

Western Australia

Financial Management Act 2006

As at 30 Mar 2012

Version 01-r0-03

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Financial Management Act 2006

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Defined Terms

Western Australia

Financial Management Act 2006

An Act to provide for the management, administration and reporting of the public finances of the State, and for related purposes.

Part 1 — Preliminary

1. Short title

This is the *Financial Management Act 2006* ¹.

2. Commencement

This Act comes into operation on a day fixed by proclamation ¹.

3. Terms used in this Act

In this Act, unless the contrary intention appears —

accountable authority, of an agency, means the person or body determined under section 54, 55 or 56, as the case requires;

accounts, in paragraph (b)(i) of the definition of “officer” and in sections 56(1)(b), 63(2)(b), 64(1)(b) and 71, has the meaning given to that term in the *Auditor General Act 2006* section 4(1);

agency means a department, a sub-department or a statutory authority;

agency special purpose account means an account referred to in section 16(1);

Appropriation Act means an Act appropriating the Consolidated Account for a financial year for the recurrent services and other purposes for the year, or for the capital purposes for the year, as expressed in the Act;

bank means —

- (a) an ADI (authorised deposit-taking institution) as defined in the Commonwealth *Banking Act 1959* section 5; or
- (b) a bank constituted by a law of a State or the Commonwealth; or
- (c) in relation to a bank not in Australia — a bank approved by the Treasurer;

Consolidated Account means the account of that name established by the *Constitution Act 1889* section 64 and referred to in section 8;

department means a department of the Public Service other than —

- (a) a department that is a statutory authority; or
- (b) a department that, under the *Public Sector Management Act 1994* section 3(3), is taken to be a part of an organisation as defined in section 3(1) of that Act;

Joint Standing Committee on Audit means the joint standing committee established by the Houses of Parliament under the *Auditor General Act 2006* section 43;

Minister means —

- (a) in relation to an agency that is a department or a sub-department — the Minister to whom the administration of the department or sub-department is committed by the Governor; or
- (b) in relation to an agency that is a statutory authority constituted by or under an Act — the Minister to whom the administration of the Act by or under which the statutory authority is constituted is committed by the Governor; or
- (c) in relation to an agency that is a statutory authority not constituted by or under an Act — the Minister to whom the administration of the statutory authority is for the time being committed by the Governor;

officer means a person —

- (a) who is employed or engaged for the purposes of an agency, whether as a public service officer under the *Public Sector Management Act 1994*, under a contract for services or otherwise; and
- (b) who is charged with or performs any duty consisting of or relating to —
 - (i) keeping the accounts of the agency; or
 - (ii) collecting, receiving, keeping in custody, banking or accounting for public money or other money or statutory authority money; or

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- (iii) disbursing public money or other money or statutory authority money; or
- (iv) purchasing, receiving, issuing, selling, keeping in custody, controlling, managing or disposing of, or accounting for, public property or other property;

other money means money collected, received or held by the State or a statutory authority for or on behalf of a person other than the State or a statutory authority;

other property means property that is held by the State or a statutory authority for or on behalf of a person other than the State or a statutory authority;

Public Bank Account means the account of that name constituted under section 11 and includes any other account stated by this Act or another written law to form part of the Public Bank Account;

Public Bank Account Interest Earned Account means the account of that name referred to in section 10(d);

Public Ledger means the accounts referred to in section 7;

public money means money collected, received or held by any person for or on behalf of the State;

public property means all property, other than public money and statutory authority money, held for or on behalf of the State or a statutory authority;

resource agreement means a resource agreement under Part 3 Division 5;

special purpose account means an agency special purpose account or an account referred to in section 10;

statutory authority means a person or body listed in Schedule 1;

statutory authority money means money collected, received or held by any person for or on behalf of a statutory authority;

sub-department means an entity in respect of which a declaration under section 56(2) has effect;

the estimates means the annual estimates of receipts and payments in respect of the Consolidated Account;

Treasurer means the Treasurer of the State;

Treasurer's instructions means instructions issued under section 78;

Treasury means the department of the Public Service principally assisting in the administration of this Act;

Under Treasurer means the chief executive officer of the Treasury.

4. Relationship with other laws

- (1) Except as stated in subsection (2) or another provision of this Act, this Act prevails to the extent of any inconsistency with another written law (whether enacted before or after the commencement of this Act).
- (2) Subsection (1) does not apply if another Act expressly states that, or to the effect that, a provision of that Act has effect despite the provisions, or a specified provision, of this Act.

5. Modified application of Act for certain purposes

- (1) Despite the definition of “department” in section 3, the administration of each of the following —
 - (a) the Legislative Assembly;
 - (b) the Legislative Council;
 - (c) the Parliamentary Services Department;
 - (d) the Parliamentary Commissioner for Administrative Investigations;
 - (e) the Information Commissioner,

is taken to constitute a department for the purposes of this Act, and the regulations may provide that the administration of any other body or office established under a written law is taken to constitute one or more departments for the purposes of this Act.

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- (2) This Act has effect in relation to an administration that is referred to in subsection (1) subject to the modifications that are set out in Schedule 2.
- (3) This Act has effect in relation to the department of the Public Service known as the Office of the Auditor General subject to the modifications that are set out in Schedule 3.

6. Amendment of Schedule 1 by regulations

Schedule 1 may be amended by the regulations.

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.

8. Consolidated Account

- (1) The Consolidated Fund established under the *Constitution Act 1889* and in existence immediately before the commencement of this section constitutes the Consolidated Account for the purposes of this Act.
- (2) There is to be credited to the Consolidated Account all public money or statutory authority money required by or under this Act or another written law to be credited to the Consolidated Account.
- (3) There may be credited to the Consolidated Account any grants, advances, contributions, repayments or other amounts as —
 - (a) determined by the Treasurer; or
 - (b) prescribed by the regulations for the purposes of this subsection.

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.

10. Treasurer's special purpose accounts

The Treasurer's special purpose accounts referred to in section 7(c) are to consist of —

- (a) any account established by the Treasurer as a Treasurer's special purpose account for the purposes determined by the Treasurer; and
- (b) suspense accounts established for the purposes of section 26; and
- (c) any account established to hold money transferred under section 39(5); and
- (d) the Public Bank Account Interest Earned Account established for the purpose of holding money credited to that account under section 38(9) pending its allocation and payment as required or permitted under this Act or another written law; and
- (e) any account established under a written law and determined by the Treasurer to be a Treasurer's special purpose account; and
- (f) any account established to hold other money and determined by the Treasurer to be a Treasurer's special purpose account.

Division 2 — Public Bank Account and other bank accounts

11. Public Bank Account

- (1) The account called the Public Bank Account that —
 - (a) was opened and maintained by the Treasurer under the *Financial Administration and Audit Act 1985*² in the name of the Government of Western Australia; and
 - (b) was in existence immediately before the commencement of this section,

constitutes the Public Bank Account for the purposes of this Act.

- (2) The Public Bank Account is to be operated on the terms and conditions agreed between the Treasurer and the bank or banks with which it is maintained and under the subdivisions determined by the Treasurer —
- (a) for the receipt, custody, payment and transmission of money; and
 - (b) for advances to be made and for charges in respect of advances; and
 - (c) for interest to be payable by the bank or banks on balances and to the bank or banks on advances; and
 - (d) for the conduct generally of the banking business of the State.

12. Application of Public Bank Account

The Treasurer may apply any money standing to the credit of the Public Bank Account to make any payment that may lawfully be charged to —

- (a) an account forming part of the Public Ledger; or
- (b) an agency special purpose account.

13. Treasurer may authorise agencies to open and maintain bank accounts

- (1) If an agency is not authorised to open and maintain a bank account under another written law, the Treasurer may authorise the agency to open and maintain a bank account for the purposes, and subject to the terms and conditions, approved by the Treasurer.
- (2) Except as otherwise directed by the Treasurer, a bank account opened and maintained under subsection (1) forms part of the Public Bank Account.

14. Bank accounts not to be overdrawn unless approved by Treasurer

Except with, and in accordance with, the prior approval of the Treasurer, the accountable authority of an agency is not to cause or permit a bank account maintained under this Division to be overdrawn.

15. Restrictions on opening and maintaining certain bank accounts

- (1) A bank account for the receipt, custody, payment or transmission of public money, statutory authority money or other money is not to be opened or maintained otherwise than in accordance with this Division or another written law.
- (2) In subsection (1) —
other money means other money to which section 36(2) applies.

Division 3 — Agency special purpose accounts

16. Agency special purpose accounts

- (1) The agency special purpose accounts of an agency consist of —
 - (a) any account established for the purposes of the operations of the agency; and
 - (b) any account established for the agency under a written law and stated in the written law to be, or determined by the Treasurer to be, an agency special purpose account; and
 - (c) any account established to hold other money and determined by the Treasurer to be an agency special purpose account; and
 - (d) any account established by the agency for the purposes approved by the Treasurer and determined by the Treasurer to be an agency special purpose account.
- (2) The accountable authority of an agency is to maintain records that enable the accountable authority to account separately for each agency special purpose account of the agency.

Division 4 — Administration of special purpose accounts

17. Special purpose statements and trust statements

- (1) The accountable authority of an agency is to prepare —
 - (a) a special purpose statement for a special purpose account operated by the agency that is referred to in section 10(a) or 16(1)(d); and
 - (b) a trust statement for a special purpose account operated by the agency that is referred to in section 10(f) or 16(1)(c).
- (2) A special purpose statement or a trust statement is to contain the information prescribed by the Treasurer's instructions for the special purpose account concerned.
- (3) The accountable authority is to send the special purpose statement or trust statement to the Treasurer.
- (4) When the Treasurer approves the special purpose statement or trust statement, the accountable authority is to send a copy of it to the Auditor General.

18. Payments to and from special purpose accounts

- (1) There is to be credited to a special purpose account —
 - (a) any money required or authorised by this Act or another written law to be credited to the account; and
 - (b) any money appropriated by an Act for the purposes for which the account is established, or paid or advanced for those purposes under section 24 or 28 or a Treasurer's Advance Authorisation Act; and
 - (c) any money that may be retained by the agency that operates the account because of a determination under section 23; and
 - (d) any money, not mentioned in another paragraph of this subsection, lawfully received for the purposes for which the account is established.

- (2) There is to be charged to a special purpose account —
 - (a) any expenditure required or authorised by this Act or another written law to be charged to the account; and
 - (b) any other expenditure lawfully incurred for the purposes for which the account is established.

19. Special purpose accounts not to be overdrawn unless approved by Treasurer

- (1) Except with, and in accordance with, the prior approval of the Treasurer, the accountable authority of an agency is not to cause or permit a special purpose account operated by the agency to be overdrawn.
- (2) If the Treasurer approves a special purpose account to be overdrawn, the overdraft —
 - (a) is taken to be an advance to be charged in the relevant financial year to the Treasurer's Advance Account; and
 - (b) is subject to the terms and conditions determined by the Treasurer.

20. Transfer of excess amounts from special purpose accounts

- (1) If satisfied that there is money standing to the credit of a special purpose account that is not reasonably required for the purposes of that account, the Treasurer may direct that all or part of that money be credited to the Consolidated Account.
- (2) Subsection (1) does not apply if another written law expressly provides otherwise.

21. Closure of special purpose accounts and transfer of service

- (1) The Treasurer may, after consulting with the Minister, direct that a special purpose account operated by an agency, other than a special purpose account established by an Act, be closed.

- (2) Subject to subsection (3), when a special purpose account is closed and all the liabilities of the account have been paid, the money standing to the credit of the account is to be credited —
- (a) to any account or fund, or in any other manner, specified in the special purpose statement or trust statement relating to that account; or
 - (b) to the Consolidated Account if —
 - (i) there is no special purpose statement or trust statement relating to that account; or
 - (ii) no account, fund or manner is specified in the special purpose statement or trust statement relating to that account.
- (3) If a special purpose account has been established in relation to the provision of a particular service or performance of a particular function (the *relevant service*) and —
- (a) the account is closed; or
 - (b) the responsibility for the provision of the relevant service is transferred,

the Treasurer may direct that any money standing to the credit of the account, being money determined by the Treasurer to relate to the provision of the relevant service, be transferred to another special purpose account established in relation to the provision of the relevant service, or in relation to the provision or performance of services or functions that include the relevant service.

22. Other laws not affected

Nothing in this Division affects the operation of another written law that requires or authorises an agency to conduct its operations through one or more accounts established under that written law.

Part 3 — Funds management

Division 1 — Supply and appropriation

23. Appropriation of certain receipts

(1) In this section —

determination means a determination under subsection (2);

prescribed receipts, in relation to an agency, means any money lawfully received by the agency other than money received —

- (a) by way of taxes or fines under a written law; or
- (b) by way of royalty in respect of fauna or forest produce or in respect of minerals, petroleum, water or other natural resources of the State; or
- (c) from the Commonwealth in the form of a general purpose grant; or
- (d) from any other source prescribed by the regulations for the purposes of this definition.

(2) The Treasurer may make a determination providing for prescribed receipts that are not greater than the monetary limit specified in the determination to be retained by the agency that receives them.

(3) A determination —

- (a) applies to the financial year or financial years referred to in the determination; and
- (b) may be made before or after the start of a financial year to which the determination applies; and
- (c) may be revoked by the Treasurer at any time.

(4) If a determination is made before the estimates for a financial year to which the determination applies have been tabled in the Legislative Assembly, the appropriation item that includes the service or function to which the determination relates is to be

expressed in the estimates for the year to be subject to a deduction in respect of retained receipts.

- (5) If a determination is made after the estimates for a financial year to which the determination applies have been tabled in the Legislative Assembly, the Treasurer is to cause a copy of the determination to be laid before each House of Parliament, or dealt with under section 83, within 60 days after making the determination.
- (6) If, after a determination is made, the responsibility for the service or function to which the determination relates is transferred to another agency, the determination continues to have effect as if it had been made in relation to prescribed receipts received by that agency.
- (7) An amount equal to the receipts retained for a financial year under a determination is taken to have been appropriated for the year for the service or function to which the determination relates, and may be applied accordingly.

24. Payments before grant of supply

- (1) If, before the end of a financial year (the *previous year*), no supply is granted to meet the requirements of the next financial year (the *current year*), the Treasurer may make and charge to the Consolidated Account any payments and advances to meet those requirements at the start of the current year that do not exceed in total an amount equal to 20% of the total amount appropriated for the previous year by the Appropriation Acts.
- (2) The authority conferred on the Treasurer by subsection (1) authorises payments and advances to be made only for the purposes —
 - (a) for which expenditure was authorised for the previous year by the Appropriation Acts; or
 - (b) for which expenditure was authorised under section 27(1) to meet the requirements of the previous year.

- (3) The authority conferred on the Treasurer by subsection (1) ceases to have effect —
- (a) at the end of the first 2 months of the current year; or
 - (b) on the commencement of an Act granting supply for the current year,

whichever occurs first.

- (4) On the commencement of the Appropriation Acts appropriating the Consolidated Account for the current year, the payments and advances made by the Treasurer under subsection (1) to meet the requirements of the current year are taken to be expenditure appropriated by those Acts for the current year in respect of the purposes for which the payments and advances were made.

25. Transfers of appropriations

- (1) In this section —
- general purpose** means a purpose —
- (a) that is described in the estimates in general terms; and
 - (b) that is of a kind likely to require expenditure from 2 or more appropriation items to meet that purpose in a financial year.
- (2) If, after the commencement of an Appropriation Act, the responsibility for a service or function for which an appropriation is made by the Act is transferred —
- (a) the appropriation does not lapse; and
 - (b) any unexpended amount of the appropriation may be issued and applied, in accordance with a determination made by the Treasurer, for the purposes of that service or function.
- (3) Subsection (2) has effect despite the provisions of any Appropriation Act.
- (4) Subject to subsection (5), if an amount is appropriated by an Appropriation Act for a financial year by way of a central

appropriation for a general purpose, the Treasurer may direct the transfer of a portion of that amount to another appropriation item.

- (5) The transfer may be made only to meet all or part of the actual or estimated expenditure that accords with both the general purpose and the purpose of the item to which the transfer is made.
- (6) If a portion of an amount is transferred under subsection (4) from a central appropriation to another appropriation item, expenditure against that portion —
 - (a) is taken to be expenditure under that item; and
 - (b) is to be recorded and reported under this Act accordingly.

26. Transfers to suspense account

- (1) In this section —

operating account means an agency special purpose account established for the purposes of the operations of the agency;

relevant commitment means a commitment —

 - (a) that is relevant to the financial year referred to in subsection (2); and
 - (b) that relates to salaries, wages, superannuation, leave or depreciation.
- (2) The Treasurer may direct that an appropriation by an Appropriation Act for a financial year may be transferred to a suspense account to the extent necessary to meet a relevant commitment, and such a transfer is taken to be a payment correctly chargeable against that appropriation for that financial year.
- (3) Money standing to the credit of a suspense account under subsection (2) may only be —

- (a) transferred when it needs to be applied for any relevant commitment; or
- (b) credited to the relevant operating account at the time or times directed by the Treasurer.

27. Expenditure in advance of appropriation

- (1) The Governor may, on the recommendation of the Treasurer, authorise expenditure in a financial year that is not provided for by an appropriation by an Appropriation Act for that year.
- (2) The Treasurer may authorise expenditure in a financial year that exceeds the amount appropriated by an Appropriation Act for that year for expenditure of that kind.
- (3) Expenditure may be authorised under subsection (1) or (2) only to make payments in respect of extraordinary or unforeseen matters.
- (4) Payments made under subsection (1) or (2) in a financial year in respect of extraordinary or unforeseen matters are —
 - (a) to be charged in that year to the Consolidated Account; and
 - (b) to be provided for in an Appropriation Act in the next or a later financial year.

28. Authorised recoverable advances

- (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. Limits on expenditure

- (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 in respect of extraordinary or unforeseen matters or to make advances for the purposes referred to in section 28(1).

30. Unexpended appropriations to lapse

If the total amount of an appropriation by an Appropriation Act for a financial year in respect of particular services or purposes of an agency is not charged to the Consolidated Account for those services or purposes by the end of that year, any unexpended amount of the appropriation lapses.

31. Payments from Public Bank Account Interest Earned Account

- (1) Money standing to the credit of the Public Bank Account Interest Earned Account at any time may be credited to the Consolidated Account if the Treasurer so determines.
- (2) Money standing to the credit of the Public Bank Account Interest Earned Account at the end of a financial year is to be credited at that time to the Consolidated Account.
- (3) A reference in this section to money standing to the credit of the Public Bank Account Interest Earned Account does not include a reference to money held in that account pending payment as provided for in a determination under section 38(5) or as required under another written law.

Division 2 — Payments and transfers

32. Certain payments and transfers to be authorised

- (1) Unless otherwise expressly provided by the Treasurer's instructions, a regulated payment or regulated transfer may be made only if the payment or transfer is authorised in the manner prescribed by the Treasurer's instructions.
- (2) In subsection (1) —
regulated payment means —
 - (a) a payment that is to be charged to an account forming part of the Public Ledger; or
 - (b) a payment made by an agency, whether to another agency or otherwise;***regulated transfer*** means —
 - (a) a transfer between accounts forming part of the Public Ledger; or
 - (b) a transfer between agency special purpose accounts operated by the same agency.

33. Payments charged to Consolidated Account

A payment that is to be charged to the Consolidated Account may be made —

- (a) only in accordance with a warrant under the hand of the Governor; and
- (b) only if —
 - (i) the payment may be made under an appropriation made by an Act; or
 - (ii) the payment is authorised to be charged to the Consolidated Account by or under an Act.

34. Deposit of money received

A person who collects or receives public money or statutory authority money is to deposit the money to the credit of a bank account in accordance with the Treasurer's instructions.

35. Money paid into Public Bank Account

- (1) Unless otherwise expressly provided in another written law, money paid into the Public Bank Account is to be credited to, as appropriate, the Consolidated Account, the Treasurer's Advance Account, the Treasurer's special purpose accounts or an agency special purpose account.
- (2) If it is not possible to determine the appropriate account that is to be credited with money paid into the Public Bank Account, the money is to be credited to the Consolidated Account.

36. Other money to be credited to special purpose accounts

- (1) In this section —

relevant accountable authority means the accountable authority of the agency for the purposes of which the relevant person is employed or engaged;

relevant person means a person employed or engaged for the purposes of an agency.

- (2) This section applies to other money —
 - (a) that, under a written law, is directed to be paid into the Treasury or to the Treasurer for or on account of, or for the use and benefit of, any person; or
 - (b) that comes into the possession or under the control of a relevant person, in that person's capacity as a relevant person, for or on account of, or for the use and benefit of, any person.
- (3) Other money that comes into the possession or under the control of a relevant person is to be —
 - (a) paid into the Public Bank Account; or
 - (b) paid into a bank account maintained under section 13 that does not form part of the Public Bank Account, and credited to a special purpose account.
- (4) When other money is credited to a special purpose account under subsection (3), the relevant accountable authority is to prepare a trust statement, containing the information prescribed by the Treasurer's instructions, for the account.
- (5) The relevant accountable authority is to send the trust statement to the Treasurer.
- (6) When the Treasurer approves the trust statement, the relevant accountable authority is to send a copy of it to the Auditor General.
- (7) Another written law that applies to other money prevails to the extent of any inconsistency with this section.

Division 3 — Investments

37. Investment by Treasurer

- (1) The Treasurer may invest any money standing to the credit of the Public Bank Account in a manner prescribed by the regulations.

- (2) Regulations made for the purposes of subsection (1) are not to provide that money may be invested otherwise than in a manner that trust funds may be invested under the *Trustees Act 1962* Part III.
- (3) A withdrawal of money for the purposes of investment under subsection (1) does not have to be charged to any of the accounts forming part of the Public Ledger.
- (4) Subject to section 38(8), subsection (1) is in addition to, and does not limit, a written law concerning the investment of particular money.

38. Proceeds of investment by Treasurer

- (1) In this section —
investment means investment by the Treasurer under section 37.
- (2) Money received from investment in repayment of principal is to be paid into the Public Bank Account.
- (3) Subject to this section, money received from investment is to be paid into the Public Bank Account and credited to the Consolidated Account.
- (4) Money received from investment that is money to which the *Road Safety Council Act 2002* section 12(2)(d) applies is to be credited in accordance with that provision.
- (5) The Treasurer may make and give effect to a determination that provides for money received from investment —
 - (a) to be credited to one or more special purpose accounts specified in the determination; or
 - (b) to be paid to one or more statutory authorities or other persons specified in the determination,at the rate determined by the Treasurer and specified in the determination.

- (6) The rate determined by the Treasurer under subsection (5) is not to exceed the rate of return on the investment of money in the Public Bank Account.
- (7) Subsection (5) does not apply in relation to the investment of public money held in a special purpose account unless another written law provides, either expressly or by implication, that income derived from that public money is to be credited to the special purpose account.
- (8) Another written law has no effect to the extent that it authorises or requires a person (other than the Treasurer) or a statutory authority to invest particular money, if there is a determination in effect under subsection (5), made by agreement between the Treasurer and the person or statutory authority, relating to a special purpose account in which that money is held.
- (9) Money received from investment may be credited to the Public Bank Account Interest Earned Account pending being dealt with under subsection (3), (4) or (5).
- (10) Subject to subsection (4), this section has effect despite any written law concerning the distribution of income derived from the investment of particular money.

39. Investment by agencies

- (1) Subsection (2) applies if —
 - (a) a department or sub-department holds other money; or
 - (b) a statutory authority holds statutory authority money or other money,whether in the Public Bank Account or in a bank account maintained under section 13 that does not form part of the Public Bank Account.
- (2) If this subsection applies, the Treasurer may authorise the department, sub-department or statutory authority to invest money referred to in subsection (1) —

- (a) in the same manner as money in the Public Bank Account may be invested under section 37; and
 - (b) in accordance with any written directions issued by the Treasurer, which may include directions about how income from investment under this section is to be dealt with.
- (3) Subsection (2) has effect —
- (a) subject to another written law concerning the investment of particular money; and
 - (b) for money in an agency special purpose account — subject to the terms of any trust statement relating to the account.
- (4) Subsection (2) does not limit the power of —
- (a) a department or sub-department to hold public money or other money; or
 - (b) a statutory authority to hold statutory authority money or other money,

in an interest bearing bank account maintained under section 13 but, for public money referred to in paragraph (a), the interest is to be paid into the Public Bank Account and credited to the Consolidated Account.

- (5) If —
- (a) a department or sub-department holds other money; or
 - (b) a statutory authority holds statutory authority money or other money,

in a bank account that does not form part of the Public Bank Account, the department, sub-department or statutory authority may transfer that money to the Public Bank Account for investment under section 37.

- (6) Subsection (5) has effect —

- (a) subject to another written law concerning the investment of particular money; but
- (b) despite another written law requiring money to be held in a particular bank account.

Division 4 — Annual estimates of statutory authorities

40. Accountable authorities of statutory authorities to prepare and submit annual estimates

- (1) Unless otherwise directed in writing by the Treasurer, the accountable authority of a statutory authority is to prepare annual estimates of the financial operations of the statutory authority (the *annual estimates*) in the manner prescribed by the Treasurer's instructions.
- (2) The accountable authority is to submit the annual estimates to the Minister for approval at the time determined by the Treasurer and in the manner prescribed by the Treasurer's instructions.
- (3) The Minister may —
 - (a) approve the annual estimates; or
 - (b) reject them and require the accountable authority to prepare and submit for approval amended annual estimates within the period that the Minister directs.
- (4) Subsection (3) also applies to amended annual estimates submitted under that subsection.

Division 5 — Resource agreements

41. Accountable authorities to submit draft resource agreements

- (1) If directed in writing by the Treasurer to do so in respect of a financial year of the agency, the accountable authority of an agency is to submit a draft resource agreement for the agency to the Treasurer for his or her agreement.

- (2) The accountable authority of an agency is to submit the draft resource agreement —
- (a) not later than 3 months before the start of the next financial year of the agency; or
 - (b) as otherwise directed in writing by the Treasurer.

42. Period to which resource agreements relate

- (1) A resource agreement for an agency is to cover a financial year of the agency.
- (2) The first resource agreement for an agency is to be in respect of the next full financial year of the agency after the commencement of this Division.

43. Matters to be included in resource agreements

A resource agreement for an agency is to specify —

- (a) the total amount of resources that are expected to be made available to the agency for the financial year; and
- (b) the services proposed to be provided by the agency during the financial year; and
- (c) any other matters required by the Treasurer to be specified in the agreement.

44. Resource agreements to be agreed if possible

The accountable authority of an agency and the Treasurer are to try to reach agreement on a resource agreement for the agency before the start of the financial year to which the agreement relates.

45. Treasurer's powers in relation to draft resource agreements

- (1) The Treasurer may return a draft resource agreement to the accountable authority of an agency and request the accountable authority —

- (a) to consider or further consider any matter and deal with the matter in the draft resource agreement; and
 - (b) to revise the draft resource agreement in light of that consideration or further consideration.
- (2) If the accountable authority and the Treasurer have not reached agreement on a draft resource agreement by one month before the start of the financial year, the Treasurer may, in writing, direct the accountable authority —
- (a) to take specified steps in relation to the draft resource agreement; or
 - (b) to make specified modifications to the draft resource agreement.
- (3) The accountable authority is to comply with a direction under subsection (2) as soon as is practicable and, in any event, not later than the start of the financial year or any later date approved by the Treasurer.

46. Agreement as to draft resource agreements

- (1) When the accountable authority of an agency and the Treasurer reach agreement on a draft resource agreement, it becomes the resource agreement for the agency for the relevant financial year.
- (2) The accountable authority of an agency is to obtain the Minister's approval before reaching agreement with the Treasurer on a draft resource agreement for the agency.

Division 6 — Write-offs and recoveries

47. Terms used in this Division

In this Division —

loss means —

- (a) in relation to official money — a loss of or deficiency in money; or

- (b) in relation to official property — the value of, or the cost of repairing or replacing, as the case requires, property that is lost, destroyed or damaged;

official money means —

- (a) in relation to a statutory authority — statutory authority money and other money; or
- (b) otherwise, public money and other money;

official property means public property and other property;

relevant authority means —

- (a) in relation to a loss incurred by a statutory authority — the statutory authority; or
- (b) in relation to a loss otherwise incurred — the State.

48. Write-offs

- (1) In this section —

relevant amounts means —

- (a) amounts in respect of public property held for or on behalf of the State and revenue and other debts due to the State; or
 - (b) amounts in respect of public property held for or on behalf of a statutory authority and revenue and other debts due to the statutory authority.
- (2) Subject to the monetary limit and any conditions prescribed by the regulations for the purposes of this subsection, the relevant accountable authority may write off relevant amounts.
 - (3) Subject to the monetary limit and any conditions prescribed by the regulations for the purposes of this subsection, the Minister may write off relevant amounts.
 - (4) Subject to any conditions prescribed by the regulations for the purposes of this subsection, the Minister may, with the prior approval of the Governor, write off relevant amounts that are

greater than the monetary limit prescribed for the purposes of subsection (3).

- (5) Another written law that applies to a statutory authority prevails to the extent of any inconsistency with this section.

49. Liability of officers for losses

- (1) For the purposes of this section —
- (a) a person is taken to have control of official money if —
 - (i) the money is held by the person by way of an advance; or
 - (ii) the money has been collected or received by the person but has not been paid to another person, or credited to a bank account, as required under a written law;
- and
- (b) a person is taken to have control of official property if —
 - (i) the property has been delivered to the person and has not been further delivered to another person entitled to receive it; and
 - (ii) the person gave a written undertaking when the property was delivered to take strict care of it while he or she had control of it.
- (2) Subject to subsection (3), if —
- (a) a loss of official money or official property occurs; and
 - (b) at the time of the loss an officer has control of the money or property,

the officer is liable to pay to the relevant authority an amount equal to the loss.

- (3) The officer is not liable in respect of the loss if the officer shows that he or she took reasonable steps in all the circumstances to prevent the loss.

- (4) Subject to subsection (5), if —
- (a) a loss of official money or official property occurs; and
 - (b) an officer caused or contributed to the loss by misconduct or a deliberate or serious disregard of reasonable standards of care,

the officer is liable to pay to the relevant authority an amount equal to the loss.

- (5) If the officer's misconduct or disregard of reasonable standards of care was not the sole cause of the loss, the officer is liable to pay only so much of the loss as is just and equitable with regard to his or her share of the responsibility for the loss.
- (6) A person who becomes liable under this section in the person's capacity as an officer does not cease to be liable only because the person ceases to be an officer.

50. Recovery of amounts for which officers are liable

- (1) The amount that an officer is liable to pay under section 49 is recoverable as a debt due to the relevant authority in a court of competent jurisdiction.
- (2) A relevant authority is not entitled to recover amounts from the same person under both section 49(2) and (4) for the same loss.
- (3) In proceedings to recover an amount that an officer is liable to pay under section 49, the amount for which the officer is liable according to a determination under section 51 is prima facie evidence of the amount that he or she is liable to pay.
- (4) Section 49 does not affect a right of a relevant authority to recover an amount from an officer otherwise than under that section, but the relevant authority is not entitled to recover amounts under both section 49 and otherwise than under that section for the same loss.

51. Under Treasurer and accountable authorities may direct investigations in respect of losses

- (1) In this section —
authorised person means a person authorised by a responsible person under subsection (2);
official loss means a loss of official money or official property;
responsible person means the Under Treasurer or the relevant accountable authority.
- (2) If a responsible person considers that an official loss may have occurred in circumstances that make an officer liable under section 49 to pay an amount to the relevant authority, the responsible person may direct an investigation to be held by a person authorised in writing by the responsible person.
- (3) For the purposes of the investigation, the authorised person has all the powers conferred on a special inquirer by the *Public Sector Management Act 1994* sections 24I and 24J and Schedule 3, and those provisions apply to and in relation to —
- (a) the authorised person as if he or she were a special inquirer under that Act; and
 - (b) the investigation as if it were a special inquiry under that Act.
- (4) Within the period specified by the responsible person, the authorised person is to —
- (a) complete the investigation; and
 - (b) prepare a report setting out the relevant facts and findings; and
 - (c) send the report to the responsible person.
- (5) Without limiting subsection (4) and subject to any requirements prescribed by the regulations relating to the rules of natural justice (including any duty of procedural fairness), the report may include a recommendation that the officer be held liable under section 49 to pay a specified amount to the relevant authority.

- (6) After considering the report and anything else prescribed by the regulations, and having regard to all the circumstances of the case, the responsible person is to determine —
- (a) that the official loss occurred in circumstances that make the officer liable under section 49 and the amount the officer is liable to pay to the relevant authority; or
 - (b) that no further action is to be taken in relation to the matter.
- (7) The responsible person is to give written notice of the determination to the officer.
- (8) In determining the amount that an officer is liable to pay under subsection (6)(a), the responsible person —
- (a) may have regard to mitigating facts or circumstances relevant to the official loss or to the officer; and
 - (b) may determine that the officer is liable to pay only so much as is just and equitable of the amount that, apart from this subsection, the officer would be liable to pay.

[Section 51 amended by No. 39 of 2010 s. 76.]

Part 4 — Accountable authorities

52. Agencies to have accountable authority

An agency is to have an accountable authority who is responsible to the Minister for the financial management of the services under the control of the agency.

53. Functions of accountable authorities

- (1) Without limiting section 52, an accountable authority of an agency has the functions of —
 - (a) ensuring that the agency operates in a manner that is efficient and economic and achieves the agency's objectives; and
 - (b) ensuring that the agency complies with this Act, the Treasurer's instructions and any other written law that applies to the agency; and
 - (c) having the custody, control and management of, and accounting for, all the public property or other property under the control of the agency; and
 - (d) unless otherwise directed in writing by the Treasurer, developing and maintaining an effective internal audit function for the agency.
- (2) The accountable authority of an agency also has any other function given to the accountable authority under this Act or another written law.

54. Accountable authorities for departments

- (1) Subject to subsection (2), the chief executive officer of a department is the accountable authority of the department.
- (2) While a declaration of a sub-department under section 56(2) has effect in respect of an entity that forms a part of a department, the chief executive officer of the department —

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- (a) is not responsible to the Minister for the financial management of the services under the control of the entity; and
- (b) is not the accountable authority in relation to those services.

55. Accountable authorities for statutory authorities

- (1) Subject to subsection (2), the person or body (however described) having the general direction and control of, and the overall responsibility for, the operations of a statutory authority is the accountable authority of the statutory authority.
- (2) If the Treasurer considers that there is, or may be, some doubt as to the application of subsection (1) to a particular statutory authority, the Treasurer may, by notice published in the *Gazette*, appoint a person or body to be the accountable authority of the statutory authority.
- (3) On the publication of a notice under subsection (2), the person or body appointed is to assume and perform all the functions conferred on an accountable authority under this Act.

56. Declarations by Treasurer as to agencies and accountable authorities

- (1) For the purposes of this section, the *prescribed conditions*, in relation to an entity, are the conditions that —
 - (a) the entity forms a part of a department; and
 - (b) the entity maintains separate accounts; and
 - (c) the entity is the subject of —
 - (i) a separate division within the estimates; or
 - (ii) a separate head of expenditure created by a determination under section 25(2)(b); or
 - (iii) expenditure authorised under section 27(1);and

- (d) the holder of an office in the department, who is not the chief executive officer of the department, has functions in relation to the entity under —
 - (i) a written law; or
 - (ii) a delegation made under the *Public Sector Management Act 1994* section 33 by that chief executive officer.
- (2) The Treasurer may declare that, for the purposes of this Act —
 - (a) an entity that satisfies the prescribed conditions is a sub-department; and
 - (b) the holder of an office referred to in subsection (1)(d) is the accountable authority of the sub-department.
- (3) If, after a declaration is made under subsection (2) in relation to a sub-department and its accountable authority, the entity that comprises the sub-department ceases to satisfy any of the prescribed conditions, the declaration is revoked by operation of this subsection.
- (4) If the holder of an office has been declared to be an accountable authority on the basis of a delegation referred to in subsection (1)(d)(ii), the chief executive officer who made the delegation is to notify the Treasurer immediately if the delegation is amended or revoked.
- (5) The Treasurer may at any time revoke a declaration under subsection (2).
- (6) Part 5 Division 3 applies in relation to the revocation of a declaration under subsection (2) as if a reference in that Division to the abolition of an agency were a reference to that revocation.

57. Chief finance officer

- (1) The accountable authority of an agency —

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- (a) is to ensure that, for the agency, an office, post or position is designated chief finance officer; and
 - (b) is to advise the Treasurer and the Auditor General of the office, post or position so designated.
- (2) The chief finance officer of an agency is responsible to the accountable authority for —
- (a) the preparation of financial information to facilitate the discharge of statutory reporting obligations of the agency; and
 - (b) the provision of advice on the effectiveness of accounting and financial management information systems and financial controls in meeting the requirements of the agency; and
 - (c) the provision of advice concerning the financial implications of, and financial risks to, the agency's current and projected services; and
 - (d) the development of strategic options for the future financial management and capability of the agency; and
 - (e) the development of financial management skills within the agency.

58. Accountable authorities to ensure agencies have financial management system

The accountable authority of an agency is to ensure that the agency has, or has access to, a financial management system that complies with the requirements prescribed by the Treasurer's instructions.

Part 5 — Reports

Division 1 — Treasurer's reports

59. Treasurer's reports and statements

The Treasurer's duties with respect to financial reports and statements are set out in the *Government Financial Responsibility Act 2000*.

Division 2 — Annual reports by agencies

60. Terms used in sections 60 and 61

(1) In this section and section 61 —

affiliated body, of an agency, means —

(a) a body —

(i) that is formed or incorporated by an instrument under a written law or by administrative action; and

(ii) that is financially dependent on the agency; and

(iii) that is not subject to the operational control of the agency as a consequence of the independent exercise of control over its operations under authority provided for in the instrument that formed or created the body or by subsequent amendment of that instrument; and

(iv) that is not a subsidiary body or a related body of an agency nor itself an agency;

or

(b) a body that is determined by the Treasurer, by written notice given to the agency, to be an affiliated body of the agency;

operational control, of an agency in relation to a body, means that the agency has the capacity to exercise direction over the operation of the body;

related body, of an agency, means —

- (a) a body —
 - (i) that is formed or incorporated under a written law or by administrative action taken independently of the agency; and
 - (ii) that is financially dependent on the agency; and
 - (iii) that is subject to the operational control of the agency; and
 - (iv) that is not a subsidiary body of an agency nor itself an agency;

or

- (b) a body that is determined by the Treasurer, by written notice given to the agency, to be a related body of the agency;

subsidiary body, of an agency, means —

- (a) a body —
 - (i) that is a company as defined in the *Commonwealth Corporations Act 2001* section 9 or formed or incorporated under equivalent laws of a place other than a State or Territory; and
 - (ii) in respect of which the agency has the capacity to dominate decision making, directly or indirectly, in relation to the financial and operating policies of the body so as to enable the body to operate with the agency in pursuing the agency's objectives; and
 - (iii) that is not itself an agency;

or

- (b) a body that is declared under an Act to be a subsidiary of the agency and is not itself an agency; or
- (c) a body that is determined by the Treasurer, by written notice given to the agency, to be a subsidiary of the agency.

- (2) Despite the definitions of “affiliated body” and “related body” in subsection (1), the regulations may prescribe that, for the purposes of this Part, a specified body is taken not to be an affiliated body or a related body of a specified agency.
- (3) In subsection (2) —
specified means specified in the regulations.

61. Annual reports by accountable authorities

- (1) After the end of each financial year the accountable authority of an agency is to prepare an annual report that contains —
 - (a) financial statements for the financial year; and
 - (b) key performance indicators; and
 - (c) a report on the operations of the agency during the financial year; and
 - (d) any information prescribed by the Treasurer’s instructions; and
 - (e) if applicable, the reports referred to in subsections (2) and (3); and
 - (f) any other information required by a written direction given by the Minister.
- (2) The accountable authority of an agency is to include in the annual report for a financial year covered by a resource agreement a report on the extent to which the agency achieved any objectives described in the resource agreement.
- (3) An agency that —
 - (a) is a department or statutory authority; and
 - (b) has an affiliated body or a related body,is to include in the annual report for a financial year a report on the affiliated body or related body that contains in respect of the financial year the information prescribed by the Treasurer’s instructions.

- (4) Unless an Act provides otherwise, the financial year of an agency ends on 30 June.
- (5) An agency that has a subsidiary body is to exercise its control over that subsidiary body so as to ensure that the accountable authority of the agency is provided with all the information relating to the subsidiary body that the accountable authority needs to comply with this section, section 62 and the Treasurer's instructions.

62. Financial statements

- (1) Unless the Treasurer approves otherwise, the financial statements referred to in section 61(1)(a) are to be prepared in accordance with the accounting standards and other requirements issued by the Australian Accounting Standards Board.
- (2) Without limiting subsection (1), the financial statements referred to in section 61(1)(a) —
 - (a) are to include —
 - (i) any financial statements and information prescribed by the Treasurer's instructions; and
 - (ii) any other financial information required by a written direction given by the Minister;
 - and
 - (b) are to be certified in the manner prescribed by the Treasurer's instructions.
- (3) In subsection (1) —

Australian Accounting Standards Board means the body of that name continued in existence under the Commonwealth *Australian Securities and Investments Commission Act 2001*.

63. Accountable authorities to submit financial reports and other information

- (1) The accountable authority of an agency is to submit to the Auditor General —
 - (a) the financial statements and key performance indicators referred to in section 61(1)(a) and (b); and
 - (b) any other information referred to in section 61(1)(d) that is required by the Treasurer's instructions to be submitted to the Auditor General under this subsection.
- (2) The accountable authority of an agency is to submit to the Minister —
 - (a) the annual report prepared by the accountable authority under section 61(1); and
 - (b) unless the audit of the agency's accounts in respect of the relevant financial year has been dispensed with under the *Auditor General Act 2006* section 14(2) — a copy of the opinion of the Auditor General prepared and signed under section 15 of that Act.

64. Minister to table accountable authority's report

- (1) The Minister is to cause to be laid before each House of Parliament, or dealt with under section 83, within the prescribed period after the end of a financial year of an agency —
 - (a) a copy of the annual report for the financial year prepared by the accountable authority of the agency under section 61; and
 - (b) unless the audit of the agency's accounts in respect of the financial year has been dispensed with under the *Auditor General Act 2006* section 14(2) — a copy of the opinion of the Auditor General prepared and signed under section 15 of that Act.
- (2) In subsection (1) —

prescribed period means —

 - (a) 90 days; or

- (b) any shorter period that is prescribed by the regulations for the purposes of this definition.

65. Minister to inform Parliament if annual report and Auditor General's opinion cannot be tabled on time

- (1) If the Minister is not able to cause a copy of an annual report and if applicable, the opinion of the Auditor General referred to in section 64(1) to be laid before each House of Parliament, or dealt with under section 83, within the prescribed period after the end of a financial year of an agency, the Minister is to inform both Houses of Parliament, on or before the expiry of that period, of —
 - (a) the Minister's inability to do so; and
 - (b) the reasons for that inability; and
 - (c) the anticipated date on which those documents will be tabled.
- (2) If the Minister is not able to comply with subsection (1) in respect of a House of Parliament because that House is not then sitting, the Minister is to inform that House as required by that subsection as soon as is practicable after the expiry of the prescribed period.
- (3) In this section —
prescribed period means the prescribed period referred to in section 64.

Division 3 — Reporting on abolition of agencies

66. Terms used in this Division

In this Division —

abolition, of an agency that is a department or sub-department, means —

- (a) the abolition of the agency; or
- (b) the amalgamation of the agency with one or more other departments or sub-departments; or

- (c) the division of the agency into 2 or more departments or sub-departments;

final report means a report prepared and submitted under section 68(3)(b);

reporting officer means a person appointed by the Treasurer under section 68(1).

67. Purpose of this Division

The purpose of this Division is to secure proper accountability on the abolition of an agency.

68. Reporting on abolition of agency

- (1) Before, on or after the abolition of an agency, the Treasurer is to appoint a person to perform the duties set out in this section.
- (2) If the abolition takes effect at the end of a financial year of the agency, the reporting officer is to comply with the provisions of sections 61 and 63 in respect of the agency —
 - (a) for that financial year; and
 - (b) to the extent that those provisions have not been complied with for any earlier financial year of the agency.
- (3) If the abolition takes effect at a time other than the end of a financial year of the agency, the reporting officer is to —
 - (a) comply with the provisions of sections 61 and 63 in respect of the agency to the extent that those provisions have not been complied with for any financial year of the agency that ended before the abolition; and
 - (b) prepare and submit to the Minister a report in respect of the agency for the period starting from the end of the last financial year of the agency to have ended before the abolition and ending with the abolition.
- (4) The Treasurer may give the reporting officer written directions as to the preparation and submission of the final report.

- (5) On appointment under subsection (1), the reporting officer has a duty to prepare and submit any report required under this section and to comply with any directions given by the Treasurer under subsection (4).

69. Content of final report

- (1) The reporting officer is to include in the final report —
- (a) financial statements of the kind referred to in section 61(1)(a); and
 - (b) information of the kind referred to in section 61(1)(f).
- (2) The reporting officer is also to include in the final report, to the extent that it is practicable for the reporting officer to do so —
- (a) information of the kind referred to in section 61(1)(b) and (d); and
 - (b) a report of the kind referred to in section 61(1)(c); and
 - (c) if applicable, reports of the kind referred to in section 61(1)(e).

70. Directions by Treasurer

- (1) Directions given by the Treasurer for the purposes of this Division may include directions —
- (a) that specify information to be included in the final report; and
 - (b) so far as is necessary to enable the purposes of this Division to be achieved effectively and without delay — that modify the application of Division 2 and any related regulations to the final report; and
 - (c) that relate to any supplementary and incidental matters that the Treasurer thinks desirable to ensure proper accountability in respect of the abolished agency; and
 - (d) if the abolition of the agency takes effect otherwise than on 30 June in any year — that specify the date by which

the final report is to be prepared and submitted to the Minister; and

- (e) if there is no Minister responsible or there is doubt as to whether there is a Minister responsible — that specify (after necessary consultations) the Minister who is to be the Minister for the purposes of the application of sections 61, 64 and 83 to the final report.
- (2) The Treasurer may amend or cancel a direction given for the purposes of this Division.

71. Reporting officers entitled to reasonable assistance and facilities and access to accounts

- (1) For the purposes of this Division, the reporting officer is entitled to be provided with reasonable assistance and facilities and to have full and free access at all reasonable times to all accounts and any other information, documents and records, in the possession of any person, that the reporting officer considers necessary for those purposes.
- (2) The reporting officer may make copies of, or take extracts from, any of those accounts, documents or records or make a record of any of that information.
- (3) A person who has possession of any accounts, information, documents or records of the kind referred to in subsection (1) must at any reasonable time, on the request of the reporting officer, produce any of those accounts, documents or records, or any of that information, specified in the request.

Penalty: a fine of \$10 000.

72. Reporting officers to submit financial statements and information to Auditor General

- (1) Subject to any directions given by the Treasurer for the purposes of this Division, the reporting officer is to submit for the opinion of the Auditor General —

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Part 5 Reports

Division 3 Reporting on abolition of agencies

s. 72

- (a) the financial statements referred to in section 69(1)(a);
and
 - (b) the information (if applicable) referred to in
section 69(2)(a).
- (2) Subject to any necessary modifications, this Act applies to those financial statements and that information (if applicable) in the same way that it applies to —
- (a) financial statements referred to in section 61(1)(a); and
 - (b) information referred to in section 61(1)(b) and (d).
- (3) Sections 64, 65 and 83 apply to the final report in the same way that they apply to an annual report referred to in section 61, but the prescribed period referred to in section 64(1) is taken to be 14 days after the final report is submitted to the Minister.

Part 6 — Miscellaneous

Division 1 — Delegations and authorisations

73. Term used in this Division

In this Division —

Treasury Corporation official means a person employed or engaged for the purposes of the Western Australian Treasury Corporation established by the *Western Australian Treasury Corporation Act 1986*.

74. Delegation by Treasurer

- (1) The Treasurer may delegate to a Minister any power or duty of the Treasurer under another provision of this Act.
- (2) The Treasurer may delegate to an officer of the Treasury any power or duty of the Treasurer under another provision of this Act.
- (3) The Treasurer may delegate to a Treasury Corporation official the power of the Treasurer under section 37.

75. Delegation by Ministers

A Minister may delegate to an officer of the Treasury any power or duty delegated to the Minister under section 74(1).

76. Delegation and authorisation by Under Treasurer

- (1) The Under Treasurer may delegate to a Treasury Corporation official any power of the Treasurer under section 37 delegated to the Under Treasurer under section 74(2).
- (2) The Under Treasurer may authorise an officer of the Treasury to exercise or perform any power or duty —
 - (a) delegated to the Under Treasurer under section 74(2); or
 - (b) conferred on the Under Treasurer by the Treasurer's instructions.

77. General provisions about delegations and authorisations

- (1) A delegation under this Division or an authorisation under section 76(2) is to be in writing signed by the person making the delegation or giving the authorisation.
- (2) A person exercising or performing a power or duty —
 - (a) that has been delegated to the person under this Division; or
 - (b) that the person is authorised to exercise or perform under section 76(2),

is taken to do so in accordance with the terms of the delegation or authorisation unless the contrary is shown.

- (3) A person (the *delegate*) exercising or performing a power or duty —
 - (a) that has been delegated to the delegate under this Division; or
 - (b) that the delegate is authorised to exercise or perform under section 76(2),

is to do so in accordance with any directions given to the delegate by the person —

- (c) who delegated the power or duty to the delegate; or
 - (d) who authorised the delegate to exercise or perform the power or duty.
- (4) The *Interpretation Act 1984* sections 58 and 59 apply to an authorisation under section 76(2) in the same way as they apply to a delegation.
- (5) Unless the contrary is proved, it is to be presumed that a document purporting to have been signed by a delegate of the Treasurer, a Minister or the Under Treasurer, or by a person authorised by the Under Treasurer under section 76(2), was signed by a person who at the time —
 - (a) was such a delegate or was so authorised; and

- (b) was authorised to sign it.
- (6) Nothing in this Division limits the ability of the Treasurer, a Minister or the Under Treasurer to perform a function through an officer or agent.

Division 2 — Treasurer's instructions

78. Treasurer's instructions

- (1) The Treasurer may issue, amend or revoke instructions concerning the principles, practices and procedures to be complied with in the financial management of the State.
- (2) The Treasurer's instructions are not to be inconsistent with this Act.
- (3) A person who is an accountable authority or an officer is to comply with the Treasurer's instructions.
- (4) The Treasurer is to cause notice to be published in the *Gazette* of the issue, amendment or revocation of Treasurer's instructions, but a notice under this subsection does not need to include the text of the instructions or amendments.
- (5) The validity of the Treasurer's instructions is not affected by any failure to comply with subsection (4).

Division 3 — Miscellaneous powers and duties

79. Treasurer's power to require information

- (1) The Treasurer may require the accountable authority or an officer of an agency to provide the Treasurer with any information relating to the financial management of the agency that the Treasurer thinks necessary for the purposes of this Act.
- (2) A person given a direction under subsection (1) is to provide the information to the Treasurer in the manner and form directed by the Treasurer.

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.

81. Certain actions and arrangements not to be taken or entered into

The Minister and the accountable authority of an agency are to ensure that —

- (a) no action is taken or omitted to be taken; and
- (b) no contractual or other arrangement is entered into,

by or on behalf of the Minister or agency that would prevent or inhibit the provision by the Minister to Parliament of information concerning any conduct or operation of the agency.

82. Minister to report decisions not to provide certain information about agencies

- (1) If the Minister decides that it is reasonable and appropriate not to provide to Parliament certain information concerning any conduct or operation of an agency, then within 14 days after

making the decision the Minister is to cause written notice of the decision —

- (a) to be laid before each House of Parliament or dealt with under section 83; and
 - (b) to be given to the Auditor General.
- (2) A notice under subsection (1)(a) is to include the Minister's reasons for making the decision that is the subject of the notice.

Division 4 — General

83. Supplementary provision about laying documents before Parliament

- (1) If —
- (a) at the start of a period referred to in section 23(5), 64(1) or 82(1) in respect of a document a House of Parliament is not sitting; and
 - (b) the Minister is of the opinion that that House will not sit during that period,

the Minister is to transmit a copy of the document to the Clerk of that House and, in the case of the transmission of a copy of an annual report and opinion referred to in section 64(1), the Minister is to make the report and opinion available to the public.

- (2) A copy of a document transmitted to the Clerk of a House is to be regarded as having been laid before that House.
- (3) The laying of a copy of a document that is regarded as having occurred under subsection (2) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after the Clerk received the copy.

84. Regulations

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are

necessary or convenient to be prescribed for giving effect to the purposes of this Act.

85. Review of Act

- (1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after —
 - (a) the fifth anniversary of its commencement; and
 - (b) the expiry of each 5 yearly interval after that anniversary.
- (2) In the course of a review under subsection (1) the Minister is to consider and have regard to —
 - (a) whether there is a need for this Act to continue; and
 - (b) any other matters that appear to the Minister to be relevant to the operation and effectiveness of this Act.
- (3) The Minister is to prepare a report based on a review under subsection (1) and, as soon as is practicable after the report is prepared, is to cause a copy of it —
 - (a) to be laid before each House of Parliament; and
 - (b) to be given to the Joint Standing Committee on Audit.
- (4) The Joint Standing Committee on Audit —
 - (a) is to carry out a review of the report; and
 - (b) in the course of that review, may consider and have regard to any matters that appear to the Joint Standing Committee on Audit to be relevant to the report or the operation and effectiveness of this Act.
- (5) The Joint Standing Committee on Audit is to prepare a report based on the review and, as soon as is practicable after the report is prepared, is to cause it to be laid before the Legislative Council and the Legislative Assembly.

Schedule 1 — Statutory authorities

[s. 3 and 6]

Agricultural Produce Commission
Animal Resources Authority

Botanic Gardens and Parks Authority
Building and Construction Industry Training Board
Bunbury Water Board
Busselton Water Board
Chemistry Centre (WA)
Coal Industry Superannuation Board
Colleges established under the *Vocational Education and Training Act 1996*
section 35

Commissioner of Main Roads
Construction Industry Long Service Leave Payments Board
Corruption and Crime Commission
Country High School Hostels Authority
Country Housing Authority
Curtin University of Technology

Disability Services Commission
Economic Regulation Authority
Edith Cowan University

Fire and Emergency Services Authority of Western Australia
Fire and Emergency Services Superannuation Board
Forest Products Commission

Gaming and Wagering Commission of Western Australia
Gascoyne Development Commission
Gold Corporation
Goldfields-Esperance Development Commission
Government Employees Superannuation Board
Great Southern Development Commission

Health and Disability Services Complaints Office
Heritage Council of Western Australia
Agencies established under the *Hospitals and Health Services Act 1927*
section 7B

Hospital boards constituted under the *Hospitals and Health Services Act 1927*
section 15 and the Minister in relation to any public hospital
controlled by the Minister under section 7 of that Act

Housing Authority

Insurance Commission of Western Australia

Keep Australia Beautiful Council (W.A.)

Kimberley Development Commission

Landcare Trust

Law Reform Commission of Western Australia

Legal Aid Commission of Western Australia

Legal Contribution Trust

Legal Costs Committee

Local Health Authorities Analytical Committee

Lotteries Commission

Metropolitan Cemeteries Board

Metropolitan Redevelopment Authority

Mid West Development Commission

Minerals and Energy Research Institute of Western Australia

Murdoch University

Parliamentary Inspector of the Corruption and Crime Commission

Peel Development Commission

Perth Market Authority

Perth Theatre Trust

Pilbara Development Commission

Potato Marketing Corporation of Western Australia

Professional Combat Sports Commission

Professional Standards Council

Public Transport Authority of Western Australia

Public Trustee

Racing and Wagering Western Australia

Racing Penalties Appeal Tribunal of Western Australia

Real Estate and Business Agents Supervisory Board⁶

Rottneest Island Authority

Rural Business Development Corporation

School Curriculum and Standards Authority

Screen West (Inc.)
Settlement Agents Supervisory Board⁷
Small Business Development Corporation
South West Development Commission
State Government Insurance Corporation
State Supply Commission
Swan Bells Foundation Incorporated
Swan River Trust

The Aboriginal Affairs Planning Authority
The Anzac Day Trust
The Board of the Art Gallery of Western Australia
The Burswood Park Board
The Coal Miners' Welfare Board of Western Australia
The Library Board of Western Australia
The National Trust of Australia (W.A.)
The Queen Elizabeth II Medical Centre Trust
The University of Western Australia
The Western Australian Museum
Trustees of the Public Education Endowment

Western Australian Alcohol and Drug Authority
Western Australian Building Management Authority
Western Australian Coastal Shipping Commission
Western Australian Energy Disputes Arbitrator
Western Australian Greyhound Racing Association
Western Australian Health Promotion Foundation
Western Australian Institute of Sport
Western Australian Land Information Authority
Western Australian Meat Industry Authority
Western Australian Planning Commission
Western Australian Sports Centre Trust
Western Australian Tourism Commission
Western Australian Treasury Corporation
Wheatbelt Development Commission
WorkCover Western Australia Authority

Zoological Parks Authority

*[Schedule 1 amended by No. 77 of 2006 s. 17; No. 10 of 2007 s. 43;
No. 24 of 2007 s. 36; No. 38 of 2007 s. 195; No. 28 of 2008 s. 13;
No. 16 of 2009 s. 69; No. 33 of 2010 s. 56; No. 45 of 2011 s. 138;
No. 54 of 2011 s. 5; No. 37 of 2011 s. 56; amended in Gazette
13 Jul 2007 p. 3454; 4 Jan 2008 p. 29; 8 Feb 2008 p. 323;
20 Aug 2010 p. 4072.]*

Schedule 2 — Modifications to the Act as to certain administrations

[s. 5(2)]

The provisions of the Act specified in column 1 are modified and have effect for the purposes of section 5(2) as if they were in the form set out opposite in column 2.

Column 1	Column 2
Section	Modified form
21	21. (1) The Treasurer may direct that a special purpose account operated by an agency, other than a special purpose account established by an Act, be closed.
48	48. (4) The accountable authority of an agency may, with the prior approval of the Governor, write off relevant amounts that are greater than the monetary limit prescribed for the purposes of subsection (2), subject to any conditions prescribed by the regulations.
52	52. The accountable authority of an agency is responsible for the financial management of the services under the control of the agency.
54	54. (1) The accountable authority of the agency taken to be constituted under section 5(1) by the administration of — <ul style="list-style-type: none"> (a) the Legislative Council is the Clerk of the Legislative Council; or (b) the Legislative Assembly is the Clerk of the Legislative Assembly; or (c) the Parliamentary Services Department is the Executive Manager (however designated) of the Parliamentary Services Department; or (d) the Parliamentary Commissioner for Administrative Investigations is the chief executive officer of the department of the Public Service principally assisting in the administration of the <i>Parliamentary Commissioner Act 1971</i>; or (e) the Information Commissioner is the chief executive officer of the department of the Public Service principally assisting in the administration of the <i>Freedom of Information Act 1992</i>,

Column 1	Column 2
Section	Modified form
61	<p>and the accountable authority of an agency taken to be constituted under section 5(1) by the administration of a body or office that is the subject of regulations referred to in that provision is the person appointed, in writing, by the Treasurer to be the accountable authority of that agency.</p> <p>61. (1) After the end of each financial year the accountable authority of an agency is to prepare an annual report that contains —</p> <ul style="list-style-type: none">(a) financial statements for the financial year; and(b) key performance indicators; and(c) a report on the operations of the agency during the financial year; and(d) any information prescribed by the Treasurer's instructions; and(e) if applicable, the reports referred to in subsections (2) and (3).
62	<p>62. (2) Without limiting subsection (1), the financial statements referred to in section 61(1)(a) —</p> <ul style="list-style-type: none">(a) are to include any financial statements and information prescribed by the Treasurer's instructions; and(b) are to be certified in the manner prescribed by the Treasurer's instructions.
63	<p>63. (2) The accountable authority of an agency is to submit to the Treasurer —</p> <ul style="list-style-type: none">(a) the annual report prepared by the accountable authority under section 61(1); and(b) unless the audit of the agency's accounts in respect of the relevant financial year has been dispensed with under the <i>Auditor General Act 2006</i> section 14(2) — a copy of the opinion of the Auditor General prepared and signed under section 15 of that Act.

Column 1	Column 2
Section	Modified form
64	<p>64. (1) The accountable authority of an agency is to transmit to both Houses of Parliament within the prescribed period after the end of a financial year of the agency —</p> <ul style="list-style-type: none">(a) copies of the annual report for the financial year prepared by the accountable authority under section 61(1); and(b) unless the audit of the agency's accounts in respect of the financial year has been dispensed with under the <i>Auditor General Act 2006</i> section 14(2) — a copy of the opinion of the Auditor General prepared and signed under section 15 of that Act.
65	<p>65. (1) If the accountable authority of an agency is not able to transmit copies of the annual report and, if applicable, the opinion of the Auditor General referred to in section 64(1) to both Houses of Parliament within the prescribed period after the end of the financial year, the accountable authority is to inform both Houses of Parliament, on or before the expiry of that period, of —</p> <ul style="list-style-type: none">(a) the accountable authority's inability to do so; and(b) the reasons for that inability; and(c) the anticipated date on which those documents will be transmitted. <p>65. (2) If the accountable authority of an agency is not able to comply with subsection (1) in respect of a House of Parliament because that House is not then sitting, the accountable authority is to inform that House as required by that subsection as soon as is practicable after the expiry of the prescribed period.</p>

For the purposes of section 5(2), Part 3 Division 5 does not have effect.

**Schedule 3 — Modifications to the Act as to the Office of
the Auditor General**

[s. 5(3)]

The provisions of the Act specified in column 1 are modified and have effect for the purposes of section 5(3) as if they were in the form set out opposite in column 2.

Column 1	Column 2
Section	Modified form
21	21. (1) The Treasurer may direct that a special purpose account operated by the Office of the Auditor General, other than a special purpose account established by an Act, be closed.
48	48. (4) The accountable authority of the Office of the Auditor General may, with the prior approval of the Governor, write off relevant amounts that are greater than the monetary limit prescribed for the purposes of subsection (2), subject to any conditions prescribed by the regulations.
52	52. The accountable authority of the Office of the Auditor General is responsible for the financial management of the services under the control of the Office of the Auditor General.
54	54. (1) The Auditor General is the accountable authority of the Office of the Auditor General.
61	61. (1) After the end of each financial year the accountable authority of the Office of the Auditor General is to prepare an annual report that contains — <ul style="list-style-type: none">(a) financial statements for the financial year; and(b) key performance indicators; and(c) a report on the operations of the Office of the Auditor General during the financial year; and(d) any information prescribed by the Treasurer's instructions unless, in the opinion of the Auditor General, this information would compromise the Auditor General's independence; and(e) if applicable, the reports referred to in subsections (2) and (3).

Column 1	Column 2
Section	Modified form
62	<p>62. (2) Without limiting subsection (1), the financial statements referred to in section 61(1)(a) —</p> <ul style="list-style-type: none"> (a) are to include any financial statements and information prescribed by the Treasurer’s instructions; and (b) are to be certified in the manner prescribed by the Treasurer’s instructions.
63	<p>63. (2) After receiving the opinion of the independent auditor appointed in accordance with the <i>Auditor General Act 2006</i> section 38, the Auditor General is to transmit copies of the annual report for a financial year prepared by the accountable authority under section 61(1) together with a copy of the opinion of the independent auditor to both Houses of Parliament within 90 days after the end of the financial year.</p>
65	<p>65. (1) If the Auditor General is not able to transmit copies of the annual report and the opinion of the independent auditor referred to in section 63(2) to both Houses of Parliament within 90 days after the end of the financial year, the Auditor General is to inform both Houses of Parliament, on or before the expiry of that period, of —</p> <ul style="list-style-type: none"> (a) the Auditor General’s inability to do so; and (b) the reasons for that inability; and (c) the anticipated date on which those documents will be transmitted. <p>65. (2) If the Auditor General is not able to comply with subsection (1) in respect of a House of Parliament because that House is not then sitting, the Auditor General is to inform that House as required by that subsection as soon as is practicable after the expiry of the period referred to in that subsection.</p>

For the purposes of section 5(3), Part 3 Division 5 and section 64 do not have effect.

Notes

- ¹ This is a compilation of the *Financial Management Act 2006* and includes the amendments made by the other written laws referred to in the following table³. The table also contains information about any reprint.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Financial Management Act 2006</i>	76 of 2006	21 Dec 2006	s. 1 and 2: 21 Dec 2006; Act other than s. 1 and 2: 1 Feb 2007 (see s. 2 and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Financial Legislation Amendment and Repeal Act 2006 s. 17</i>	77 of 2006	21 Dec 2006	1 Feb 2007 (see s. 2(1) and <i>Gazette</i> 19 Jan 2007 p. 137)
<i>Chemistry Centre (WA) Act 2007 s. 43</i>	10 of 2007	29 Jun 2007	1 Aug 2007 (see s. 2(1) and <i>Gazette</i> 27 Jul 2007 p. 3735)
<i>Financial Management (Statutory Authorities) Regulations 2007</i> published in <i>Gazette</i> p. 3453-4			13 Jul 2007
<i>Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 s. 36</i>	24 of 2007	12 Oct 2007	18 Dec 2010 (see s. 2(1) and <i>Gazette</i> 17 Dec 2010 p. 6349)
<i>Water Resources Legislation Amendment Act 2007 s. 195</i>	38 of 2007	21 Dec 2007	1 Feb 2008 (see s. 2(2) and <i>Gazette</i> 31 Jan 2008 p. 251)
<i>Financial Management (Statutory Authorities) Regulations (No. 2) 2007</i> published in <i>Gazette</i> p. 29			4 Jan 2008
<i>Financial Management (Statutory Authorities) Regulations 2008</i> published in <i>Gazette</i> p. 322-3			r. 1 and 2: 8 Feb 2008 (see r. 2(a)); Regulations other than r. 1 and 2: 9 Feb 2008 (see r. 2(b))
<i>Eastern Goldfields Transport Board Repeal Act 2008 s. 13</i>	28 of 2008	1 Jul 2008	29 Jul 2008

Reprint 1: The *Financial Management Act 2006* as at 26 Sep 2008 (includes amendments listed above except those in the *Biosecurity and Agriculture Management (Repeal and Consequential Provisions) Act 2007 s. 36*)

Short title	Number and year	Assent	Commencement
<i>National Gas Access (WA) Act 2009 s. 69</i>	16 of 2009	1 Sep 2009	1 Jan 2010 (see s. 2(b) and <i>Gazette</i> 31 Dec 2009 p. 5327)
<i>Financial Management (Statutory Authorities) Regulations 2010</i> published in <i>Gazette</i> 20 Aug 2010 p. 4071-2			r. 1 and 2: 20 Aug 2010 (see r. 2(a)); Regulations other than r. 1 and 2: 21 Aug 2010 (see r. 2(b))
<i>Health and Disability Services Legislation Amendment Act 2010 s. 56</i>	33 of 2010	30 Aug 2010	30 Nov 2010 (see s. 2(b) and <i>Gazette</i> 17 Sep 2010 p. 4757)
<i>Public Sector Reform Act 2010 s. 76</i>	39 of 2010	1 Oct 2010	1 Dec 2010 (see s. 2(b) and <i>Gazette</i> 5 Nov 2010 p. 5563)
<i>Curriculum Council Amendment Act 2011 Pt. 3 Div. 2</i>	37 of 2011	13 Sep 2011	1 Mar 2012 (see s. 2(b) and <i>Gazette</i> 28 Feb 2012 p. 841)
<i>Metropolitan Redevelopment Authority Act 2011 s. 138</i>	45 of 2011	12 Oct 2011	31 Dec 2011 (see s. 2(b) and <i>Gazette</i> 30 Dec 2011 p. 5573)
<i>Agricultural Practices (Disputes) Repeal Act 2011 s. 5</i>	54 of 2011	9 Nov 2011	7 Dec 2011 (see note under s. 1)

² Repealed by the *Financial Legislation Amendment and Repeal Act 2006 s. 3*.

³ Footnote no longer applicable.

⁴ The amendment in the *State Superannuation Amendment Act 2007 s. 79* is not included because it was repealed by the *State Superannuation Amendment Act 2011 s. 4* before the amendment purported to come into operation.

⁵ Footnote no longer applicable.

⁶ The Real Estate and Business Agents Supervisory Board was abolished on 1 Jul 2011. The *Real Estate and Business Agents Act 1978 s. 149* and 150 read as follows:

149. Former Board abolished

Subject to sections 156 and 157, at the beginning of the commencement day, the former Board is abolished and its members go out of office.

150. References to the former Board

If in a written law or other document or instrument there is a reference to the former Board, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

⁷ The Settlement Agents Supervisory Board was abolished on 1 Jul 2011. The *Settlement Agents Act 1981* s. 125 and 125 read as follows:

125. Former Board abolished

Subject to sections 132 and 133, at the beginning of the commencement day, the former Board is abolished and its members go out of office.

126. References to the former Board

If in a written law or other document or instrument there is a reference to the former Board, that reference may, where the context so requires, be read as if it had been amended to be a reference to the Commissioner.

Defined Terms

*[This is a list of terms defined and the provisions where they are defined.
The list is not part of the law.]*

Defined Term	Provision(s)
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Australian Accounting Standards Board	62(3)
authorised person	51(1)
bank	3
Consolidated Account	3
current year	24(1)
delegate	77(3)
department	3
determination	23(1)
final report	66
general purpose	25(1)
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prescribed receipts	23(1)
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Public Bank Account	3
Public Bank Account Interest Earned Account	3
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