

You ask why DCITA thinks that the legal authority for the Regional Telecommunications Infrastructure Account (RTIA) should remain the determination of the Finance Minister.

As noted in Mr Barr's reply of 28 March 2003 to your earlier question, the former component of the Reserved Money Fund became the 'Regional Telecommunications Infrastructure Account' (RTIA) from 1 July 1999. As the former component had been established by a delegate of the Finance Minister under the former section 20 of the Financial Management and Accountability Act 1997 (FMA Act), it was taken to have been established by the Finance Minister as a special account by determination under the new FMA Act section 20. The delegate's instrument specified the purposes for which amounts could be debited from that component to be 'expenditure on financial assistance for telecommunications projects in regional areas'.

Sections 58, 59 and 60 of the Telstra Corporation Act 1991 provide for the supplementation of the RTIA. Sections 58, 59 and 60 each provide for a specified amount to be credited to the component and that each those amounts can only be applied for the particular regional telecommunications purposes specified in the relevant section. Moreover, the amounts standing to the credit of the RTIA which are provided under the supplementation effected by the Telstra Corporation Act 1991 can no longer be debited from the RTIA after 30 June 2003 (i.e. the date specified by the Minister for the purposes of ss 58(4)(b), 59(4)(b) and 60(4)(b)). Accordingly from that date it appears that the statutory supplementation of the RTIA ceases to be of any ongoing practical effect.

You have raised the question of whether the declaration contained in proposed section 57A of the Bill that '[t]here is continued in existence the [RTIA]' may by implication amount to establishing the RTIA as a special account by virtue of that section, thereby making it a special account for the purposes of section 21 of the FMA Act rather than section 20. It is not the Department's intention that proposed section 57A have that effect. Our understanding has been that proposed section 57A, like similar provisions elsewhere in the Bill, is merely a formal provision intended to declare that the existing special account continues to have whatever status that it had before the enactment of these amendments. It is not our intention that the Bill provide otherwise.

I note also that FMA section 21 requires that an Act which establishes a special account must also identify the purposes of that account. The Telstra Corporation Act does not identify the purposes of the RTIA, except in relation to the statutory supplements which will soon cease to be of ongoing relevance. Accordingly, it is not clear whether proposed section 57A would be effective for the purposes of FMA section 21 even if that result had been intended.

Don Markus  
General Counsel

Department of Communications, Information Technology and the Arts

Tel: (02) 62711655

Fax: (02) 62711012

E-mail: [don.markus@dcita.gov.au](mailto:don.markus@dcita.gov.au)