



Submission to the Inquiry by the Joint Committee of Public Accounts and Audit into the draft *Financial Framework Legislation Amendment Bill*

Introduction

1. The Department of Finance and Administration (Finance) is pleased to participate in the inquiry by the Joint Committee of Public Accounts and Audit (JCPAA) into the draft Financial Framework Legislation Amendment Bill (the draft Bill).
2. This Bill, if passed, improves the financial framework by providing for consistency of language across legislation, consistency of approval of borrowing powers for the Finance Minister and improved information requirements to establish Special Accounts.
3. The draft Bill is lengthy, containing over 700 items and 140 pages. However, the draft Bill essentially only involves consequential amendments, and some minor refinements, for the financial framework. The consequential amendments and refinements to most of Acts proposed for amendment arise from changes made by the *Financial Management Legislation Amendment Act 1999* (FMLA Act 99) to the *Financial Management and Accountability Act 1997* (FMA Act), commencing on 1 July 1999.
4. The amendments in 1999 included:
 - abolishing three Funds – the Loan Fund; the Reserved Money Fund (RMF) and the Commercial Activities Fund (CAF);
 - subsuming the balances of those Funds into the Consolidated Revenue Fund (CRF); and
 - replacing the components of the RMF and the CAF with Special Accounts.
5. Schedule 1 of the draft Bill contains amendments to 81 Acts to replace obsolete legislative references with provisions aligned with the amendments deemed to have made by the FMLA Act 99. In particular, sections 5 and 7 of the FMLA Act 99 deemed that legislative references to the RMF and the CAF were changed to references to Special Accounts, and that references to payments to CRF were changed to references to payments to the Commonwealth.
6. Schedule 2 of the draft Bill contains amendments to 31 Acts to update and refine some minor elements of the financial framework.
7. Finance has consulted extensively with all relevant Departments in preparing the legislation. The Departments have indicated agreement to the proposed

amendments. The draft Bill completes a commitment made by the Government in the Second Reading Speech of the FMLA Act 99.

Schedule 1 – Consequential Amendments from FMLA Act 1999

8. Part 1 of Schedule 1 is relatively straight-forward. It involves amendments to delete references in legislation to the Loan Fund, following its abolition in 1999.

9. Part 2 of Schedule 1 covers provisions relating to 35 Special Accounts and references to payments to the CRF. Drafting the amendments in this Schedule has been a complex task because:

- the language used in the unamended legislation varies, reflecting different drafting practices over many years;
- Special Accounts record amounts in the CRF, whereas the components of the RMF contained money outside the CRF; and
- public money, received by entities that are legally separate from the Commonwealth, nevertheless forms part of the CRF, without the need for the money to be credited to a ledger account, or paid into a bank account, designated as the CRF.

10. Part 2 of Schedule 1 covers consequential amendments that address technical issues arising from sections 5 and 7 of the FMLA Act 99.

Schedule 2 – Miscellaneous refinements to framework

11. Some minor refinements to the financial framework have been made in Schedule 2 of the draft Bill. The two most significant are set out below. The others are set out in the Explanation document provided to the Committee and available online at the Committee website.

A. Transfer of approval powers from the Treasurer to the Minister for Finance and Administration

12. The greater part of the amendments contained in Schedule 2 transfer approval powers from the Treasurer to the Minister for Finance and Administration (Finance Minister), in relation to money raising, guarantees and investments by, or for, entities that are legally separate from the Commonwealth.

13. The transfer of these approval powers will generate the following benefits:

- It will co-locate in one central portfolio financial oversight powers of Commonwealth entities, particularly Budget-dependent entities. In particular, more efficient and effective decision-making will be possible about whether an entity should borrow, or otherwise raise money for investment purposes, from the Commonwealth or from financial markets.
- It will align guarantee powers with Regulation 14 of the *Financial Management and Accountability Regulations 1997*. This Regulation gives the Finance Minister the power to authorise loan guarantees on behalf of the Commonwealth.

- It will align borrowing approval powers with the powers already given to the Finance Minister in section 36 of the *Health Insurance Commission Act 1973* (as amended on 4 September 2002) and in section 62 of the *Sydney Harbour Federation Trust Act 2001* (commenced on 21 September 2001).

Delegation powers for the Finance Minister

14. The Finance Minister is given powers to make delegations for each of the approval powers transferred to the Finance Minister from the Treasurer (as described above), and for the Finance Minister's approval powers in the *Health Insurance Commission Act 1973* and in the *Sydney Harbour Federation Trust Act 2001*.

15. In some cases, the Treasurer already has a delegations power. The case for providing a delegations power is that it can make for more efficient public administration, for example where the approval sought is of the same type as an earlier approval given, or where the approval represents a continuation of a previous approval.

16. In each case the delegations power is to an official within the meaning of the FMA Act. Section 5 of the FMA Act defines an official as a person who is in an Agency or is part of an Agency. Delegations made by the Finance Minister would typically be made to an official of the Department of Finance and Administration.

B. Improving information requirements for establishing a Special Account by a determination

17. The draft Bill improves the information requirements for establishing a Special Account, both in determinations by the Finance Minister and in some enabling Acts.

18. The draft Bill contains an amendment to subsection 20(1) of the FMA Act which currently authorises the Finance Minister to make a written determination that does all or any of the following:

- establishes a Special Account;
- allows or requires amounts to be credited to the Special Account;
- specifies the purposes of the Special Account.

19. Item 127A of the draft Bill amends subsection 20(1) so that the Finance Minister may make a written determination that does all of the following:

- establishes a Special Account;
- specifies the purposes of the Special Account;
- allows or requires amounts to be credited to and debited from the Special Account.

20. The effect is that new determinations will cover all requirements for the Special Account, rather than continue the possibility for just some aspects.