



SENATOR THE HON PENNY WONG
Minister for Finance and Deregulation

Mr Robert Oakeshott MP
Chair
Joint Committee of Public Accounts and Audit
Parliament House
CANBERRA ACT 2600

28 MAY 2013

Dear Chair,

I am writing to provide more detail on the Government's position regarding aspects of the *Public Governance, Performance and Accountability Bill 2013* ('the Bill') currently before the Joint Committee of Accounts and Audit ('the Committee').

In the public hearings the issue of the Bill preceding the rules was mentioned by various stakeholders, amongst other issues. In responding to this point, it is worth situating the legislation in the broader reform process.

The Government commenced the Commonwealth Financial Accountability Review in 2010 to consider the performance, accountability and governance aspects of the Commonwealth public financial framework. Since then there have been hundreds of consultations with bodies within the Commonwealth, with external bodies and relevant stakeholders (e.g. State and Territory Auditors-General). As you would be aware, this work included both a consultation paper and a position paper - essentially reflecting a standard white paper process.

The Government has introduced the Bill into the Parliament as the requisite next stage in this process. The Bill sets the key directions and principles that will sit at the core of the framework. We believe that it is prudent to seek Parliamentary approval prior to finalising the rules that will underpin it. It allows for a considered consultation, firmly on the basis of legislation, and it gives agencies confidence as they transition towards the new requirements. The timing of the legislation coming into effect after the process of consultation outlined in this letter will further mitigate any implementation risks. With the commencement date of 1 July 2014, the Parliament and all Commonwealth agencies would have the benefit of twelve months of the Bill being on the statute books prior to it being operational.

The Government has taken a consultative approach throughout this reform process, and seeks to continue that approach with the development of the rules. Rather than table the legislation and all the rules, the Government has chosen to engage the Parliament and stakeholders in the all aspects of the process.

It is worth drawing to the Committee's attention that of the 110 provisions in the Bill, over 80 are already contained in the existing financial framework (the *Financial Management and Accountability Act 1997* 'the FMA Act' and the *Commonwealth Authorities and Companies Act 1997* 'the CAC Act'). I make this point to underline the fact that the proposed reforms are evolutionary, and that the majority of provisions mirror existing legislative arrangements, where a significant body of regulation and rules are already in place.

It is an evolution that reflects the best elements of the current Acts, as well as a modest number of new provisions to modernise the framework and its operation. I make this point also to assure the Committee that while the rules are not available at this time, the intent and form of the rules that extend from existing provisions will be similar to the current arrangements, albeit updated and made consistent.

Once the legislative framework is in place, the Government would follow a transparent and consultative process in the development and finalisation of the rules. On behalf of the Government, I can provide the following assurances in terms of process and policy objectives.

1. That the Government will consult widely on the development of the rules. This would include extensive consultation within government, but also with other sectors and interested stakeholders (including the Not for Profit Sector, business and academia), including through working groups.
2. That once the rules are settled by government, they will be made publicly available for no less than 30 days for public comment and further consultation with government entities. The rules and explanatory memorandum will be made available on the Department of Finance and Deregulation's ('the Department') website. Furthermore, the Department will hold several workshops with a broad cross section of agencies to ensure they are rigorously tested.
3. Following the public consultation phase, the rules will also be made available to the Committee for scrutiny. The Government would await a report from the Committee prior to tabling in the Parliament. I would expect the Committee to have a strong and ongoing role in the formation of the rules, reflecting its position in the Parliament.
4. The rules are disallowable instruments and so following their tabling in the Parliament, there is a further opportunity for scrutiny.

The above would apply to the initial stock of rules to come over the next 12 months, required for commencement of the new framework on 1 July 2014.

However, I would also commit the Government to maintaining the same approach for any material changes that may follow the initial rules required for commencement, including a central role for the Committee.

In terms of developing the rules, the following principles will be followed by the Government.

1. The rules will be constructed to reflect best practice, drawing on the strengths of Australian jurisdictions and international perspectives. The FMA and CAC Acts were considered best practice when introduced over 15 years ago. The intent of these reforms is to return Australia to the forefront of financial management.
2. A central principle of the rules will be to reduce the regulatory burden on agencies and officials. This will see a more efficient public sector, and ensure that resources are allocated to the highest areas of need. Reducing the regulatory burden through the financial framework should also, in time, reduce the regulatory burden for those external bodies (e.g. Not for Profit Sector) in their interactions with the government.
3. The Government will provide extensive assistance and support to agencies in transitioning from the current framework to the new arrangements. This would include detailed advice, seminars and targeted meetings.

Adherence to these principles will ensure that the financial framework reflects the needs of the Australian community.

The Department's submission to the Committee (of 22 May 2013) outlined the shortcomings of the current framework. This Bill will see a number of benefits realised, and contribute to a modern Commonwealth public sector. Delaying the reform at this point will require the commencement date to be delayed, with the benefits to be also delayed.

The benefits will come, in large part, from the behavioural and cultural changes that are at the core of the Bill (i.e. engaging with risk). These gains would be expected to take up to one year or longer from when the framework is in place. Were the Bill to be delayed at this point, it is realistic to assume that the benefits at the core of this Bill will be delayed by over a year. This not only would see the current shortcomings continue, it would increase the risk of the current framework shortcomings becoming more acute, and significant issues arising.

This Bill provides an important step in the process to ensure that the Commonwealth public sector meets the needs of the community today, and into the future.

Yours sincerely

Penny Wong