

**Responses provided by the  
Department of Transport and Regional Services**

**Question on Notice**

**Joint Committee of Public Accounts and Audit**

Review of the draft Financial Framework Legislation Amendment Bill

**Topic 6** Information to be included in determinations of the Finance Minister, under the *Financial Management and Accountability Act 1997*, that establish special accounts

**Hansard Page:** PA52

**Question 1:** Have moneys been switched between national, arterial or local roads projects in the past? Section 20 of the Australian Land Transport Development Act

**Response:**

- The *Australian Land Transport Development Act 1988* (the Act), in sections 19, 20 and 21, enables the Minister to authorise that money paid from the Reserve for a specified purpose may be expended on another purpose. The scheme established under these sections is related to the restriction, in schedule 2 of the Act, on the amounts that can be paid to the States for State arterial roads and local roads.
- In short, the Minister may, on request of a State, authorise that money paid to a State for State arterial roads may be expended on local roads, national highways, national arterial roads, capital railway projects or urban public transport projects notwithstanding the limitation imposed by schedule 2. Money paid for local roads may also be expended on State arterial roads.
- Under subsection 19(2) the Minister also has the power, without a request from a State, to “authorise the transfer of funds [paid to a State or an approved organisation] (a) between the categories of research and road safety, national highways or national arterial roads, or (b) from national highways or national roads to State arterial roads” (the Explanatory Memorandum to the Bill p20).
- No money has been paid to a State under the Act for State arterial roads since 1992-93 so the power to switch State arterial funding has not been utilised at least since that time. No funding for local roads has been paid to a State under the Act since 1990-91.

- Since 1996-97 the only funding paid to States under the Act has been for the categories of National Highways, national arterial roads (the category used for the Roads of National Importance programme) and Black Spots. The practice employed since at least 1996-97 in making payments under the Act is to reimburse the States for expenditure incurred in carrying out an approved project plus an advance on estimated expenditure on that project to the date of the next payment. Moneys already paid to a State are not switched between categories of road.

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**Hansard Page:** PA54

**Question 2:** *Australian Land Transport Development Act 1988* – Will the Bill change the way that Act operates?

Have moneys been switched between national, arterial or local roads in the past? If so, how much and between which projects? Was this transfer ultra vires if there was not a legal underpinning for it previously? How was parliament informed that these transfers had taken place? Have moneys been switched between states and organisations? If so, how much, and which states and organisations—

**Response:**

- The powers to transfer funds paid to a State from State arterial roads to other categories of road have not been utilised since at least 1992-93. The powers set out in sections 19, 20 and 21 relate to moneys paid to a State. It is not current practice to transfer funding between categories once money has been paid to a State (see the response to Question Number 6).
- It is the view of the Department of Transport and Regional Services that any exercise of these powers which has taken place was authorised by the Act and was not ultra vires.
- The Minister administering the *Australian Land Transport Development Act 1988* is required to report to Parliament each year on the operation of the Act and reports have been tabled covering each year up to 2000-2001.
- The Department of Transport and Regional Services understands, on the advice of the Department of Finance and Administration and the Australian Government

Solicitor, that the changes to the *Australian Land Transport Development Act 1988* proposed by the Financial Framework Legislation Amendment Bill do not alter the effect of the Act.