

FINANCIAL MANAGEMENT BILL 2006

EXPLANATORY MEMORANDUM

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ACRONYMS

Acronym	Meaning
AGB	Auditor General Bill 2006
DTF	Department of Treasury and Finance
CUC	Capital user charge
FAAA	<i>Financial Administration and Audit Act 1985</i>
FALAA	<i>Financial Administration Legislation Amendment Act 2005</i>
FLARB	Financial Legislation Amendment and Repeal Bill 2006
FMB	Financial Management Bill 2006
GBE	Government business enterprise
GFRA	<i>Government Financial Responsibility Act 2000</i>
PBA	Public Bank Account
PFPS	Pre-election Financial Projections Statement
SCI	Statement of Corporate Intent
SDP	Strategic Development Plan
TAA	Treasurer's Advance Account

OUTLINE

1. The Financial Management Bill 2006 (FMB) and the Auditor General Bill 2006 (AGB) have been drafted to replace the *Financial Administration and Audit Act 1985* (FAAA). The FMB addresses the financial management elements of the FAAA while the AGB maintains the role of the Auditor General as the external auditor of government and deals with the responsibilities of that position.
2. The FMB also amends the *Government Financial Responsibility Act 2000* (GFRA). The suite of legislation is completed by the Financial Legislation Amendment and Repeal Bill 2006 (FLARB) that repeals the FAAA and effects consequential amendments to various affected Acts.
3. The purpose of the FMB is to provide for the management, administration and reporting of the public finances of the State, and for related purposes. The Bill also aims to:
 - (i) enhance **accountability** for financial management practices and outcomes in the Western Australian public sector;
 - (ii) **modernise** the legislation to make it more reflective of the current government accounting environment;
 - (iii) **simplify and streamline** the legislation, including moving some of the more detailed and prescriptive provisions from the Act to regulations and/or Treasurer's Instructions; and
 - (iv) related to the above point, enhance 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.
4. At a broad level, the FMB contains provisions for the control and management of public sector finances. In summary, it:

- (i) **removes the distinction between departments and statutory authorities¹**, where practicable. 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);

- (ii) **introduces the term '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. This amendment does not introduce any changes to existing practice but will align the terminology in the legislation with long held practice;
- (iii) **shortens annual reporting timeframes** for agencies to 90 days. These amendments were legislated in the *Financial Administration Legislation Amendment Act 2005 (FALAA)*, and are mirrored in the FMB;

¹ 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 by virtue of them being 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 flexibility than a department.

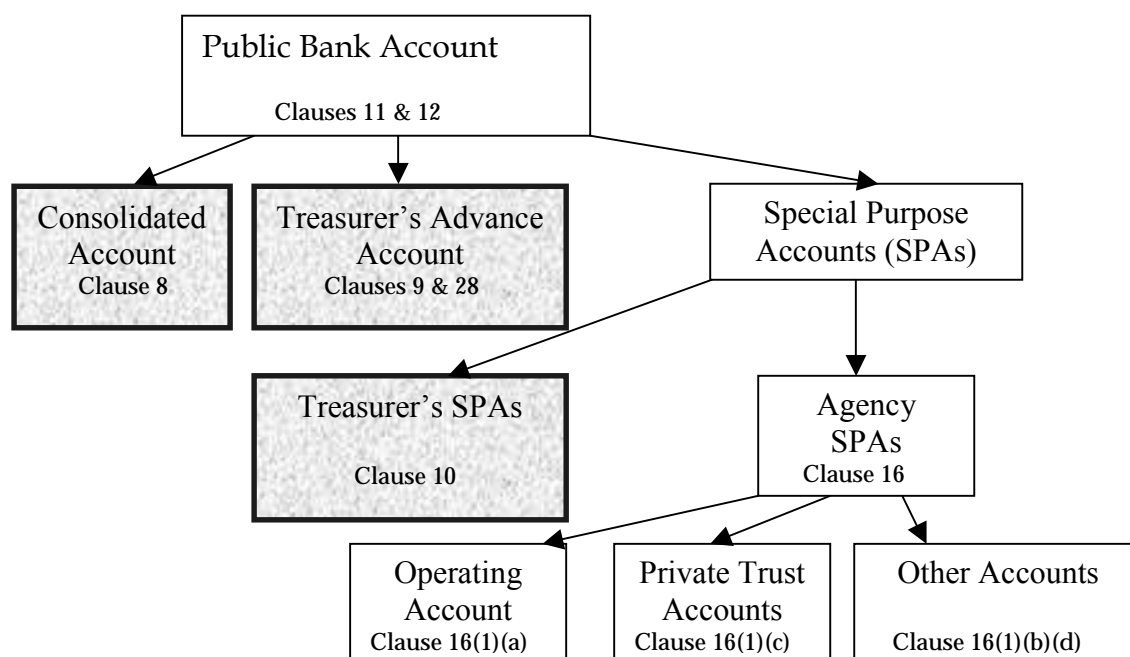
Departments are created by the Governor on the recommendation of a Minister under Section 35 of the *Public Sector Management Act 1994*. Departments are subject to the FAAA. Departments have no separate legal status from the Crown and operate under the authority of the responsible Minister.

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.

- (iv) **changes the name of the Consolidated Fund to 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. This will require consequential amendments to the *Constitution Act* and other acts wherever reference to the Consolidated Fund occurs;
- (v) **replaces the Treasurer's Accounts with the 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 special purpose accounts (referred to as trust accounts in the FAAA) under the control or administration of agencies.

The shaded boxes in the chart below constitute the Public Ledger.



While agency special purpose accounts are excluded from the scope of the Public Ledger, the Department of Treasury and Finance will continue to monitor the balances in such accounts through the Treasury Information Management System. The main implication of agency special purpose accounts being excluded from the Public Ledger is that these accounts will no longer be centrally reported by the Treasurer, they will be reported in agencies' annual reports;

- (vi) **replaces the Trust Fund with the Treasurer's special purpose accounts.** The majority of accounts that comprise the Trust Fund are not in the nature of 'true trust' moneys but rather agency operating accounts or special purpose accounts. Consequently the title has been changed from Trust Fund to Treasurer's special purpose accounts. Similarly the terminology for the individual accounts has been changed from trust accounts to special purpose accounts.

In addition, the existing structure of the Trust Fund does not reflect the arm's length nature of the relationship between the Department of Treasury and Finance (DTF - as administrator of the Treasurer's Accounts) and agencies;²

² 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. Details of trust account transactions and balances are published in agencies' annual reports. Accordingly, agency controlled special purpose accounts including operating accounts will be the responsibility of the appropriate agency and no longer form part of the accounts controlled by the Treasurer.

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 mechanisms that underpin the FAAA. Operating accounts can only be operated in accordance with the enabling legislation that establishes the account or, in the case of a department, in accordance with its appropriation. In addition a special purpose account established to hold private money or a specific appropriation will require a trust statement or a special purpose statement respectively to establish the purposes to which the moneys in the special purpose account can be spent and any related accountability requirements.

(vii) **introduces an automatic Treasurer's Advance authorisation.** 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 2005-06, this equates to \$365 million for the 2006-07 financial year). Importantly, this amendment does not remove the requirement to submit a Treasurer's Advance Authorisation Bill in any given year if the need arises (i.e. if the automatic 3% proves insufficient). Also, Appropriation Bills 3 and 4 will continue to report on actual expenditure against the Treasurer's Advance Account, as is currently the case;

(viii) **allows for broadening of investment powers through regulation.** The FMB will allow the Treasurer to invest in any form of investment under the *Trustees Act 1962* Part III subject to regulation.

In addition to the FAAA authorised investment classes of cash, bank deposits and bills, and government backed bonds, the proposed regulation will enable Public Bank Account (PBA) moneys to be invested in debt securities issued in Australia by a corporation listed on a recognised stock exchange. To maintain the low risk profile of PBA investments, it is proposed that only debt securities of corporations with a credit rating (from a recognised credit rating agency such as Standard and Poor's) of 'A' or better would be allowed;

(ix) **extends the power of the Treasurer to transfer excess cash** from agencies' operating accounts to the Consolidated Account. The existing Treasurer's power to transfer trust fund balances in excess of the amount reasonably required to the Consolidated Fund will be extended to agencies' operating accounts. This will 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;

(x) **mandates for 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 an annual Resource Agreement with the Treasurer;
- and

- include in their annual report to Parliament an assessment of their actual financial outcomes for the year relative to their approved Resource Agreement targets/limits.

This proposal elevates the status of Resource Agreements (they are currently an administrative requirement only), and addresses an accountability gap in the current financial management framework by requiring agencies to report actual outcomes relative to their approved Resource Agreement;

- (xi) **aligns government business enterprises' internal planning processes with the annual budget process.** The following government business enterprises (GBEs) are currently required to prepare Strategic Development Plans (SDPs) and Statements of Corporate Intent (SCIs): Water Corporation, Western Power, Synergy, Horizon Power, Verve Energy, LandCorp, Forest Products Commission, Western Australian Treasury Corporation, port authorities and Racing and Wagering Western Australia.³

By aligning the GBEs' internal planning processes with the Government's budget process, the GBEs will be required to submit draft SDPs and SCIs at the same time as budget bilateral submissions, which will 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.

Consequential amendments will be made 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;

- (xii) abolishes the capital user charge;
- (xiii) in conjunction with the Auditor General Bill 2006, introduces a strengthened disclosure regime around confidential information;
- (xiv) moves some of the more detailed and prescriptive provisions from the Act to regulations and/or Treasurer's instructions;

³ One important principle of corporatisation is that GBEs should operate at arm's 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.

- (xv) deletes 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;
- (xvi) establishes the same write-off thresholds and levels of authority for both statutory authorities and departments;
- (xvii) 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. In line with actual practice to date, the section 15 of the GFRA will be amended to require the Under Treasurer (rather than the Treasurer) to release a PFPS within 10 days of the calling of an election; and
- (xviii) mirrors the expanded role of the principal accounting officer (PAO) position and the change in title to chief finance officer (CFO) contained in the FALAA.

Part 1 - Preliminary

Part 1 defines the terms and application of this Act.

Clause 1: Short Title

1. When enacted, the Bill will be cited as the *Financial Management Act 2006*.

Clause 2: Commencement

2. The Bill is intended to commence on the same day as the *Auditor General Act 2006* and the *Financial Legislation Amendment and Repeal Act 2006*, being on a day fixed by proclamation.

Clause 3: Terms used in this Act

3. Defines terms used in the Act. A number of definitions have been amended to enable the Act to be more readable. Also, a new term 'sub-department' is introduced to formalise the status of a category of entities in section 52(4) of the FAAA (clause 56(1) refers).

Clause 4: Relationship with other laws

4. The provisions of this Act override provisions of other Acts where there is conflict unless those other Acts specifically provide otherwise. For ease of understanding, section 4 of the FAAA is split into clauses 4, 5 and 6.

Clause 5: Modified application of Act for certain purposes

5. Continues section 3(2) of the FAAA, which deems that certain administrations are departments for the purposes of this Act. These administrations have a direct reporting line to Parliament and therefore cannot be designated as departments under the *Public Sector Management Act 1994*.

Clause 6: Amendment of Schedule 1 by regulations

6. Continues the FAAA practice that allows Schedule 1, the list of statutory authorities, to be amended by regulation.

Part 2 – Accounts

Division 1 - Public Ledger

This Division provides legislative authority for the Treasurer to establish a Public Ledger to record all revenues, expenses and liabilities of the government that are transactions associated with the core-of-government. The Public Ledger is similar to the FAAA Treasurer's Accounts (Section 5) but excludes special purpose accounts under the control or administration of agencies.

Clause 7: Public ledger

7. Establishes the Public Ledger, consisting of the Consolidated Account, Treasurer's Advance Account and Treasurer's special purpose accounts. Special purpose accounts under the control or administration of agencies (such as agencies' operating accounts) are excluded from the Public Ledger, reflecting the more devolved nature of relationship between central government and agencies compared to when the FAAA was introduced.

Clause 8: Consolidated Account

8. Retitles the Consolidated Fund established under the *Constitution Act 1889* as the Consolidated Account.
9. Restates the requirement of section 64 of the *Constitution Act 1889* that all moneys, other than those authorised by this or another Act to be dealt with differently, are required to be credited to the Consolidated Account.

Clause 9: Treasurer's Advance Account

10. Requires recoverable advances made under the authority of clause 28 to be charged to the Treasurer's Advance Account. Clause 29 limits the advances authorised under clauses 27 and 28 to 3% of the total amount appropriated for the previous financial year by Appropriation Acts 1 and 2.

Clause 10: Treasurer's special purpose accounts

11. Defines the special purpose accounts that constitute the Treasurer's special purpose accounts referred to in sub-clause 7(c).

Division 2 - Public Bank Account and other bank accounts

In addition to the Public Ledger, the Public Bank Account also extends to agencies' special purpose accounts (as illustrated on page 3 of this Explanatory Memorandum). Clause 13 is a combination of sections 19 and 21 of the FAAA. Unlike the FAAA, agencies' bank accounts will form part of the PBA except as otherwise directed by the Treasurer. This will result in the PBA extending to additional statutory authorities, such as the Hospital Boards.

Clause 11: Public Bank Account

12. Continues the PBA established under the FAAA and provides that it is to be operated under the terms and conditions agreed between the Treasurer and the bank or banks and under such subdivisions as determined by the Treasurer. It is under this power that agencies are provided individual sub-division bank accounts.

Clause 12: Application of Public Bank Account

13. Allows the moneys in the PBA to be applied towards any payments that may legally be charged to the Public Ledger or an agency special purpose account. This has in the past facilitated making of payments when the Consolidated Fund has been in short term deficit without having to resort to borrowings.

Clause 13: Treasurer may authorise agencies to open and maintain bank accounts

14. If an agency is not authorised to open a bank account under another written law, the Treasurer may authorise such an account. An account opened under this provision shall form part of the PBA unless the Treasurer determines otherwise.

Clause 14: Bank accounts not to be overdrawn unless approved by the Treasurer

15. Self-explanatory.

Clause 15: Restrictions on opening and maintaining certain bank accounts

16. Prohibits agencies from opening or maintaining bank accounts other than in accordance with this Act or another written law.

Division 3 - Agency special purpose accounts

This Division defines special purpose accounts operated or administered by agencies. Clauses 16 and 10 combined are the equivalent of the FAAA's Trust Fund.

Clause 16: Agency special purpose accounts

17. Requires agencies to maintain sufficient records to separately account for the following (as applicable):
 - departments' operating accounts, to which will be credited Consolidated Account appropriations and moneys retained under net appropriation;
 - any accounts required to be maintained by a written law;
 - special purpose accounts approved by the Treasurer for the purpose of holding 'true trust' moneys; and
 - any account approved by the Treasurer. It is envisaged that this will be applied primarily to accounts established and funded by express appropriation.

Division 4 - Administration of special purpose accounts

This Division deals with the administration of special purpose accounts. The FAAA confers on the Treasurer the power to transfer excess amounts in trust accounts, with the exception of operating accounts. This power is retained in the FMB, and extended by clause 20 to operating accounts as well.

Clause 17: Special purpose statements and trust statements

18. Requires special purpose statements to be prepared for special purpose accounts that are established by the Treasurer.
19. Requires trust statements to be prepared for special purpose accounts that hold "other money", which is essentially private in nature and is held "in trust".
20. The contents of these statements are to be defined in Treasurer's Instructions, and the Treasurer is to approve the special purpose statement or trust statement.

Clause 18: Payments to and from special purpose accounts

21. Requires certain money to be credited to the relevant special purpose account. The categories of money are:

- a. money required or authorised by a written law;
 - b. money appropriated for the purpose for which the account was established;
 - c. money received in advance of appropriation or subject to repayment of an advance for the purpose for which the account was established;
 - d. money retained by the agency under a net appropriation determination for the purpose for which the account was established; and
 - e. money lawfully received for the purpose for which the account was established.
22. Requires that expenditure shall be charged to a special purpose account where it is required or authorised by a written law or the expenditure is lawfully incurred for the purposes for which the account is established.

Clause 19: Special purpose accounts not to be overdrawn unless approved by the Treasurer

23. The FAAA's existing requirement that no trust fund (special purpose account) is overdrawn, unless approved by the Treasurer, is retained.

Clause 20: Transfer of excess amounts from special purpose accounts

24. Permits the Treasurer, unless another law prohibits, to transfer amounts not reasonably required for the purposes of a special purpose account, to the Consolidated Account.

Clause 21: Closure of special purpose accounts or transfer of service

25. This provision establishes the authority and protocols to be followed for the closure of a special purpose account upon it no longer being required and for the transfer of funds between special purpose accounts to facilitate the transfer of a function from one agency to another.

Clause 22: Other laws not affected

26. Any other written law that requires an agency to conduct its operations through one or more accounts established under that written law, is not affected by this division of the FMB.

Part 3 – Funds management

Division 1 - Supply and appropriation

This Division deals with net appropriations, payments before the grant of supply, transfers of appropriations and transfers to suspense accounts. In addition, the inclusion of clauses 27 to 29 will allow the Treasurer to automatically authorise expenditure for supplementary funding and other purposes of up to 3% of the total amount appropriated for the previous financial year by Appropriation Acts 1 and 2. This amendment will replace the annual Treasurer's Advance Authorisation Act, unless the automatic 3% limit proves insufficient. The FAAA section 26, allowing cash payments within ten days of year-end to be recognised as transactions of the previous year, is abolished as it is no longer necessary in today's accrual accounting environment.

Clause 23: Appropriation of certain receipts

27. Continues the net appropriation arrangements introduced by the FAAA that allows the Treasurer to make determination authorising agencies to retain certain own source revenues. The FMB expressly excludes from the net appropriation arrangements taxes, fines and royalties (which are required to be credited to the Consolidated Account) together with Commonwealth general purpose grants.
28. If a determination is made after the estimates for the year are tabled in Parliament, a copy of the determination shall be laid before both Houses of Parliament.
29. If the service or function that raises the revenue is transferred to another agency, the determination continues to apply to the transferee agency as it did to the transferor agency.

Clause 24: Payments before grant of supply

30. Continues the automatic supply provisions contained in the FAAA. If at the beginning of a financial year supply has not been granted by Parliament, this provision allows expenditure of up to 20% of the amount appropriated for the previous year. This authority is limited in time to two months and only for purposes for which expenditure was authorised in the previous year. Expenditure under this authority is taken to be part of the amount appropriated in the current year when the appropriation Acts are passed.

Clause 25: Transfers of appropriations

31. Where a service or function is transferred, the Treasurer may determine that an appropriate amount of the appropriation for that service or function is also transferred. This also applies to a central appropriation for a general purpose, being one that is described in the estimates in general terms and is likely to require expenditure from two or more appropriations.

Clause 26: Transfers to suspense account

32. This continues existing provisions contained in the FAAA that were introduced to facilitate the introduction of accrual appropriations. It allows the Treasurer to direct that an appropriation be transferred to a suspense account to meet a relevant commitment. This is defined as salaries, wages, superannuation, leave or depreciation.
33. Amounts credited to a suspense account can be transferred when needed to meet the relevant commitment or transferred to the relevant operating account as directed by the Treasurer.

Clause 27: Expenditure in advance of appropriation

34. Continues the existing FAAA requirement that the approval of the Governor is required, on recommendation from the Treasurer, to authorise expenditure for a new or novel purpose for which there is no appropriation in the financial year.
35. The Treasurer continues to have authority to approve supplementary funding where an appropriation is insufficient.
36. Expenditure made under this clause is chargeable to the Consolidated Account and must be submitted for appropriation in a subsequent year.

Clause 28: Authorised recoverable advances

37. This continues the arrangement established by the *Treasurer's Advance Authorisation Acts* whereby the Treasurer may authorise temporary advances to specified recipients for the purposes specified. Advances and any recoveries are to be charged and credited respectively to the Treasurer's Advance Account. The advances are to be repaid before the end of the financial year or be subject to a further authorisation.

Clause 29: Limits on expenditure

38. Provides for a limit of 3% of the total amount appropriated in the previous year, to be expended in accordance with clauses 27 and 28. Any expenditure in excess of this limit must be authorised through a Treasurer's Advance Authorisation Act.

Clause 30: Unexpended appropriations to lapse

39. Any amount of an appropriation under an Appropriation Act not charged to the Consolidated Account at the end of the financial year is to lapse.

Clause 31: Payments from the Public Bank Account Interest Earned Account

40. Money standing to the credit of this account, that is not owed to another account in terms of interest payable, may be transferred to the Consolidated Account if the Treasurer determines.

Division 2 – Payments and transfers

This Division provides for the treatment of payments, receipts and transfers of money. Requirement for authorisation of payments remains, but prescriptive detail has been transferred to Treasurer's instructions. The FAAA section 35A, allowing cash receipts within ten days of year-end to be recognised as transactions of the previous year, is abolished as it is no longer necessary in today's accrual accounting environment.

Clause 32: Certain payments and transfers to be authorised

41. Requires that payments and transfers must be authorised in the manner prescribed in the Treasurer's instructions.

Clause 33: Payments charged to Consolidated Account

42. To be charged to the Consolidated Account a payment must be in accordance with a warrant under the hand of the Governor and must be appropriated or authorised by an Act.

Clause 34: Deposit of money received

43. Any person receiving public money or statutory authority money is to deposit that money into a bank account in accordance with Treasurer's instructions.

Clause 35: Money paid into the Public Bank Account

44. Such money is to be credited to the Consolidated Account, the Treasurer's Advance Account or a special purpose account. If the proper account is not known, then to the Consolidated Account.

Clause 36: Other money to be credited to special purpose accounts

45. Requires that, subject to any other written law, "other money" (private money) is to be deposited into the PBA or an account outside the PBA established under clause 13 and must be credited to a special purpose account.
46. A trust statement must be prepared for the special purpose account, which must be approved by the Treasurer and sent to the Auditor General.

Division 3 - Investments

This Division allows the Treasurer to invest in any form of investment under the Trustees Act 1962 Part III subject to regulation.

In addition to the FAAA authorised investment classes of cash, bank deposits and bills, and government backed bonds, it is proposed that PBA moneys will also be able to be invested in debt securities issued in Australia by a corporation listed on a recognised stock exchange. To maintain the low risk profile of PBA investments, it is proposed that only debt securities of corporations with a credit rating (from a recognised credit rating agency such as Standard and Poor's) of 'A' or better would be allowed.

Clause 37: Investment by Treasurer

47. Allows the Treasurer to invest money standing to the credit of the PBA in a manner that is prescribed by regulations. This is limited to an investment that is permitted under the *Trustees Act 1962*.
48. This section does not limit any other written law concerning the investment of particular money.

Clause 38: Proceeds of investment by the Treasurer

49. Any repayment of principal is to be paid into the PBA.
50. Proceeds from investment are to be paid into the PBA and can be credited to the Public Bank Account Interest Earned Account pending distribution to special purpose accounts, the Road Trauma Trust Fund or the Consolidated Account.

51. The Treasurer may determine whether interest is paid to a special purpose account, except that no interest is to be paid to a special purpose account unless another written law provides, either expressly or by implication, that interest should be paid.
52. This section has effect despite the provisions of any other written law requiring investment of money and distribution of proceeds.

Clause 39: Investment by agencies

53. If an agency holds other money or statutory authority money, the Treasurer may authorise that the agency invest that money in the same manner as money in the PBA is invested and may direct how proceeds are to be dealt with.
54. Any other written law and any special purpose statement have effect in relation to the investment of money by agencies.
55. The power of agencies to hold public money, other money or statutory authority money in an interest bearing bank account under clause 13 is not limited, but for public money the interest is to be paid into the PBA and credited to the Consolidated Account.
56. All types of money may be transferred to the PBA for investment purposes, subject to another written law concerning the investment of particular money.

Division 4 – Annual estimates of statutory authorities

This Division requires the preparation of annual estimates as prescribed in the Treasurer's instructions. The FAAA requirement for accounting manuals is moved to Treasurer's instructions.

Clause 40: Accountable authorities of statutory authorities to prepare and submit annual estimates

57. These must be prepared in the manner prescribed in the Treasurer's instructions and submitted to the Minister for approval (also in the manner prescribed in the Treasurer's instructions) at a time determined by the Treasurer.
58. The Minister may accept or reject the estimates. If rejected the Minister may require amended estimates to be submitted within a stated period.
59. The Treasurer may exempt in writing an accountable authority from this section.

Division 5 – Resource agreements

Resource Agreements have been in place since 1999-00, but currently have no legislative backing. They are signed by the agency accountable authority, the relevant Minister and the Treasurer as part of the annual budget process. Resource Agreements set out the agreed resource management targets for the agency, and other relevant accountabilities. This new Division addresses an accountability gap in the current financial management framework, where Resource Agreements are an administrative requirement only, and agencies are not required to report actual outcomes relative to their Resource Agreement. The reporting requirements are dealt with in clause 61(2).

Clause 41: Accountable authorities to submit draft resource agreements

60. The Treasurer may direct in writing that an accountable authority submit a draft resource agreement in respect of a financial year of the agency.
61. This is to be submitted not later than 3 months before the beginning of the financial year, or as directed by the Treasurer.

Clause 42: Period to which resource agreements relate

62. The financial year of the agency.

Clause 43: Matters to be included in resource agreements

63. These are:
 - a. resources available to the agency;
 - b. services to be provided by the agency; and
 - c. any other matters required by the Treasurer.

Clause 44: Resource agreement to be agreed if possible

64. The accountable authority and the Treasurer are to try to reach agreement before the start of the financial year to which the agreement relates.

Clause 45: Treasurer's powers in relation to draft resource agreements

65. The Treasurer may return a draft resource agreement to the accountable authority with a request to reconsider certain matters. If agreement cannot be reached on the draft agreement, the Treasurer may give directions as to the contents of the agreement and the accountable authority is obliged to comply.

Clause 46: Agreement as to draft resource agreements

66. When agreed, the draft resource agreement becomes the resource agreement.

Division 6 – Write-offs and recoveries

This Division establishes the same write-off thresholds and levels of authority for both statutory authority and departments. The proposed increases in the thresholds (in regulations) are as follows: Accountable Authorities to \$100,000 (up from the current \$5,000 for departments and \$50,000 for statutory authorities); Ministers to \$250,000 (up from \$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 to amounts more than \$250,000 (up from \$50,000 for departments; Governor's approval will now also be required for statutory authorities).

Clause 47: Terms used in this division

67. Self-explanatory.

Clause 48: Write-offs

68. This section applies to amounts in respect of public property held for or on behalf of the State and revenue and other debts due to the State.
69. The accountable authority and the Minister may write off amounts up to the limits prescribed in regulations. The Minister, with prior approval of the Governor, may write off amounts in excess of that limit (subject to any conditions prescribed in the regulations).
70. The present proposal is that the limit for the accountable authority to write off be set at \$100,000. The current limits vary between departments and statutory authorities from \$5,000 (for departments) to \$50,000 (for statutory authorities). These limits have not been revised since 1996.
71. Any written law relating to a statutory authority prevails if there is any inconsistency.

Clauses 49 to 51: Liability for losses, recovery of losses and investigations

72. These clauses continue the existing provisions of the FAAA and provide that an officer, or past officer, may be liable for a loss of official money or property in his or her control unless he or she took all reasonable steps to prevent the loss. There may be apportionment of liability where circumstances warrant.

73. Render debts due under these provisions recoverable at law.
74. The Under Treasurer and accountable authorities may direct investigations in respect of losses.

Part 4 – Accountable authorities

This Part prescribes that agencies are to have an accountable authority and their responsibilities (the terms agencies and accountable authorities now refer to both departments and statutory authorities). Clause 56 introduces a new term ‘sub-department’ to align the terminology in the legislation with long held practice (clarifies the FAAA section 52(4)).

Clause 57 mirrors the expanded role of the principal accounting officer position (FAAA) and the change in title to chief finance officer (CFO), as amended by the FALAA.

Clause 52: Agencies to have an accountable authority

75. The accountable authority is to be responsible to the Minister.

Clause 53: Functions of accountable authorities

76. The accountable authority is to ensure that the agency operates in an efficient and economic manner and complies with the Act and other written laws. The accountable authority has control of and must account for all public property or other property under the control of the agency and unless otherwise directed by the Treasurer in writing, develop and maintain an effective internal audit function.

Clause 54: Accountable authorities for departments

77. Deems the chief executive officer of a department to be the accountable authority of the department (but not of any sub-departments).

Clause 55: Accountable authorities for statutory authorities

78. Deems the person or body having overall control of the statutory authority as the accountable authority. If there is doubt, then the Treasurer can appoint and publish in the Gazette.

Clause 56: Declarations as to agencies and accountable authorities

79. Provides that the Treasurer can declare that an entity is a “sub-department” and the holder of an office within that entity is an accountable authority, under certain conditions. These are:

- a. the entity is a separate division within the estimates; or
- b. an appropriation is transferred to it under clause 25(2); or
- c. an allocation is made for expenditure in advance of appropriation under clause 27(1); and

- d. an officer who is not the chief executive officer of the department , has functions under a written law or a delegation under section 33 of the *Public Sector Management Act 1994*.

A declaration under this section is only valid for as long as the conditions exist.

80. The Treasurer may at any time revoke the declaration.
81. If a declaration is revoked, then the provisions of the Act relating to abolition of agencies apply.

Clause 57: Chief finance officer

82. Requires the accountable authority to appoint a chief finance officer and lists the responsibilities of the position. Consistent with the FALAA amendments, these responsibilities are more strategic in focus and less procedural than the duties of the previous principal accounting officer.

Clause 58: Accountable authorities to ensure agencies have financial management system

83. Agencies are to have a system that complies with the Treasurer's instructions.

Part 5 – Reports

Division 1 – Treasurer’s Reports

The requirements for the Treasurer’s Annual Statements (TAS) and Treasurer’s Quarterly Statements (Division 13 of the FAAA) have been removed by the FALAA. 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.

Clause 59: Treasurer’s reports and statements

84. These are set out in the *Government Financial Responsibility Act 2000*.

Division 2 – Annual reports by agencies

Reporting timeframes were shortened to 90 days by the FALAA and are mirrored here. In addition, agencies are required to report actual outcomes relative to their Resource Agreement in their annual reports.

Clause 60: Interpretation for sections 60 and 61

85. Defines terms used in these clauses.

Clause 61: Annual reports by accountable authorities

86. Provides that unless an Act provides otherwise, the financial year of all agencies ends on 30 June.
87. Requires the annual report of an agency to contain:
- a. financial statements;
 - b. key performance indicators;
 - c. report on operations;
 - d. any information prescribed by Treasurer’s instructions;
 - e. if required by the Treasurer, a report on the extent to which the agency achieved objectives set out in the Resource Agreement;
 - f. reporting on related and affiliated bodies as prescribed in the Treasurer’s instructions; and

- g. any other information required by a written direction given by the Minister.
88. Agencies that have subsidiary bodies are to exercise control to ensure that all relevant information is received from those bodies in sufficient time.

Clause 62: Financial statements

89. Unless the Treasurer approves otherwise, financial statements are to be prepared in accordance with accounting standards and other pronouncements, contain information required by Treasurer's instructions and any information required by a written direction from the Minister.

Clause 63: Accountable authorities to submit financial reports and other information

90. The accountable authority is to submit to the Auditor General the financial statements, key performance indicators and any other information required by Treasurer's instructions. This is not required if the agency has been exempt from audit for the financial year under sub-clause 14(2) of the *Auditor General Bill 2006*.
91. On issue of the audit opinion by the Auditor General, the entire annual report including those opinions (unless exempt) is to be submitted to the Minister.
92. No time limit is specified in respect of these steps, the deadline for tabling the annual report is imposed by clause 64.

Clause 64: Minister to table accountable authority's report

93. The Minister is to cause the annual reports to be laid before both Houses of Parliament within the "prescribed period". This is defined as 90 days from the end of the financial year or a lesser period prescribed in the regulations. There is no intention to shorten this period at present.

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

94. On or before the expiry of the prescribed period, the Minister is to inform both Houses of Parliament if the annual report cannot be tabled within the prescribed period. The Minister must also state why the annual report cannot be tabled and an estimate of when it will be tabled.

95. Amendments to the FAAA similar to clauses 62 to 64 were introduced by the FALAA and were proclaimed from 1 January 2006.

Division 3 – Reporting on abolition of agencies

The purpose of this Division is to secure proper accountability on the abolition of an agency. The prescribed period for tabling the final report is taken to be 14 days after submission to the Minister.

Clause 66: Terms used in this division

96. Self-explanatory.

Clause 67: Purpose of the division

97. To ensure proper accountability when an agency is abolished.

Clause 68: Reporting on abolition of an agency

98. On abolition of an agency the Treasurer is to appoint a “reporting officer”. The Treasurer may also give written directions to the reporting officer as to timing and content of the reports he/she is to prepare. The reporting officer is required to comply with these directions.
99. If the abolition takes place at the end of a financial year, the reporting officer is to produce the annual report under clauses 61 and 63, together with any prior annual reports not prepared under those clauses.
100. If the abolition takes place at a time other than the end of the financial year, then the reporting officer is to prepare the annual report as at the end of the last financial year, if it has not been done, and also a final report from that date to the date of abolition.

Clause 69: Content of final report

101. Lists the content of the final report, where it is required. These are similar to the existing requirements under the FAAA.

Clause 70: Directions by Treasurer

102. Specifies the directions that may be given by the Treasurer under clause 68. These are similar to existing provisions in the FAAA.

Clause 71: Reporting officer entitled to reasonable assistance and facilities

103. In addition to reasonable assistance and facilities, the reporting officer is entitled to full access at all reasonable times to all relevant documents.

Clause 72: Reporting officers to submit financial statements and information to the Auditor General

104. Subject to any special directions by the Treasurer, the reporting officer is to submit the financial statements and performance indicators (where applicable) to the Auditor General and subsequently to the Minister, when the Auditor General has issued his opinions.
105. Where a final report is prepared, the prescribed period is taken to be 14 days after submission to the Minister.

Part 6 – Miscellaneous

Division 1 – Delegations and authorisations

Clause 73: Terms used in this division

106. Self-explanatory.

Clause 74: Delegation by Treasurer

107. The Treasurer may delegate to a Minister, an officer of the Treasury or a Treasury Corporation official any of his powers or duties under this Act, other than the power of delegation itself.

Clause 75: Delegation by Ministers

108. Ministers may further delegate to an officer of the Treasury or a Treasury Corporation official any powers or duties delegated to them.

Clause 76: Delegation and authorisation by Under Treasurer

109. The Under Treasurer may delegate to a Treasury Corporation official the power to invest under clause 37.

110. The Under Treasurer may authorise an officer of the Treasury to exercise or perform any powers or duties delegated to him (or her) and any powers or duties conferred on him (or her) by the Treasurer's instructions.

Clause 77: General provisions about delegations and authorisations

111. All delegations must be in writing and signed by the person making the delegation.

112. A person delegated or authorised to exercise a power or duty is taken to have exercised that power or performed that duty in accordance with the delegation or authorisation unless the contrary is shown.

113. A person exercising a power or performing a duty that has been delegated or authorised shall do so in accordance with any directions given by the person making the delegation or giving the authorisation.

114. The relevant provisions of the *Interpretation Act 1984* apply to authorisations under this Division as if they were delegations.

115. A document purporting to be signed by a delegate is presumed to be so unless the contrary is proved.

116. 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

Clause 78: Treasurer’s instructions

117. Allows the Treasurer to issue Treasurer’s instructions. No topics for the subject of these instructions are specified as the instructions themselves fully explain the topics to which they relate.

Division 3 – Miscellaneous powers and duties

Ministerial duty to inform Parliament – clause 81 prohibits agencies from keeping any information from their Ministers. The related sub-clause 36(1) of the Auditor General Bill gives the Auditor General access to the information the Minister has decided not to disclose. If it would not be in the public interest for the information to be disclosed, sub-clause 36(2) prohibits disclosure of it by the Auditor General in any report to Parliament, but gives the Auditor General discretion to report the information to the Public Accounts Committee.

Clause 79: Treasurer’s power to require information

118. The Treasurer may require any information in relation to financial management of an agency, and the person required to produce the information must do so in the form and at the time required by the Treasurer.

Clause 80: Act of grace payments

119. Allows the Treasurer to authorise a payment to a person even though there is no legal obligation for that payment to be made.
120. The Treasurer may authorise an amount up to the amount prescribed in regulations. The Governor’s approval is required for amounts in excess of that limit (the limit proposed to be prescribed in regulations is \$250,000 – up from the current limit of \$50,000, which has not been amended since 1991).
121. Payments may be made under conditions and breach of these conditions may lead to recovery of the amount paid.
122. The form of the request to the Treasurer for an act of grace payment is to be prescribed in Treasurer’s instructions.

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

123. No actions are to be taken or contracts entered into that would prevent the Minister from providing information concerning the conduct or operation of an agency to Parliament. Clauses 81 and 82 clarify the intent of the FAAA section 58C to reflect the recommendation of the Commission on Government.

Clause 82: Minister to report decisions not to provide certain information about agencies

124. If the Minister decides not to disclose to Parliament certain information concerning an agency, then within 14 days the Minister must notify Parliament and the Auditor General that the information is not provided and the reasons for that action (this duty was considered to be implicit in the FAAA section 58C but has been made explicit in this clause). The Auditor General is not to include the information in a report to Parliament but may report it to the Public Accounts Committee (clause 36 of the Auditor General Bill 2006).

Division 4 - General

This Division includes a new clause 85, which requires a Ministerial review of the operation and effectiveness of the legislation after five years. The Minister must report the findings to each House of Parliament and refer the report to the Public Accounts Committee for its review and report to the Legislative Assembly.

Clause 83: Supplementary provision about laying documents before Parliament

125. If a document is required by this Act to be laid before a House of Parliament and that House is not sitting at the relevant time, the Minister is to transmit a copy of the document to the Clerk of the House. This action is to be regarded as having laid the document before the House.
126. In the case of an annual report of an agency the Minister is to also make the report available to the public.

Clause 84: Regulations

127. Allows matters permitted by this Act to be dealt with in regulations.

Clause 85: Review of the Act

128. The Act to be reviewed by the Minister, and the Public Accounts Committee, as soon as possible after the expiry of five years from the commencement of the Act.

Schedule 1 – Statutory authorities

129. All persons or bodies listed in Schedule 1 of the Act are statutory authorities in terms of the definition of “statutory authority” in clause 3.

Schedule 2 – Modifications to the Act as to certain administrations

130. This schedule modifies the provisions of the Act with respect to the entities that are deemed to be departments, as listed in sub-clause 5(1).
131. These deemed departments do not have a Minister responsible for them and so in clauses where the Minister is referred to, this reference is deleted or substituted. The relevant clauses are:
- a. clause 21(1) – Closure of special purpose accounts or transfer of service;
 - b. clause 48(3) – Write-offs;
 - c. clause 52 – Agencies to have accountable authority;
 - d. clause 61(1) – Annual reports by accountable authorities;
 - e. clause 62(2) – Financial statements;
 - f. clause 63(2) – Accountable authorities to submit financial reports and other information;
 - g. clause 64(1) – Minister to table accountable authority’s report; and
 - h. clause 65(1) and (2) – Minister to inform Parliament if annual report and Auditor General’s opinion cannot be tabled on time.

Schedule 3 – Modifications to the Act as to the Office of the Auditor General

132. This schedule modifies the provisions of the Act with respect to the Office of the Auditor General.
133. The Office of the Auditor General does not have a Minister responsible for it and so in clauses where the Minister is referred to, this reference is deleted or substituted. The relevant clauses are the same as for Schedule 2.