commonwealth, that is to be applied for a nominated purpose; and (b) the Budget Papers contain an estimate of the level of funding to be provided to the State by the Commonwealth for that purpose which is less than the level of funding provided by the Commonwealth - the Treasurer may, in writing, direct that the appropriation be increased to an amount not exceeding the level of funding provided by the Commonwealth. 	 This section relates to appropriated Australian Government funding that is above the amount that was included in the Budget Papers. However, it must be offset by additional receipts and is not funded through the Treasurer's Reserve. Prior to approval of this type of RAF, Treasury will verify that additional receipts have been received.
23(1)	The Treasurer may determine that an amount of that unexpended appropriation which, in total, does not exceed 5 per cent of that Agency's appropriation is to be issued and applied from the Public Account in the following financial year	 This section relates to rollovers of unspent appropriations from the current financial year to the following financial year to a maximum of five percent of the agency's appropriation. Approval (through determination) occurs as part of End of Year Budget Management processes based on consideration of requests from agencies submitted through BIMS. Treasury calculates the cap for rollovers as part of the management of End of Year Budget Management processes.
23(2)	The determination mentioned in <u>subsection (1)</u> must specify – (a) the Agency and item in the Schedule to an Appropriation Act to which the amount is to be issued and applied; and (b) the total amount authorised to be issued and applied; and (c) the purpose for which the amount is to be issued and applied.	This section outlines the rollover determination must specific certain information. Agencies are required to provide this information specified in this section in the rollover request made through BIMS.

Section	Requirement	Description
24(1)	The Treasurer, after the end of each financial year, is to prepare supplementary estimates of all expenditure from the Public Account that is authorised as transfers of appropriations, RAFs for existing and new purposes, and rollovers. These Supplementary Estimates are subject to audit by the Auditor General and included in the Preliminary Outcomes Report (if published) and the Treasurer's Annual Financial Report each year.	Treasury prepares the supplementary estimates statement following the conclusion of the annual End of Year Budget processes and includes this statement in the reports as required. Treasury also provides information to the Tasmanian Audit Office to assist with the audit of this information.
25	An accountable authority must not draw money from the Public Account except in accordance with – (a) a Treasurer's expenditure control authority; or (b) estimated expenditure approved by the Treasurer pursuant to section 17(10) or (11); or (c) any other written law.	This section specifies that an Accountable Authority must ensure that funds are drawn from the Public Account without the appropriate authority. This relates to agency appropriations and expenditure of SPA funds. Specific requirements are outlined in TI B2 <u>-</u> Authority for Expenditure from the Public Account and the associated Better Practice Guidelines. From time to time during the year, the Treasurer will issue revised TECAs to incorporate approved variations to appropriations throughout the year. Revised SPA expenditure approval amounts are issued by Treasury on a quarterly basis.

Section	Requirement	Description
26(1)	The Treasurer may issue and apply out of the Public Account the amounts that are required to provide – (a) advances to Agencies, the accounts of which are kept in the relevant Agency; and (b) special advances to Agencies for specific purposes, pending adjustment when actual expenditure on those purposes is made.	This section is applied in exceptional circumstances to provide an agency with a funding advance.This section has not been utilised since the commencement of the FMA.
27(1)	The Treasurer may, in any financial year before the passing of an Appropriation Act for that year, issue and apply in accordance with this section the amounts that may be necessary to meet the current and accruing requirements for that year.	Section 27 relates to the supply provisions. Section 27 is utilised in instances where Royal Assent for the Appropriation Bills has not occurred prior to the commencement of the financial year but will occur soon after. Costs incurred in this period are deemed to be part of the Appropriation Acts when Royal Assent occurs.
		Where there is a late Budget or if Royal Assent is expected to be delayed by a number of weeks, a Supply Bill will be prepared to ensure agencies have sufficient funding to meet current and accruing costs.
		The need for supply is determined each year dependent on the anticipated and actual date of Royal Assent. The supply provisions were not required for the 2022-23 Budget.
28(1)	The Treasurer, from time to time, is to issue a Treasurer's expenditure control authority to the appropriate Minister for the purpose of issuing and applying money from the Public Account in accordance with an Appropriation Act.	This section provides the Treasurer to issue a TECA throughout the year. A TECA provides a limit for an agency to draw down as appropriation funding from the Public Account.

Section	Requirement	Description
		 Specific requirements around TECAs are outlined in TI B2 <u>-</u> Authority for Expenditure from the Public Account and the associated Better Practice Guidelines. The Treasurer will issue revised TECAs to incorporate approved variations appropriations throughout the year as required.
28(2)	The appropriate Minister is to authorise the responsible accountable authority to incur expenditure in accordance with the authority referred to in subsection (1).	The TECA is issued to the relevant portfolio Minister, who then delegates approval to spend in accordance with the TECA to the relevant Accountable Authority. The delegation documentation is drafted by Treasury and accompanies the TECA documentation approved by the Treasurer.
28(3)	A Treasurer's expenditure control authority – (a) may be a standing authority regulating expenditure in general terms; or (b) may limit or specify the period or nature of expenditure transactions or series of expenditure transactions.	TECAs issued under FMA since commencement have all been in accordance with section 28(3) as a standing authority.This section provides for the capacity to limit agency spending for a period or nature of expenditure.
28(5)	Nothing in this section authorises the Treasurer to expend money – (a) in excess of an amount appropriated by Parliament; or (b) for any purpose other than a purpose authorised by Parliament, unless otherwise provided in this Act or any other written law.	This section limits the authority of the Treasurer to expend the amount appropriated by Parliament or in accordance with the capacity to vary appropriations under sections 20-23 of FMA.

Section	Requirement	Description
29(1)	The Governor may authorise the Treasurer to undertake temporary borrowings pending receipts in specific circumstances.	This section provides specific authority to undertake temporary borrowings. This section would be utilised in exceptional circumstances, if required.
30(1)	 In cases of emergency, if it is necessary to incur expenditure from the Public Account – (a) in excess of an amount authorised to be spent by an item in a Schedule to an Appropriation Act; or (b) for a purpose not provided for by Parliament – the Treasurer must obtain the written authority of the Governor. 	 This section provides specific authority in relation to expenditure in emergency circumstances and involves requirements on the Treasurer, Governor and Auditor-General. This section would be utilised in exceptional circumstances, if required. It was not used in response to the COVID-19 pandemic.
31(1)	Money standing to the credit of the Public Account may be invested by the Treasurer in securities approved by the Treasurer for the purposes of this section.	This section provides for the Treasurer to invest funds of the Public Account.
31(2)	Except where otherwise provided in this Act or any other Act, the Treasurer must pay into the Public Account any interest or other return that is received from the investment of money standing to the credit of the Public Account.	Treasury manages borrowings and investments of funds of the Public Account as part of ongoing funds management and budgeting processes, having regard to the cash requirements of the General Government Sector.
Part 4: A	Accountable Authorities	
32	The accountable authority of an Agency specified in Part I of Schedule I is responsible to the appropriate Minister for the financial management of the Agency.	Each agency included in Schedule I has an Accountable Authority that is responsible for the financial management of the Agency.

Section	Requirement	Description
	The accountable authority of an Agency specified in Part 2 of Schedule I is responsible for the financial management of the Agency.	The Accountable Authority is specified by role or by Office, and not by individual.
33	An accountable authority may delegate any of his or her functions or powers under this Act, other than this power of delegation.	Application of delegations under FMA are at the discretion of the Accountable Authority.
34	An accountable authority of an Agency is responsible for the financial management of the Agency in an efficient, effective and economical manner, including in particular –	This section outlines the responsibilities of the Accountable Authority in regard to financial management. These responsibilities are built on in the Better Practice Guidelines.
	(a) ensuring that expenditure by the Agency is in accordance with the law; and	
	(b) ensuring the effective and efficient use of resources in achieving the Government's objectives; and	
	(c) ensuring that appropriate stewardship is maintained over the assets of the Agency and the incurring of liabilities of the Agency; and	
	(d) ensuring that the Agency's financial management processes, records, procedures, controls and internal management structures are appropriate; and	
	(e) ensuring the custody, control and management of, and accounting for, all public property, public money, other property and other money in the possession of, or under the control of, the Agency; and	

Section	Requirement	Description
	(f) ensuring the proper collection of all money payable to, or collectable under, any law administered by the Agency; and	
	(g) conducting reviews, at the times determined by the Treasurer, of fees and charges collected by or payable to the Agency; and	
	(h) ensuring compliance by the Agency with this Act or any other written law.	
Part 5: R	Reports	
Division I	- Treasurer's Reports	
35(1)	The Treasurer is to publish a report (the September quarterly report for the three months ending on 30 September) no later than 45 days after the Auditor-General's report has been prepared pursuant to section 16(2) of the Audit Act 2008.	The September quarterly report is produced by Treasury each year using information from PARS and is available on the Treasury website.
36(1)	The Treasurer is to publish a report (the revised estimates report) no later than 15 February in the financial year to which it relates.	The Revised Estimates Report is produced by Treasury based on information in PARS, BIMS and other sources.
36(3)	The revised estimates report is to contain, in respect of the major General Government Sector statements as defined by the Australian Accounting Standards and disclosed in the Budget Papers –	The RER is published on the Treasury website and incorporates updates to the estimates published in the Budget, revised based on latest information.
	(a) original estimates disclosed in the Budget Papers for the current financial year; and	

Section	Requirement	Description
	(b) revised estimates for the current financial year; and (c) revised forward estimates.	
36(5)	The revised estimates report is to contain an assessment of the Government's fiscal performance against its current fiscal strategy statement, within the meaning of the Charter of Budget Responsibility Act 2007.	The RER includes an assessment of performance against the fiscal strategy.
36(6)	The revised estimates report is to contain in respect of the major Public Account statements disclosed in the Budget Papers – (a) original estimates of Public Account receipts and expenditures disclosed in the Budget Papers for the current financial year; and (b) revised estimates of Public Account receipts and expenditures for the current financial year.	The RER includes updated estimates for Public Account receipts and expenditure for the current financial year, compared to original Budget estimates. Consistent with the Budget, revised estimated receipts and expenditure for the Forward Estimates period are also published (this is an additional disclosure not required under FMA).
37	The Treasurer is to publish a report (the December quarterly report for the period of 6 months ending on the previous 31 December) no later than 15 February in the financial year to which it relates. It is to include GGS Statements, SPA Account Balances, Public Account receipts and expenditure, and other information as required.	Treasury prepares the actuals data to support the December quarterly report, which is usually published in the RER, unless the RER is published early.
38	The Treasurer is to publish the March quarterly report by no later than 15 May in the financial year to which it relates. If a Bill for an Appropriation Act is tabled within 45 days before the commencement of the financial year to which it relates, the	The March quarterly report is usually included in the Budget Papers. This is a requirement if the Budget is tabled within 45 days of the end of the financial year.

Treasurer is to publish a report (the March quarterly report with results for the period of 9 months ending on the previous 31 March) which is to be included in the Budget Papers.	If included as part of the Budget papers, the March quarterly report is included in the Estimated Outcome information in Budget Paper No. 1.
It is to include GGS Statements, SPA Account Balances, Public Account receipts and expenditure, and other information as required	If the March quarterly report is not included in the Budget papers due to the timing of the publication, the quarterly report is published separately on the Treasury website.
On receiving advice from the Secretary of Treasury that the preliminary actual outcomes for the previous financial year materially vary from the revised estimated in the Budget Papers, the Treasurer is to publish a report (the preliminary outcomes report) for the previous financial year by no later than the 15 August immediately following the financial year to which the report relates. This report is to include preliminary outcomes compared to the original Budget estimates.	This report is referred to as the Preliminary Outcomes Report and is prepared by Treasury based on the advice by the Secretary of Treasury.
The Treasurer is to prepare an annual financial report for each financial year, no later than the 31 October immediately following the financial year to which the report relates.	This report is referred to as the Treasurer's Annual Financial Report and is prepared by Treasury.
eports	
-	results for the period of 9 months ending on the previous 31 March) which is to be included in the Budget Papers. It is to include GGS Statements, SPA Account Balances, Public Account receipts and expenditure, and other information as required On receiving advice from the Secretary of Treasury that the preliminary actual outcomes for the previous financial year materially vary from the revised estimated in the Budget Papers, the Treasurer is to publish a report (the preliminary outcomes report) for the previous financial year by no later than the 15 August immediately following the financial year to which the report relates. This report is to include preliminary outcomes compared to the original Budget estimates.

Section	Requirement	Description
42	An accountable authority of an Agency, in respect of each financial year, is to prepare financial statements of the Agency in respect of that financial year.	This section requires Accountable Authorities to publish annual financial statements. These are included in agency annual reports. The FMA includes specific requirements about agency financial statements. Further requirements and guidance are provided in TI FR-4 Annual Reports, FR-3 Format of Financial Statements, the associated Better Practice Guidelines and Model financial statements. Financial statements are required to be audited by the Auditor General
		Treasury publishes annual financial statements, with Finance-General as administered statements, each year in accordance with this requirement.
43	The Treasurer may direct that the financial records of an Agency be maintained in respect of a period of 12 months ending on a day other than 30 June in any year.	This section provides the Treasurer with the authority to specify financial records at an alternative date. This section would be utilised in specific circumstances, as required.
44	The appropriate Minister in relation to an Agency, on or before 31 October in each year, is to cause to be laid before each House of Parliament the agency financial statements and annual report.	This section requires that agency financial statements/annual reports are to be tabled by no later 31 October and that this responsibility is of the appropriate Minister.
Part 5: F	Reports	1
Division 3	8 - Reporting on abolition of Agencies	

Section	Requirement	Description
45-49	The purpose of this Division is to secure proper accountability in relation to the abolition of an Agency.	This division relates specifically to the reporting on an abolition of an agency. It imposes responsibilities on the appointed reporting officer in accordance with section 46 of FMA.
		These provisions were recently applied as part of the abolition of the former Department of Communities Tasmania.
Part 6 - N	1iscellaneous	
50	The Treasurer may, by instrument in writing and either generally or as otherwise provided by that instrument, delegate to a Minister or the Secretary such of the Treasurer's functions and powers under this Act as are specified in that instrument.	This section allows the Treasurer to delegate responsibilities under FMA to a Minister of the Secretary of Treasury. The Secretary may delegate functions to others within Treasury. Delegations made by the Treasurer to the Secretary are made by specific instrument and updated as necessary. This delegation can be subject to conditions or limitations.
51(1)	This section provides for the Treasurer to issue Treasurer's Instructions. The Treasurer is to issue instructions in respect of the principles, practices and procedures to be observed in the financial management of all Agencies.	Treasurer's Instructions under FMA have been issues in relation to: Financial Control Financial Reporting Budget Procurement Framework Procurement Processes Disposals Contracts

Section	Requirement	Description
51(2)	Instructions issued under subsection (1) have effect unless they are inconsistent with this Act or any Act, subordinate legislation or direction referred to in the definition of written law in section 3.	Tls issued under this section are written law.
51(3)	Treasurer's Instructions may be issued – (a) so as to apply – (i) at all times or at a time specified in the Treasurer's Instructions; or (ii) to all Agencies or to Agencies specified in the Treasurer's Instructions; and (b) so as to confer a discretionary authority on a person or body or a class of persons or bodies specified in the Treasurer's Instructions.	These requirements are included in each TI.
51(4)	It is the duty of each accountable authority and officer to comply with any requirement of the Treasurer's Instructions that is applicable to that accountable authority or officer.	The Accountable Authority is to ensure that they comply with TIs that apply to the position of Accountable Authority. It is the duty of an officer within an agency to comply with all relevant TIs. Treasury's compliance with TIs as an agency listed in Schedule I are managed as a corporate issue and is overseen by the Secretary, supported by the Executive Committee.
51(6)	Despite subsection (4) and sections 16, 18(4) and 42(2), Treasurer's Instructions do not apply to, or in relation to, an Agency, or an accountable authority, specified in Part 2 of Schedule 1.	TIs do not apply to Parliamentary and other agencies specified in Part 2 of Schedule 1.

Section	Requirement	Description
52	The Treasurer may borrow such money as may be required for the purposes of the State.	 This section provides that the Treasurer may borrow funds on behalf of the State. Treasury manages borrowings and investments of funds of the Public Account as part of ongoing funds management and budgeting processes, having regard to the cash requirements of the GGS.
53	Unless the Treasurer determines otherwise, all investment and borrowing powers are to be held exclusively by the Treasurer.	The power to invest and borrow funds are held only the Treasurer, unless the Treasurer has determined otherwise. The Treasurer has approved borrowing powers being held by agencies in limited instances, based on requests from agencies for this power.
54(1)	An accountable authority of an Agency must seek the Treasurer's approval if the Agency intends to enter into any indemnity or guarantee arrangement which the accountable authority reasonably believes has the capacity to impose a significant financial burden on the Agency or on the public finances of the State. Penalty: Fine not exceeding 50 penalty units.	This section relates to indemnity and guarantees and imposes a requirement on an Accountable Authority. It is applied only as required and carries a penalty for the relevant Accountable Authority if breached.
54(2)	An accountable authority of an Agency must advise the Treasurer if an event occurs that may significantly affect the financial position of the Agency or the public finances of the State. Penalty: Fine not exceeding 50 penalty units.	This section relates to indemnity and guarantees and imposes a requirement on an Accountable Authority. It is applied only as required and carries a penalty for the relevant Accountable Authority if breached.

Section	Requirement	Description
55	If the Treasurer is satisfied that it is appropriate to do so because of special circumstances, the Treasurer may authorise an amount to be paid to a person even though the payment would not otherwise be authorised by law or be required to meet a legal liability.	This section provides for the Treasurer to make ex-gratia payments in limited circumstances and subject to conditions. Additional requirements and guidance are provided in TI FC-13 <i>Ex-gratia payments</i> and associated better practice guidelines.
56(1)	 The Treasurer may, in writing, on behalf of the State – (a) write off the State's right to payment of an amount payable to the State; or (b) write off losses, or deficiencies, of money; or (c) write off the value of lost, deficient, condemned, unserviceable, abandoned or obsolete property; or (d) postpone any right of the State to be paid a debt in priority to another debt; or (e) allow the payment by instalments of an amount payable to the State; or (f) defer the time for payment of an amount payable to the State. 	This section allows for the Treasurer to write off debts to the State. Additional requirements are detailed in TI FC-14 Write-offs.
56(4)	A write-off relating to an amount payable to the State must be reported by the relevant Agency in the notes to the financial statements of that Agency that relate to the year in which the right to payment was waived.	This section requires agencies to publish amounts written off in the agency financial reports in the financial statements.

Section	Requirement	Description
57	 A prosecution for an offence against this Act – (a) is to be taken by way of summary proceedings under the Justices Act 1959 within – (i) 12 months after the offence is committed; or (ii) 6 months after the commission of the offence comes to the knowledge of the complainant – whichever period expires later; and (b) may be instituted by a person authorised in writing in that behalf by the Treasurer or the Auditor-General. 	This relates to prosecution for offences under the Act. It is applied in exceptional circumstances only. It has not been applied since the commencement of FMA.
58(1)	The Treasurer, within 15 days after he or she makes an order under this Act, is to cause a copy of the order to be forwarded to the Auditor-General.	 This section requires that Orders made by the Treasurer under the FMA are to be provided to the Auditor-General within 15 days after the order is made. Orders by the Treasurer can be made under section 6(2) or 6(3) regarding the application of FMA. There is no requirement to provide the Auditor-General with notification of decisions made as part of End of Year processes, such as RAFs etc. However, information on these decisions is usually provided to the Tasmanian Audit Office to assist with the audit of the TAFR.
59	The Governor may make regulations for the purposes of this Act.	This section allows for regulations to be made under FMA. There are currently no regulations in force under FMA.

Financial Management Act 2016 - Summary requirements by section

Sections 60-64 relate to: Administration of the Act; Savings and transitional provisions; and legislation repealed, rescinded and revoked as a result of the FMA. These sections also relate to schedules 3-5 of the Act.

Schedule I - Lists GGS Agencies, with Part I relating to Government Agencies and Part 2 relating to Legislative Agencies.

Appendix H – Summary of Key Recommendations made by key stakeholders

The Committee notes the following recommendations proposed by key stakeholder who provided evidence to the Committee:

Tasmanian Audit Office:

- Add ethical consideration to the management of public finance.
- Additional accountability measures for GBEs/SOCs outside of the Act.
- Increase transparency on the purpose of SPAs and ATAs.
- Inclusion of annual reconciliation on the use of the Treasurer's Reserve (and included in Supplementary Estimates Report) and inclusion of additional information on the reasons for transfers/additional funding and rollovers in SER).
- Removal of A-G from being subject to Ministerial oversight for the financial management.
- Reports should be subject to reasonable of limited assurance (whether reporting should be subject to assurance reporting with respect to regarding Key Performance Measures, and reporting on progress re implementing A-G recommendations.
- Increased guidance be provided in relation to identification of ex gratia payments.

Professor Richard Eccleston:

- Transparency: There is a need for greater transparency and public scrutiny of ad hoc grant based election commitments (campaign and administrative transparency).
- If an established grant program is used as the basis for funding an election commitment then the public service or other independent authority should make a preliminary assessment of the merit of funding commitments with respect to the established funding program guidelines.
- Consideration be given to extending the Ombudsman's powers to report on campaign commitments and their funding during campaign periods. An alternative approach would be to extend the Department of Treasury and Finance's powers to achieve the same effect.
- Ethical Governance: there is a need to enhance the integrity of the system of democratic government by improving accountability and reporting.

Anya Hilkemeijer:

• There should be effective transparency rather than the illusion of transparency to increase democratic accountability.

Tony Ferrall, Secretary Department of Treasury and Finance:

- Include Estimated Outcomes in Agency Budget chapters.
- Provide a statement of agency SPA transactions at Agency level within Agency chapters, including the proposed purposes of opening/closing balances.
- Include a requirement to provide additional explanatory information with the Supplementary Estimates Statement, which would detail the reasons determinations

have been made (ie greater detail in relation to use of the Transfer provisions; Rollovers; Treasurer's Reserve; Variations to SPP and other Commonwealth Funding).

- Include a requirement to table a Supplementary Estimates Statement quarterly, including a nil return if appropriate, to provide more timely reporting of expenditure under sections 20, 21, 22 and 30 of the Financial Management Act 2016.
- Include specific provisions in the Act to specify additional information required to accompany Supply and Supplementary Appropriation Bills (similar to section 19 which deal with ordinary annual Appropriation Bills).
- Management and Reporting of Specific Purpose Accounts is an area for improvement (volume of transactions, variations in transactions, purposes of balances held)
- Treasurers Instructions: There should be more timely review of the Treasurer's Instructions (TI's) with a view to providing a greater level of interpretive detail and be more explicit in certain TIs, where deemed appropriate.
- Other minor issues improved definitions (the definition of 'account' is not clear and should be clarified).

Kathrine Morgan-Wicks., Secretary, Department of Health:

- Supportive of DTF suggestion that the Agency Budget Chapters (Budget Paper 2) present estimated outcome information.
- Supportive of the DTF suggestion that the Agency Budget Chapters (Budget Paper 2) present a statement of estimated receipts, expenditure, and opening and closing balances for Agency Special Purpose Accounts.
- Supportive of DTF suggestion that there be a review of the Treasurer's Instructions.
- Supportive of DTF suggestion that there be clarification of definitions such as 'account', on the basis that this is done in conjunction with the Agencies and the Public Account.