

Discussion Paper

Replacement of the Financial Administration and Audit Act by

The Financial Management Act

and

The Auditor General Act

Department of Treasury and Finance
November 2005

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Introduction

The *Financial Administration and Audit Act 1985* (FAAA):

- makes provision for the administration and audit of the public finances of the State and certain statutory authorities and other bodies;
- provides for annual reporting by departments and statutory authorities;
- authorises and regulates the investment of certain public moneys;
- provides for the office and functions of the Auditor General; and
- makes provision for related or incidental purposes.

The FAAA is a product of its time with great emphasis on cash accounting, centralised control and limited financial management by agencies. Despite numerous amendments over the last 20 years it has become progressively less suited to the modern government accounting environment.

The idea to replace the existing Act arose from a recognition that it fails to deliver the best outcome for financial management in the face of two central developments in the policy environment. These developments are:

- the increasingly ‘arms-length’ relationship between the executive arm of government and the financial entities that are the agencies of government (since the allocation of operating trust accounts to agencies in 1997, there has been effective separation of financial management identity between the core-of-government and agencies); and
- the adoption of modern accounting principles and practices at both the agency and core-of-government levels.

A comprehensive review of the FAAA has been undertaken by the Department of Treasury and Finance (DTF) in consultation with the Financial Reform Consultative Committee (comprising 14 public sector agencies), the Public Sector Committee of CPA Australia, the Institute of Chartered Accountants of Australia, the State Solicitor’s Office, and the Office of the Auditor General. The overarching themes or objectives of the review include:

- enhancing **accountability** for financial management practices and outcomes in the Western Australian public sector;
- **modernising** the legislation to make it more reflective of the current government accounting environment;
- **simplifying and streamlining** the legislation, including moving some of the more detailed and prescriptive provisions from the Act to regulations and/or Treasurer’s Instructions; and
- related to the above point, enhancing the **robustness** of the legislation by outlining the key accountabilities, controls and principles in the Act and moving the more ‘operational’ provisions to regulations and/or Treasurer’s Instructions.

Major Changes

Some of the more urgent components of the FAAA review have already been introduced by the *Financial Administration Legislation Amendment Act 2005* (FALAA), which received Royal Assent on 27 June 2005.

The following comparison includes changes to the existing FAAA and *Government Financial Responsibility Act 2000* by the FALAA (Appendix 2 contains a detailed clause-by-clause comparison).

1. Separate financial management and audit acts

It is proposed that the FAAA be separated into two Acts - the Financial Management Bill (FMB) and the Auditor General Bill (AGB). This is aimed at enhancing the Auditor General's status as an independent officer of Parliament, and is consistent with the recommendations of the 1995 Commission on Government.

The AGB provides for the appointment and functions of an Auditor General to ensure the State has an Auditor General with the necessary functions, immunities and independence. It also provides for the independent external audit of the public sector and related entities.

Under the FAAA, the Auditor General is entitled to hold office until attaining the age of 65 years. Under the AGB, the Auditor General is to be appointed for a non-renewable term of 10 years (the appointment is to be made by the Governor on the recommendation of the Minister, after the Minister consults the parliamentary leader of each party in Parliament and the Public Accounts Committee).

It is also proposed that the Auditor General's mandate be broadened to cover all commercial activities of agencies including joint ventures, partnerships and trusts where these relate to functions performed on behalf of an agency, in partnership or jointly with an agency or as a delegate or agent of the agency. The AGB also provides the Auditor General the power to waive audits for a limited period to permit resources to be directed to areas of greater risk.

At a broad level, the FMB contains provisions for the control and management of public sector finances. It also maintains the existing requirements for agencies to:

- prepare annual reports;
- submit financial reports to the Auditor General; and
- submit the audited annual report to the Minister who, in turn, is to table the annual report in Parliament.

2. The distinction between departments and statutory authorities removed

The FAAA refers to departments and statutory authorities separately.

Statutory authorities are bodies corporate with specific financial powers. They are brought into existence through individual enabling legislation that defines their objectives, powers, functions and accountabilities. Statutory authorities are subject to the FAAA and are listed in Schedule 1 to the Act (there are more than one hundred authorities in the Schedule, such as hospitals, regional Development Commissions, TAFEs, universities, Superannuation Boards, Main Roads, and the State Supply Commission). Due to the prescriptive nature of their legislation, they are more limited in terms of powers and, therefore, flexibility than a department.

Departments are created by the Governor on the recommendation of a Minister under Section 35 of the *Public Sector Management Act 1994*. Departments are always subject to the FAAA. Departments have no separate legal status from the Crown and operate under the authority of the responsible Minister.

For completeness, corporatised entities such as Western Power, the Water Corporation and the port authorities are also established by enabling legislation, but rather than being subject to the FAAA, are subject to corporations law governance equivalents imposed by their own legislation.

The FAAA generally applies a consistent approach in its treatment of statutory authorities and departments, and contains a considerable amount of duplicated provisions (mostly verbatim) for statutory authorities and departments. This contributes substantially to the FAAA's length.

Provisions of a similar nature are amalgamated in the FMB whilst preserving any important distinctions between departments and statutory authorities in sub-sections or definitions (for example, the accountable authority for a department is a person whereas in the case of a statutory authority it could also be a board).

The FMB also introduces a third type of agency – a 'sub-department', to specifically identify an entity which forms part of a department but maintains separate accounts, is the subject of a separate division within the estimates and is responsible to the Minister for the financial administration of its services. The Office of Shared Services (part of the Department of the Premier and Cabinet) is an example of a sub-department. The FMB treats sub-departments in the same way as other agencies, which means for example that a sub-department must have a Chief Finance Officer and must produce its own annual report.

3. [The timing of annual reports shortened to 90 days](#)

The requirements for annual reports are synchronised in the FMB for both departments and statutory authorities. In addition, the reports are to be tabled in Parliament within 90 days after the end of the financial year, commencing from the 2005-06 financial year. This compares to the current deadlines of 128 days (5 November) for departments and 174 days (21 December) for statutory authorities.

These amendments were contained in the FALAA, and are mirrored in the FMB.

4. [Treasurer's reports streamlined](#)

The requirements for the Treasurer's Annual Statements (TAS) and Treasurer's Quarterly Statements have been removed. The *Government Financial Responsibility Act* introduces a new Annual Report on State Finances (ARSF) to replace three current

reports – the TAS, Government Financial Results Report and Consolidated Financial Statements. The ARSF is to be audited and tabled in Parliament within 90 days of the end of the financial year, commencing from the 2005-06 financial year.

In addition, the Quarterly Financial Results Reports will, from 1 January 2006, be required to be tabled in Parliament within 60 days of the end of the relevant quarter (these reports currently have no legislative deadline).

These amendments were contained in the FALAA, and are reflected in the FMB.

5. Treasurer's Accounts replaced by Public Ledger

The FAAA creates and defines the scope of the Trust Fund and the Treasurer's Advance Account. Together with the Consolidated Fund, these three funds are collectively called the Treasurer's Accounts.

The Public Ledger proposed in the FMB is similar to the FAAA Treasurer's Accounts, but excludes trust accounts under the control or administration of agencies.

5.1 *Consolidated Fund retitled Consolidated Account*

To recognise the move away from the strictly fund accounting basis of the past to an accrual basis of appropriation, and to provide consistency in terminology, it is proposed to re-name the Consolidated Fund the Consolidated Account. This will require consequential amendments to the *Constitution Act* and other acts wherever reference to the Consolidated Fund occurs.

5.2 *Trust Fund replaced by Special Purpose Accounts*

The existing structure of the Trust Fund does not reflect the arm's length nature of the relationship between DTF (as administrator of the Treasurer's Accounts) and agencies.

The Trust Fund contains the core-of-government trust funds (e.g. Accrued Salaries, Statutory Authorities Investment Account, Independent Schools – Recurrent Grants, etc) as well as trust funds controlled by agencies. This results in duplication, as details of trust account transactions and balances are already published in agencies' annual reports. With the abolition of the TAS (as noted in item 4 above), there is no longer a need for DTF to collect and report information on agencies' trust accounts.

Accordingly, agency controlled operating accounts, private trust accounts and other special purpose accounts will be the responsibility of the appropriate agency and no longer form part of the accounts controlled by the Treasurer. Agencies will no longer need to submit monthly trust fund data to DTF as this information will be reported only once in agencies' annual reports.

The existing requirement that no trust fund (or special purpose account) can be overdrawn without a prior Treasurer's approval will be retained in the FMB.

Similarly, the FMB retains the key control/accountability mechanism which requires a trust statement or a special purpose statement to establish the purposes to which the moneys in the special purpose account can be spent and any related accountability requirements.

5.3 *Treasurer's Advance Account included in FMB*

Instead of an annual *Treasurer's Advance Authorisation Act*, the FMB will allow the Treasurer to automatically authorise expenditure for supplementary funding and other purposes of up to 3% of the total appropriations of the previous year (based on actual appropriations for 2004-05, this equates to \$313 million, similar to the currently approved limit for 2005-06 of \$300 million).

Importantly, this amendment does not remove the requirement to submit a Treasurer's Advance Supplementation Bill in any given year if the need arises (i.e. if the automatic 3% proves insufficient).

6. Investment powers broadened

The cash balances of the Western Australian Government and most of its agencies are pooled and collectively invested by DTF, with financial market services and advice provided by the Western Australian Treasury Corporation under a service level agreement.

The total amount of cash in the Public Bank Account (PBA) varies considerably over the course of the year, but the average daily balance is currently around \$1.5 billion. This provides for effective cash management and for efficiencies in investment of the cash reserves within the public sector. The moneys within the PBA are used throughout the year to meet intra-year Consolidated Fund deficits.

The interest earned on the investment of the PBA is generally required to be paid into the Consolidated Fund and be subject to appropriation by Parliament. There are, however, some circumstances where it is appropriate for interest to be paid to accounts other than the Consolidated Fund – e.g. where there is a specific legal requirement, the relevant accounts are not dependant on budget funding, or in the case of private or trust moneys.

Currently, the FAAA limits the PBA investments to cash, bank deposits, bills and bonds. It is clearly intended that investments be low risk. Bills are required to be bank-backed, while bonds are to be government or semi-government instruments backed by a guarantee.

To allow greater flexibility to take advantage of investments that are found to be acceptable in terms of return and risk, the FMB will allow the Treasurer to invest in any form of investment under the *Trustees Act 1962* Part III (subject to the limitation noted in the following paragraph).

Additional asset classes that could be considered are the highly graded corporate bonds. Investment in Australian equities, overseas equities and property does not appear appropriate given the requirement for a moderately low risk investment strategy and the short term nature of the liabilities of the PBA. To ensure this outcome, the ability to invest in accordance with the *Trustees Act* will be limited to specific investment classes prescribed by way of regulation.

7. Cash Management

Subject to the FAAA and any other written law, if the Treasurer is satisfied that there is available in any trust fund, with the exception of operating accounts, a credit balance

in excess of the amount reasonably required for the purposes of that account, the Treasurer may direct that the whole or a part of that excess be credited to the Consolidated Fund.

The FMB retains this facility and extends it to operating accounts to enable the Treasurer to transfer excess funds from agencies' operating accounts back to the Consolidated Account. This would provide for a balanced approach – if agencies need more funds to deliver their services than estimated, supplementary funding will be considered; if the estimates turn out to be more than sufficient, the excess funds can be returned to the Consolidated Account. While this is occasionally happening on a voluntary basis, there is currently no legislative backing in the Act.

This change would enable a more proactive approach to cash management, which is considered desirable in light of continuing growth in agencies' cash balances (and the potential risk this poses to the Government's financial targets).

8. Resource Agreements

To ensure greater accountability around approved expense limits and resource management in agencies more generally, the FMB contains a provision requiring relevant agencies to:

- have a Resource Agreement with the Treasurer, with the form of the Agreement as specified in the FMB and to include any other matters required by the Treasurer; and
- report (in their annual reports) actual financial outcomes for the year compared to the targets/limits originally approved in their Resource Agreement.

This proposal would enhance the status of Resource Agreements (which are currently an administrative requirement only), and would complete the 'circle of accountability' by requiring agencies to report on their financial performance for the year relative to their Resource Agreement targets/limits.

It is recognised that variations from the originally approved Resource Agreement may occur as a result of government policy decisions made during the year. Where this is the case, it would be a simple matter for the agency to explain that the variance from the originally approved Resource Agreement is due to a post-budget policy decision of government.

9. Extending the Public Bank Account to all statutory authorities

For historical reasons, only certain statutory authorities currently operate on the Public Bank Account (PBA). In line with the shared services developments of centralising processing and service functions, it seems appropriate to extend this concept to banking as well, and conduct all government business (as a general rule) through the PBA.

All shared service clusters have a mixture of PBA and non-PBA entities. The non-PBA statutory authorities' payroll is paid one day earlier than the payroll of public sector employees in entities operating on the PBA using the Government Direct Entry System (GDES). Significant interest savings can be realised if, for example, all public

hospitals use the GDES facility not currently available to entities outside the PBA. Standardising payrolls in all clusters should also result in additional efficiencies.

All funds in the PBA are centrally invested as described in item 6 above. Under this proposal, the statutory authorities would receive interest on their funds (as is currently the case for those statutory authorities that choose to invest in the PBA), and the resources currently involved in the investment function would instead be able to focus on the authorities' core business.

It is therefore proposed that all departments and statutory authorities be part of the PBA, unless specifically exempted. This approach will enable better monitoring and control of cash as well as a more centralised investment function.

10. Strategic Development Plans (SDPs) and Statements of Corporate Intent (SCIs)

The following government business enterprises (GBEs) are currently required to prepare SDPs and SCIs: Water Corporation, Western Power, LandCorp, Forest Products Commission, Western Australian Treasury Corporation, port authorities and Racing and Wagering Western Australia.

One important principle of corporatisation is that GBEs should operate at arms length from the Government, with the purpose being to give management the authority and flexibility to manage the operations and performance of GBEs. However, increased management autonomy must be accompanied by increased accountability for performance. An essential part of the accountability mechanisms is the requirement that corporatised GBEs prepare SDPs and SCIs each financial year.

By aligning the GBEs' internal planning processes with the Government's budget process, the GBEs would be required to submit draft SDPs and SCIs at the same time as budget bilateral submissions, which would ensure that the financial position reflected in the Budget Papers is consistent with the financial information contained in the main accountability documents prepared by the GBEs.

The FMB therefore includes consequential amendments to GBEs' legislation, based on sections 88 and 97 of the *Electricity Corporations Act 2005*, to align the timing of SDPs and SCIs for all GBEs.

11. Abolition of the Capital User Charge

The Capital User Charge (CUC) was introduced together with accrual appropriations as part of the 2001-02 Budget. The intent of the CUC was to act as an incentive for agencies to review their asset holdings, to reflect the cost of holding assets in the cost of services, and to facilitate benchmarking against other jurisdictions.

However, in practice, the CUC has proved a difficult concept to apply in the public sector, as evidenced by the removal of the CUC by all other Australian jurisdictions except Victoria. It has not influenced agencies' behaviour in terms of holding and managing assets, and along with Victoria, Western Australia is now the 'odd one out' in terms of interjurisdictional comparability.

Accordingly, it is proposed to abolish the CUC. It should be noted that this will have no impact on whole-of-government finances, as the CUC eliminates on consolidation

of agencies' financial statements (reflecting the fact that it is purely an intra-government transaction).

Importantly, the opportunity cost of capital will still be addressed in DTF's publication 'Costing and Pricing Government Services' used for costing of agencies' services.

12. Chief Finance Officer

The role of Principal Accounting Officers (PAOs) will be expanded to provide a more strategic focus, and consistent with this, the position will be retitled Chief Finance Officer (CFO). These amendments were contained in the FALAA, and are mirrored in the FMB.

The more strategic role of the CFO will also ensure that the position is compatible with the approaching shared corporate service arrangements, by removing the requirement for CFOs to undertake some routine duties which will be transferred to the host agencies of the shared corporate service clusters.

The FMB defines the role of the CFO. Treasurer's Instruction 824 further details the qualification and other requirements for this position. Currently, officers holding the position of PAO/CFO must have direct access to the chief executive officer of the department or statutory authority, and need to be either suitably qualified individuals or have direct access to suitably qualified individuals. 'Suitably qualified' in this context means a member of a recognised professional accounting body.

It is proposed to amend Treasurer's Instruction 824 to require all CFOs to be a member of a recognised accounting body (such as CPA Australia or the Institute of Chartered Accountants), as this will ensure that CFOs are subject to ongoing professional development, thereby maintaining an appropriate (and up-to-date) level of skills and knowledge.

Issues around the financial management skills of public sector employees are the subject of ongoing discussions between DTF and the professional accounting bodies. A consultative group representing these parties is being established to ensure an ongoing dialogue is maintained on issues and potential future reforms in relation to public sector financial administration.

13. Other Changes

A number of other, more minor changes are contained in the FMB, including:

- moving prescriptive detail (e.g. accounting manual requirements) to Treasurer's Instructions;
- deleting sections allowing cash payments and receipts within 10 days after the financial year ends to be recognised as transactions of the previous year. This is no longer necessary in today's accrual accounting environment;
- establishing the same write-off thresholds and levels of authority for both statutory authorities and departments, and increasing the thresholds (in regulations) as follows:
 - Accountable Authorities - \$100,000 (up from the current thresholds of \$5,000 for departments and \$50,000 for statutory authorities);

- Ministers - \$250,000 (up from the current threshold of \$50,000 for departments; no change for statutory authorities as Ministers currently approve any amount over \$50,000); and
- Minister with approval of the Governor - more than \$250,000 (up from the current threshold of \$50,000 for departments; the Governor's approval will now also be required for statutory authorities); and
- including various changes to modernise and simplify the language to assist users to read and better understand the legal requirements.

The FMB also includes a consequential amendment to section 15 of the *Government Financial Responsibility Act 2000* (GFRA). This section requires the Treasurer to release a Pre-election Financial Projections Statement (PFPS) within 10 days of the calling of a general election. In practice, however, both the 2000-01 PFPS and the 2004-05 PFPS were released by the Under Treasurer, reflecting the need for the PFPS (which is released during the caretaker period) to be an apolitical/objective assessment of the outlook for the State's finances.

Accordingly, it is proposed to amend section 15 of the GFRA to require the Under Treasurer (rather than the Treasurer) to release a PFPS within 10 days of the calling of an election.

Appendix 2 provides a more detailed, clause-by-clause comparison of the FAAA and the FMB. To provide additional background and context to the proposed changes, Appendix 1 outlines the basic legislative and financial framework in which the Western Australian public sector operates.

Appendix 1 - Financial Framework Background

It is useful to outline the environment and the context in which the current FAAA exists so that the changes contained in the Financial Management Bill can be better appreciated.

Parliament is responsible for the legislative framework of financial management and ensuring accountability requirements have been properly discharged. The Executive is responsible for decisions on the allocation and disposition of the financial resources made available from the various public funding sources.

The existing financial arrangements of the public sector in Western Australia are largely a result of the requirements of the FAAA, *the Constitution Act* and the *Constitution Act Amendments Act*.

Other Acts which are also important include the *Government Financial Responsibility Act*, *State Trading Concerns Act*, *Treasurer's Advance Authorisation Act*, the Appropriation Acts, Loan Acts and individual agency enabling legislation.

Parliamentary control of the public purse

There is an interdependence between the Crown (the Executive) and the Parliament (the legislature). This interdependence arises since the Parliament cannot vote money unless it is required by the Crown, nor can the Crown spend money unless it is authorised by the Parliament.

The system of Parliamentary control of the public purse is traditionally described as follows:

The Executive is solely responsible for the formulation of its financial plan (budget) and its submission to the legislature. The legislature considers and authorises this financial plan when announced and, once authorized, the Executive then bears responsibility for implementing this plan.

The execution of the plan rests on the long-standing informal tradition of Treasury control - the Treasury (DTF) is government's instrument for carrying out its financial policy and for supervising the activities of agencies.

The annual appropriations have the following characteristics:

- a sum appropriated to a particular service cannot be spent on another service;
- the sum appropriated is a maximum sum; and
- the sum is only available during the financial year, and any unexpended appropriations will lapse.

The FAAA (or the *Auditor General Act* in the future) creates a machinery for the independent audit of the appropriated expenditure. The Auditor General audits the public accounts on behalf of Parliament to ensure that money has been spent in accordance with the appropriations made.

Consolidated Fund

Section 64 of the *Constitution Act 1889* establishes a Consolidated Fund (CF) of all revenues of the Crown over which the Parliament has the power of appropriation:

All duties and revenues to form Consolidated Fund

All taxes, imposts, rates, and duties, and all territorial, casual, and other revenues of the Crown (including royalties) from whatever source arising within the Colony, over which the Legislature has power of appropriation, shall form one Consolidated Fund together with all other moneys lawfully credited to that Fund, and that Fund shall be appropriated to the Public Service of the Colony in the manner and subject to the charges hereinafter mentioned.

As such, the CF performs a significant role in the Westminster system of Parliament, although it no longer forms the basis of budgeting in Western Australia (the 'headline' measure of budget performance is the general government sector net operating balance, which encompasses the operations of the CF as well as other, non-appropriation supported activities of general government agencies).

The *Constitution Act*, the *Constitution Acts Amendment Act* and the FAAA together establish a rule whereby a 'charge' on the CF may not be made until authorised by legislation, which must originate in the lower House. Such charges are authorisations (appropriations) for withdrawal of moneys from the Public Bank Account for expenditure from the CF.

In addition to annual appropriation of moneys from the CF, Parliament may by legislation direct to certain purposes, revenues otherwise payable to the CF. For example, individual Acts may provide the revenue source of statutory authorities and may provide agencies with the authority to retain revenue associated with net appropriations.

Agents, agencies and the fund arrangements

An important use of the CF in recent years has been to distinguish the core of government from its agents. The CF has provided a mechanism for ensuring that agencies do not spend revenue they collected for general public purposes.

At the time the CF arrangements were initially contemplated, government agencies did not generally have individual financial identity. Government expenditure and revenue did not pass through agency accounts but was merely a transaction of the whole-of-government which was financially indistinguishable with respect to the agency that had administered the related physical or revenue-earning activity. All transactions were 'Consolidated Fund' transactions and there were no 'agency' transactions.

However, since the allocation of operating trust accounts to agencies in 1997, there has been effective separation of financial management identity between the core-of-government and agencies.

Public Bank Account

Western Australia's public finances have evolved around a single bank account (the Public Bank Account or PBA) into which are paid all receipts of the core-of-government and from which are paid all of the core-of-government cash disbursements. This bank account now

also operates non-core transactions, for example, agency expenses are paid out of subdivisions of the account.

Treasurer's Accounts

Complementing the Public Bank Account is a cash-based 'fund' system of accounting consisting of three accounts:

- the Consolidated Fund;
- the Trust Fund; and
- the Treasurer's Advance Account,

which together are called the Treasurer's Accounts.

These accounts are established and enshrined in legislation - i.e. the FAAA, the *Constitution Act*, and the *Constitution Acts Amendment Act* which also prescribe the transactions that may be conducted against the 'funds' and provide for the discharge of accountability in relation to the Treasurer's Accounts through the requirement for formal periodic reporting.

The management of the Public Bank Account and the preparation of reports for the statutory 'funds' has been undertaken through the Treasurer's Accounts Bank System (TABS).

Agencies account and report on both controlled and administered transactions on an accrual basis using agency-level financial management information systems. Agencies also provide DTF on a monthly basis details of controlled and administered debits and credits against the agency operating trust accounts. Using TABS, DTF is able to aggregate the Treasurer's Accounts.

Controls

The receipt and expenditure of public money by a diverse range of government agencies requires sufficient administrative controls to be in place to assure Parliament and the wider community that public monies are collected and disbursed in an efficient and effective manner. Controls are necessary so that all monies payable to the State are collected and correctly accounted for, and that the expenditure of public monies is in accordance with authorised purposes.

Agency level administrative controls are evident in Part II of the existing FAAA, particularly in the following divisions:

- Division 2 - Departmental accounts and manuals;
- Division 5 - Payment or transfer of moneys;
- Division 6 - Receipt of moneys; and
- Division 11 - Appointments, delegations and instructions.

Further administrative controls are evident in the sections relating to bank accounts, investment of public monies, and reporting.

Degree and nature of prescription

Traditionally, the focus of the public sector has been on compliance. Very prescriptive procedures in the FAAA and the supporting Treasurer's Instructions have had the force of law. This prescriptive approach has been consistent with the highly centralised controls traditionally exercised by DTF and the style of management present in many agencies.

Evidence of the prescriptive nature of the existing controls is found in Section 33 of the FAAA (and TI's 304 and 305) which provide detailed information relating to the duties of Incurring and Certifying Officers, and in Sections 53 and 55, which identify specific duties of accountable officers/authorities including: efficiency and economy of operations; regular reviews of fees and charges; the custody, control, management and accounting of public property; and the effectiveness of information systems.

This approach may have provided certainty in the accounting of public monies, but also resulted in some negative effects, namely, a preoccupation with compliance rather than performance, and a reluctance to take responsibility for matters that are not expressly covered in legislative guidelines.

Matters such as those expressed in sections 53 and 55 must be addressed by agency managers. However, government policy initiatives such as net appropriations/revenue retention, Strategic Asset Management and risk management, require managers to actively address these issues as part of their day-to-day responsibilities, and the issue of guidelines or best practice handbooks may be more effective to achieve this objective than black letter law.

The performance responsibilities of agency managers are also progressively being formalised in Resource Agreements between Ministers and agency CEOs.

There needs to be a balance between 'letting the managers manage' and sufficient checks and balances to assure Parliament and the wider community that safeguards for public money are in place.

A broadly defined control framework (as contained in the Financial Management Bill) is consistent with the approach adopted by other jurisdictions. It is also consistent with the Government's policy of requiring agencies to manage risks rather than avoiding them, and with the emphasis on performance and letting managers manage.

Appendix 2 - Detailed Comparison of provisions of FAAA and Financial Management Bill

Financial Administration and Audit Act	Financial Management Bill	Major Changes
<p>Part I – Preliminary</p> <p>Short title – Title of the Act</p> <p>Commencement – date of proclamation</p> <p>Interpretation - definitions</p> <p>Application</p> <ul style="list-style-type: none"> • this Act overrides any other written law unless specifically excluded; • Schedule 1 can be amended by regulation; • deemed departments; and • modifies application to OAG 	<p>Part 1 – Preliminary</p> <p>Short title – Title of the Act</p> <p>Commencement – 1 July 2006</p> <p>Terms used in the Act – definitions to be amended as required by provisions of the Bill</p> <p>Relationship with other laws</p> <ul style="list-style-type: none"> • this Act overrides any other written law unless specifically excluded <p>Modified application for certain purposes</p> <ul style="list-style-type: none"> • deemed departments; and • modifies application to OAG 	<p>Fixed commencement date</p>
<p>Part II</p> <p>Division 1 – Treasurer’s Accounts</p> <p>To consist of:</p> <ul style="list-style-type: none"> • Consolidated Fund (CF) • Treasurer’s Advance Account (TAA) • Trust Fund <p>Specifies moneys that shall or may be credited to the CF. Requires the TAA to be operated in accordance with the <i>Treasurer’s Advance Authorisation Act</i> for the year</p> <p>Trust Fund to consist of:</p> <ul style="list-style-type: none"> • accounts established under an Act; • operating accounts; • suspense accounts; • accounts established by the Treasurer (under certain conditions); and • Public Bank Account Interest Earned Account 	<p>Part 2 – Accounts</p> <p>Division 1 – Public Ledger</p> <p>To consist of:</p> <ul style="list-style-type: none"> • Consolidated Account (CA); • Treasurer’s Advance Account (TAA); and • Treasurer’s Special Purpose Accounts <p>Specifies moneys that shall or may be credited to CA.</p> <p>Treasurer’s special purpose accounts to consist of:</p> <ul style="list-style-type: none"> • accounts established by Treasurer for purpose determined by him • suspense accounts • accounts for funds transferred for investment purposes • Public Bank Account Interest Earned Account 	<p>Change of name to ‘Consolidated Account’ (requires amendment to <i>Constitution Act</i>)</p> <p>Public ledger to contain only those trust accounts that relate to central govt. Other trust accounts administered by agencies no longer recorded by DTF</p> <p>Change of terminology from ‘trust accounts’ to ‘special purpose accounts’</p>

Financial Administration and Audit Act	Financial Management Bill	Major Changes
Trust statements, receipts, expenditure, overdrawing, transfer of excesses, closure and estimates for trust accounts	Division 4 - Administration of special purpose accounts Similar provisions to those in the FAAA	No significant changes
Part II Division 1a – Trust accounts for the operations of departments Establishment, payments to, expenditure from and closure of operating accounts	Division 4 - Administration of special purpose accounts Included with other special purpose accounts	Operating accounts not dealt with separately, included with agencies' other special purpose accounts Able to withdraw surplus cash from operating accounts, as with any other special purpose account
Part II Division 2 – Departmental accounts and manuals Departmental accounts are subsidiary to Treasurer's accounts and shall be maintained. Accounting manuals to be maintained	Part 4 – Accountable Authorities Section 58 – requires agencies to have, or have access to, financial management systems to comply with TIs	Requirements simplified Requirement for Accounting Manual transferred to TIs
Part II Division 3 – Bank accounts Requirement for Public Bank Account (PBA) Conduct of banking business Agencies may open other bank accounts with permission from Treasurer Treasurer may approve overdraft Division 3a – Application of PBA Treasurer may make any lawful payment	Part 2 Division 2 – Public Bank Account and other bank accounts Requirement for PBA and application of it Will include statutory authorities unless specifically exempted or authorised by another written law Agencies may open other bank accounts with permission from Treasurer Treasurer may approve overdraft	All statutory authorities included in the PBA, unless specifically exempted

Financial Administration and Audit Act	Financial Management Bill	Major Changes
Part II Division 4 - Supply and appropriation Require appropriation for payments from CF Net appropriations – agencies able to retain earned revenue Allows payments to be made of up to 20% for up to 2 months after end of financial year without a Supply Act Transfer of appropriations on transfer of function Transfer from central appropriations Payment after year-end Transfers to suspense accounts Expenditure in advance of appropriation (TAA) Unexpended appropriations to lapse at 30 June	Part 3 Division 1 – Supply and appropriation Net appropriations – agencies able to retain earned revenue Payments before grant of supply up to 20% of preceding year's expenditure for up to 2 months Transfer to suspense accounts Transfer of appropriation on transfer of function Expenditure in advance of appropriation (TAA) Sec 29 authorises expenditure of up to 3% of previous year's total appropriations for the TAA Unexpended appropriations to lapse at 30 June (Requirement for appropriation in Division 2)	Net appropriations simplified (exceptions moved to Regulations) Now no requirement for payments made up to 10 days after year end to be reflected as previous year's transactions (accruals) Removed specific reference to 27 th pay ('relevant commitment' definition broadened to wages and salaries) but allows this to be done if Treasurer directs. Also allows amounts to be paid to operating accounts Automatic authorisation of TAA expenditure of up to 3% of previous year's total appropriations (both recurrent and capital) Removes the uncertainty that amounts transferred to operating accounts do not lapse
Part II Division 4a – Transfer of interest earned Transfer of moneys in the PBAIEA	Part 3 Division 1 – Supply and appropriation Transfer of moneys in the PBAIEA	No change

Financial Administration and Audit Act	Financial Management Bill	Major Changes
Part II Division 5 – Payment or transfer of moneys Manner of issue of moneys Warrants Payment to be authorised by law Payments to be certified	Part 3 Division 2 – Payments and transfers Payments and transfers from PBA Warrants Payments charged to the public ledger only if authorised and any payment from CA subject of appropriation	Requirement for certification contained in Act but prescriptive detail moved to TIs
Part II Division 6 – Receipt of moneys Requires all moneys collected to be paid into a bank account and credited to an account or fund Allows adjustment within 10 days of the end of financial year Private moneys collected to be credited to the Trust Fund	Part 3 Division 2 – Payments and transfers Requires all moneys collected to be paid into a bank account and credited to an account or fund Private moneys collected to be credited to special purpose accounts	Adjustment for cash receipts received within 10 days after year-end to be treated as previous year's transactions - no longer required (accrual)
Part II Division 7 – Investment of public moneys, moneys of statutory authorities and other moneys Governs and specifies investment of moneys in the PBA, proceeds of investments and investment of moneys by agencies	Part 3 Division 3 – Investments Similar provisions for investment but less prescriptive Investment powers broadened but subject to regulation Provision prohibiting interest being paid on public moneys remains	Definitions omitted as changes in other legislation make them redundant Types of investment as allowed by the <i>Trustees Act</i> Part III, but restricted by regulation
Part II Division 9 – Financial administration of statutory authorities Requires statutory authorities to prepare estimates within 1 month of end of financial year Required to keep accounts and records and accounting manuals	Part 3 Division 4 – Annual estimates Deals with statutory authorities Accounts under Part 4 – Accountable authorities Accounting manuals in TIs Division 5 – Resource Agreements Draft Resource Agreements to be submitted to Treasurer	Just requires estimates to be prepared (in accordance with TIs, i.e. entities not part of the budget process) Requirement for accounting manual moved to TIs A new requirement for agencies to have a Resource Agreement with Treasurer

Financial Administration and Audit Act	Financial Management Bill	Major Changes
<p>Part II</p> <p>Division 10 – Write-offs and recoveries</p> <p>How write-offs can be affected</p> <p>Liability for losses</p> <p>Action to be taken with respect to losses</p> <p>Recovery of losses</p> <p>Burden of proof</p> <p>Prohibition of double liability</p> <p>Application to statutory authorities</p>	<p>Part 3</p> <p>Division 6 – Write-offs and recoveries</p> <p>Removes distinction between departments and statutory authorities</p> <p>Limits set in regulations to be increased as follows:</p> <p>Accountable Authorities - \$100,000; Ministers - \$250,000; Minister and Governor >\$250,000</p> <p>(current limits: dept CEO - \$5,000; Minister \$50,000; Minister and Governor >\$50,000. Stat. Authorities - \$50,000; Minister >\$50,000)</p>	<p>No distinction between departments and statutory authorities</p> <p>Limits set by regulation increased</p> <p>Liability of former officers and Ministers clarified</p> <p>AG cannot direct an inquiry in respect of losses (only the accountable authority or the Under Treasurer)</p>
<p>Part II</p> <p>Division 11 – Appointments, delegations and instructions</p> <p>Appointment and duties of accountable officers and accountable authorities.</p> <p>Designation of accountable officers to entities forming part of departments.</p> <p>Appointment and duties of Principal Accounting Officer.</p> <p>Delegations and authorisations.</p> <p>Treasurer’s Instructions.</p>	<p>Part 4 – Accountable authorities</p> <p>Departments and statutory authorities will both have an accountable authority</p> <p>Designation of ‘sub-department’</p> <p>Appointment of Chief Finance Officer (CFO) - duties as per FALAA</p> <p>Part 6 – Miscellaneous</p> <p>Division 1 – Delegations and authorisations</p> <p>Similar provisions – reworded for simplicity</p> <p>Division 2 – Treasurer’s Instructions</p> <p>Similar provisions but less specific. Gives power to require financial management manual</p>	<p>Change in title to accountable authorities for both departments and statutory authorities</p> <p>Entities under FAAA s52(4) to become sub-departments</p> <p>PAO changed to CFO and duties broadened</p> <p>Financial management manual contents in TIs</p>

Financial Administration and Audit Act	Financial Management Bill	Major Changes
Part II Division 11A – Miscellaneous powers and duties Treasurer has power to require information Act of Grace payments Secrecy of operations prohibited Payments in respect of asset holdings (capital user charge [CUC]).	Part 6 Division 3 – Miscellaneous powers and duties Treasurer has power to require information Act of Grace payments Minister to report decision not to provide certain information to Parliament CUC to be abolished	Act of grace payment terms broadened to discretion of the Treasurer Follows CoG recommendation to inform Parlt. No reference to Parliamentary Committee Opportunity cost of capital will be addressed in DTF's publication 'Costing and Pricing Government Services' used for costing of agencies' services
Part II Division 12 – Treasurer's Reports Division 13 – Reports of accountable officers of departments Division 14 – Statutory authority's reports	All Divisions replaced by the FALAA To be included in FMB Agencies' annual reports to include actual outcomes for the year compared to the targets/limits originally approved in their Resource Agreements	Treasurer reports under <i>Government Financial Responsibility Act</i> – Annual Report on State Finances. Combines Government Financial Results Report and Consolidated Financial Statements. Treasurer's Annual Statements and Treasurer's Quarterly Statements discontinued Resource Agreement reporting requirement introduced Quarterly Financial Results Report deadline of 60 days All agencies have same timeframe to table annual report – 90 days
Part III - Audit	Contained in new Auditor General Bill	See explanatory memorandum for AGB

Appendix 3 - Acronyms

Acronym	Meaning
AGB	Auditor General Bill
ARSF	Annual Report on State Finances
CA	Consolidated Account
CF	Consolidated Fund
CFS	Consolidated Financial Statements
CUC	Capital User Charge
FAAA	<i>Financial Administration and Audit Act 1985</i>
FALAA	<i>Financial Administration Legislation Amendment Act 2005</i>
FMB	Financial Management Bill
GBE	Government Business Enterprise
GFRA	<i>Government Financial Responsibility Act 2000</i>
GFRR	Government Financial Results Report
PFPS	Pre-election Financial Projections Statement
QFRR	Quarterly Financial Results Report
TAA	Treasurer's Advance Account
TABS	Treasurer's Accounts Bank System
TAS	Treasurer's Annual Statements
TI	Treasurer's Instruction