



REPORT OF THE

STANDING COMMITTEE ON
ESTIMATES AND FINANCIAL OPERATIONS

IN RELATION TO THE

FINANCIAL ADMINISTRATION AND
AUDIT AMENDMENT BILL 1999

Presented by Hon Mark Nevill MLC (Chairman)

Report 31

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Date first appointed:

December 21 1989

Terms of Reference:

1. There is hereby appointed a Standing Committee to be known as the *Estimates and Financial Operations Committee*.
2. The committee consists of 5 members.
3. The functions of the Committee are to consider and report on:
 - (a) the estimates of expenditure laid before the Council each year; and
 - (b) any matter relating to the financial administration of the State.
4. The Committee shall report on the estimates referred under clause 3 by or within one sitting day of the day on which the second reading of the *Appropriation (Consolidated Revenue Fund) Bill* is moved.
5. For the purposes of clause 3(a), the House may appoint not more than 6 members at any stage of its examination.
6. A reference in clause 3 to "estimates of expenditure" includes continuing appropriations, however expressed, that do not require annual appropriations.
7. The Committee may initiate investigations under clause 3(b) without prejudice to the right of the Council to refer any such matter.

Members as at the time of this inquiry:

Hon Mark Nevill MLC
Hon Muriel Patterson MLC
Hon Ed Dermer MLC
Hon Simon O'Brien MLC
Hon Bob Thomas MLC (resigned March 21 2000)
Hon Ljiljana Ravlich MLC (appointed March 21 2000)
Hon Helen Hodgson MLC (participating Member: SO326)

Staff as at the time of this inquiry:

Ms Lisa Hanna, Committee Clerk
Mr Michael Smyth, Advisory Officer (resigned December 24 1999)
Mr Paul Grant, Advisory Officer (appointed January 31 2000)

Address:

Parliament House, Perth WA 6000, Telephone (08) 9222 7222
Website: <http://www.parliament.wa.gov.au>

ISBN: 0 7307 6424 9

CONTENTS

1	REFERRAL.....	1
2	BACKGROUND	2
3	ACCRUAL APPROPRIATIONS.....	3
4	CAPITAL USER CHARGE (“CUC”)	14
5	FACILITATING E-COMMERCE.....	23
	SCHEDULE.....	25

**REPORT OF THE STANDING COMMITTEE ON ESTIMATES AND FINANCIAL
OPERATIONS**

IN RELATION TO THE

FINANCIAL ADMINISTRATION AND AUDIT AMENDMENT BILL 1999

1 REFERRAL

- 1.1 The long title of the Financial Administration and Audit Amendment Bill 1999 (“the Bill”) is as follows:

“A Bill for An Act to amend the Financial Administration and Audit Act 1985.”

- 1.2 The Bill was introduced in the Legislative Assembly on October 28 1999. The Bill passed through the Legislative Assembly on November 17 1999. The Bill was read a first and second time in the Legislative Council on November 17 1999. On Thursday November 25 1999, the Legislative Council referred the Bill to the Standing Committee on Estimates and Financial Operations (the “Committee”) on a motion by Hon Nick Griffiths MLC:

“That the Financial Administration and Audit Amendment Bill 1999 be discharged from the Notice Paper and referred to the Standing Committee on Estimates and Financial Operations for consideration and report.”

- 1.3 No reporting date was set by the Legislative Council. A hearing was conducted by the Committee in relation to the Bill on December 8 1999. At that hearing evidence was taken from the following persons:

- Mr John Langoulant, Under Treasurer; Mr David Imber, Acting Assistant Under Treasurer; Mr Andrew Joseph, Acting Director, Fiscal Policy Division; Mr Graeme Doyle, Assistant Director Financial Reform; and Mr William Ielati, Assistant Director, **(all being officers of the Treasury Department of Western Australia).**

- 1.4 Further hearings were conducted by the Committee on May 3 2000. At those hearings evidence was taken from the following persons:

- Mr John Langoulant, Under Treasurer; and Mr David Imber, Director Fiscal Policy, **(both being officers of the Treasury Department of Western Australia)**.
- Ms Prudence Ford, Executive General Manager, Finance and Infrastructure, **Health Department of Western Australia**; and Mr Andrew Weeks, Chief Executive Officer, **Metropolitan Health Service**.
- Mr Ian Hill, Chief Executive Officer; Dr Susan King, Executive Director, Strategic Resource Management Division; Mr Kevin Smith, Director Financial Management and Analysis; and Ms Trish Fraga-Diaz, Manager Resource Analysis **(all being officers of the Western Australian Department of Training and Employment)**.
- Ms Toni Walkington, Branch Assistant Secretary, **Community and Public Sector Union and Civil Service Association**.
- Mr Peter Browne, Acting Director General; Mr Ron Mance, Acting Deputy Director General; and Mr Peter McCaffrey, Director Finance **(all being officers of the Education Department of Western Australia)**.

1.5 The Committee's inquiry into the Bill lapsed on August 4 2000. The Bill was subsequently re-referred to the Committee by the Legislative Council on September 5 2000.

2 BACKGROUND

2.1 The Bill has as its principal purpose, according to the then Minister for Finance's Second Reading Speech Notes, the amendment of the *Financial Administration and Audit Act 1985* ("the Act") to allow for the implementation of accrual appropriations and a capital user charge ("the CUC"), and to facilitate e-commerce.¹ Each of these three components of the Bill are quite distinct in their effect, and as such they have been dealt with separately by the Committee in this report.

2.2 The provisions of the Bill relating to accrual appropriations and the CUC are the final instalment of a coordinated set of reforms commenced by the Government in 1996. A four-year program was established to implement these reforms on a gradual,

¹ Hon Max Evans MLC, *Financial Administration & Audit Amendment Bill 1999, Second Reading Speech Notes*, Legislative Council, November 17 1999, p. 1.

monitored, basis. The reforms seek to introduce a fundamental shift in the focus of the State's financial management from the financial inputs provided to Government agencies to the outputs or services that agencies deliver. In his evidence to the Committee, the Under Treasurer noted that although some disruptions have occurred in bringing about these significant changes, he remains of the view that the implementation process has been smoother in Western Australia than has been seen in other jurisdictions where similar reforms have been introduced in recent years.²

- 2.3 Although the Bill consists of 7 clauses and is only four pages in length, its contents propose significant changes to public sector financial management processes in Western Australia.

3 ACCRUAL APPROPRIATIONS

- 3.1 Accrual appropriation regimes have already been introduced in Victoria, South Australia, Queensland, the Australian Capital Territory, and at the Commonwealth level.³ Western Australian Government agencies have been reporting their annual financial statements on an accrual (as well as cash) accounting basis since 1994: see, for instance, the Government leaflet entitled "Annual Budget Background Information", which states:

*"Adoption of accrual accounting concepts brings public sector reporting more into line with that in the business world as well as giving a better indication of the economic and financial performance of the public sector. It improves government accountability and provide [sic] a more accurate and comprehensive basis for recording public sector operations, particularly in the area of unfunded liabilities and other non-cash transactions."*⁴

- 3.2 Accrual appropriations, in theory, allow for greater parliamentary control over the Government's non-cash commitments and costs (for example, leave liabilities, superannuation, and depreciation) by expressly providing for these items in budget papers and financial statements in support of parliamentary appropriations for the ordinary annual services of the Government. On the passing of this Bill it is expected that Government agencies will also be able to effectively manage moneys appropriated for the purposes of producing agency outputs over a much greater time period than is possible at present.

² Transcript of Evidence of Mr John Langoulant, Under Treasurer, December 8 1999, p. 2.

³ "Questions and Answers on the New Appropriation Regime and Capital User Charge", Treasury Department of Western Australia, November 1999, p. 2.

⁴ "Annual Budget Background Information", May 11 2000, p. 3.

- 3.3 Appropriation is the process whereby Parliament allocates funds to Ministers for the purpose of funding agency activity.⁵ Except in a few specific instances where Treasurer's advances may be authorised, no payment shall be made for expenditure in respect of the Consolidated Fund except under appropriation made by an Act.⁶
- 3.4 Although the use of standing or automatic appropriations within legislation has become more common in recent years (to the extent that over half the Executive's annual budget now comes from such appropriations), the Parliament continues to exercise a degree of oversight of those annual appropriations for recurrent services and purposes and those for capital services and purposes which are set out in the two annual Appropriation (Consolidated Fund) bills. These bills consist of a list of individual items to be funded (these items generally being departments, ministries and agencies grouped according to their responsible Minister), with a one-line appropriation for each item.⁷ As appropriations are made at the agency rather than at the program level, an agency is technically free to spend any amount within its annual allocation on any program or other expense of the agency for that particular financial year.
- 3.5 The Committee notes that New South Wales has recently moved from a system of annual appropriations for specific programs within government agencies to single line appropriations on a whole of agency basis. However, members of the New South Wales Legislative Council have expressed concern that the abolition of program based appropriations (whilst overcoming the significant difficulties that had been experienced by agencies in tracking their spending on a real-time basis at the program level) has resulted in diminished parliamentary control over government expenditure.⁸ A Committee of the New South Wales Legislative Council is currently inquiring into the impact, if any, that the recent changes have had on the effectiveness of parliamentary scrutiny of annual appropriations.⁹
- 3.6 Although in Western Australia annual appropriations have long been made on a one-line whole of agency basis, the Government provides additional details of forward

⁵ *Inquiry into the Current Provisions for the Appropriation of Moneys and Authorisation of Expenditure in New South Wales, Interim Report*, New South Wales Legislative Council General Purpose Standing Committee No. 1, April 13 2000, p. viii.

⁶ S23, *Financial Administration and Audit Act 1985*.

⁷ See, for instance, Appropriation (Consolidated Fund) Bill (No. 1) 2000 and Appropriation (Consolidated Fund) Bill (No. 2) 2000.

⁸ *Inquiry into the Current Provisions for the Appropriation of Moneys and Authorisation of Expenditure in New South Wales, Interim Report*, New South Wales Legislative Council General Purpose Standing Committee No. 1, April 13 2000, p. 18.

⁹ *Ibid.*

estimates of expenditure at the program level in the voluminous Budget Papers that accompany the annual Appropriation (Consolidated Fund) bills. Pursuant to the provisions of these Appropriation (Consolidated Fund) bills, the “Agency Information in Support of the Estimates” (that is, the annual Budget Statements, Volumes 1-3) provides details of the “services and purposes” for which each single line annual appropriation is made.¹⁰ In this way, the Parliament is able to exercise some level of scrutiny and control over how annual appropriations are spent. At the administrative level, the expenditure of annual appropriations by individual agencies is monitored and managed by the Treasury Department by way of Treasurer’s Instructions.¹¹

- 3.7 Parliament’s role of reviewing appropriations for the ordinary annual services of the Government arises from the common law and from the division of powers between the two Houses of Parliament established by s46 of the *Constitution Acts Amendment Act 1899*, which relevantly states:

“46. Powers of the 2 Houses in respect of legislation

(1) Bills appropriating revenue or moneys, or imposing taxation, shall not originate in the Legislative Council; but a Bill shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand of payment or appropriation of fees for licences, or fees for registration or other services under the Bill.

(2) The Legislative Council may not amend Loan Bills, or Bills imposing taxation, or Bills appropriating revenue or moneys for the ordinary annual services of the Government.

...

(6) A Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation.

... .”

- 3.8 The process set out in s46 of the *Constitution Acts Amendment Act 1899* allows the Government to allocate the amount of funds to go to each agency to achieve the Government’s policy objectives whilst also ensuring parliamentary scrutiny by requiring those funds to be appropriated in advance, one year at a time, by way of an

¹⁰ See Appropriation (Consolidated Fund) Bill (No. 1) 2000, s. 4; and Appropriation (Consolidated Fund) Bill (No. 2) 2000, s. 4.

¹¹ Ss58, 58A, *Financial Administration and Audit Act 1985*.

Act of Parliament originating in the Legislative Assembly. The Parliament makes no distinction between appropriation bills relating to recurrent services and appropriation bills relating to capital services; both types of appropriation bills are treated by Parliament as appropriation bills for the ordinary annual services of the Government.

- 3.9 The common law position regarding the expiry of unexpended annual appropriations (that is, that at the expiry of the financial year for which they have been appropriated the unexpended portion of the appropriated funds reverts to the Consolidated Fund) is restated in s29 of the Act. As was observed recently by the New South Wales Legislative Council General Purpose Standing Committee No. 1 with respect to the equivalent New South Wales statutory provision:

“The lapsing of appropriations was specifically provided for to ensure agencies are not permitted to hoard unused appropriations and later endeavour to use them at their discretion (ie without the consent or scrutiny of Parliament).”¹²

- 3.10 However, s27(1) of the Act currently provides that:

“The Treasurer may direct that the unexpended balance of any appropriation at the end of a financial year may, to the extent necessary to meet any relevant commitment, be transferred to a suspense account to which moneys payable in connection with that commitment shall be charged, and any such transfer shall be deemed a payment correctly chargeable against such appropriation for that financial year.”

- 3.11 S27(1) of the Act therefore provides an express exception both to s29 of the Act and to the common law, in that it permits the “unexpended balance” of an annual appropriation to be transferred to a suspense account at the end of the financial year “to meet any relevant commitment”. Such a transfer is treated as a payment chargeable against the authorising appropriation for the then concluding financial year.

- 3.12 It is significant to note that the phrase “relevant commitment”, as used in s27(1) of the Act, is not defined anywhere in the Act. This lack of definition in the Act raises a number of issues concerning the practicality of the proposed amendment to the Act contained in clause 4 of the Bill. Clause 4 of the Bill provides for the repeal of s27(1) of the Act, and the insertion of the following two subsections in its place:

¹² *Inquiry into the Current Provisions for the Appropriation of Moneys and Authorisation of Expenditure in New South Wales, Interim Report*, New South Wales Legislative Council General Purpose Standing Committee No. 1, April 13 2000, p. 21.

“(1) The Treasurer may direct that an appropriation for a financial year may, to the extent necessary to meet any relevant commitment, be transferred to a suspense account, and any such transfer is to be regarded as a payment correctly chargeable against that appropriation for that financial year.

(1a) Moneys standing to the credit of a suspense account under subsection (1) may be transferred as and when needed for application in connection with the relevant commitment.”

- 3.13 The proposed amendment to s27(1) of the Act, like the current s27(1), permits an exception to both the common law and to s29 of the Act by allowing the transfer of unexpended annually appropriated funds to a suspense account. However, unlike the current s27(1), such a transfer is not restricted merely to the unexpended balance of an annual appropriation remaining at the end of the financial year. Pursuant to the proposed amendment, annually appropriated funds may be transferred to a suspense account at any time of the year in any amount up to the full amount of the appropriation.
- 3.14 It can be argued that the proposed s27(1), at the option of the Executive, destroys the purpose and intent of annual appropriations, that is, parliamentary approval of, and control over, Government expenditure on a year to year basis. The existing s27(1) merely enables an unexpended balance of an annual appropriation to survive its end of year lapse. However, the proposed s27(1) would enable a one line annual appropriation itself to survive whole in order to be spent in an unspecified future year.
- 3.15 Of further concern to the Committee is the fact that the proposed s27(1a), like the existing s27(1), fails to define the “relevant commitment” to which funds may be applied after they have been transferred to the suspense account. Such a commitment may include expenditure on matters bearing little relationship to the original appropriation. There is nothing in the proposed provisions that would prevent the funds in the suspense account from being applied for any purpose which, in the Treasurer’s opinion, is a “relevant commitment” at the time that the funds are to be applied – whether or not it is the same commitment for which the funds were transferred to the suspense account in the first place.
- 3.16 The current position of the Government appears to be that as annual appropriations are one-line appropriations to each agency for the purposes of achieving stated outputs as set out in the Budget Papers, these appropriation may be spent by each agency as it wishes in achieving its “parliamentary authorised outputs”. Mr David Imber, Director Fiscal Policy, Treasury Department, stated in his evidence to the Committee that:

“[T]he intention is not that an appropriation that was estimated to be required for leave liability purposes would only be available for expenses on leave liabilities. The approach is that they are balance sheet resources and they would be available to expunge liabilities that arose as a result of creating parliamentary authorised outputs. The proposal is not to create accounts going forward, which is actually not feasible to do. It has been found in Victoria where this was tried that it could not be done sensibly. The approach is that resources would be available to expunge liabilities where it can be reasonably shown that those liabilities resulted from providing approved outputs. That is the issue between expenses.

There is another issue in funding capital. The accrual appropriation would enable agencies to receive a resource in the year for the depreciation expense in that year. That money is not to be matched to replacement of any individual asset in that year. It is to be matched to the capital purchases of the agency as a whole. Generally speaking, the agency would have all of the money in the suspense account available to replace any asset, so that it could use money provided originally which was estimated to cover leave liabilities and it could use the asset in Treasury in order to replace a lumpy asset maybe two or three years down the track.”¹³

- 3.17 In his evidence to the Committee, the Under Treasurer stated that the accrual provisions of the Bill are intended to relate to all of the non-cash costs that are faced by agencies, such as long service leave, all other forms of leave (to the extent that the leave is not taken in the year that it accrues), superannuation and depreciation costs.¹⁴ It was the evidence of the Under Treasurer that as the Government had no intention of going beyond the above-stated non-cash expenses, it did not regard it as necessary to expressly restrict the operation of the proposed s27(1) and 27(1a).¹⁵ The Committee disagrees with this approach.
- 3.18 It is therefore the stated intention of the Government that the only funds that will be transferred into a suspense account pursuant to the proposed amendments contained in clause 4 of the Bill will be money set aside for future liabilities, that is, depreciation,

¹³ Transcript of Evidence of Mr John Langoulant, Under Treasurer and Mr David Imber, Director Fiscal Policy, Treasury Department, May 3 2000, p. 6.

¹⁴ Transcript of Evidence of Mr John Langoulant, Under Treasurer, Treasury Department, December 8 1999, p. 3.

¹⁵ Ibid, p. 3.

superannuation and leave liability debts.¹⁶ However, there is nothing in the legislation that restricts the use of suspense accounts to funds set aside for such purposes. Under the wording of the legislation, any portion of an appropriation may be transferred to a suspense account. The only limitation to this open ended power appears to be by way of Treasurer's Instructions which may be issued from time to time pursuant to s58 of the Act.

- 3.19 It is proposed by the Government that a Treasurer's Instruction will be issued to provide a framework to govern the rights of agencies to draw against accumulated unspent appropriation balances.¹⁷ This Treasurer's Instruction, currently in draft form, will seek to clarify the sort of commitments and conditions that would apply for release of funds in the suspense account to agencies to fund those relevant commitments.¹⁸ Without this Treasurer's Instruction, it would appear that a "relevant commitment" could simply equate to any and all of the outputs of an agency.
- 3.20 In May 1999 the New South Wales Government introduced the Public Finance and Audit Amendment Bill 1999 (NSW) ("the PFAA Bill") which included amendments that would allow New South Wales Government agencies to retain unspent Consolidated Fund moneys at the end of the financial year. However, the PFAA Bill was withdrawn by the New South Wales Government on the same day that it reached the New South Wales Legislative Council. It was clear that had the PFAA Bill not been withdrawn, the Opposition and minor parties in the New South Wales Legislative Council intended to request that some additional mechanism be placed in the PFAA Bill to ensure that the Parliament would remain informed as to the actual use of any moneys retained by agencies after the end of a financial year.¹⁹ The New South Wales Auditor General has expressed the view that if an amendment like that set out in the PFAA Bill were passed, it would have the effect of reducing parliament's control over annual appropriations.²⁰ The New South Wales Auditor General noted:

¹⁶ Transcript of Evidence of Mr John Langoulant, Under Treasurer and Mr David Imber, Director Fiscal Policy, Treasury Department, May 3 2000, p. 7.

¹⁷ Hon Max Evans MLC, *Financial Administration & Audit Amendment Bill 1999, Second Reading Speech Notes*, Legislative Council, November 17 1999, p. 6.

¹⁸ Transcript of Evidence of Mr John Langoulant, Under Treasurer and Mr David Imber, Director Fiscal Policy, Treasury Department, May 3 2000, p. 6.

¹⁹ *Inquiry into the Current Provisions for the Appropriation of Moneys and Authorisation of Expenditure in New South Wales, Interim Report*, New South Wales Legislative Council General Purpose Standing Committee No. 1, April 13 2000, p. 23.

²⁰ Ibid, p. 22.

*“From time to time it has become clear that at year end agencies have in their working accounts (ie bank accounts) unspent Consolidated Fund moneys. The Crown Solicitor on 28 August 1998 advised The Audit Office that these unspent moneys belong to the Consolidated Fund. As appropriations lapse at the end of the financial year agencies should not spend these moneys without further Parliamentary appropriation. The amount of Consolidated Fund moneys held in agencies’ working accounts is, in many instances, difficult to determine because agencies also inter-mingle in these accounts agency revenue from user charges and other activities.”*²¹

- 3.21 S46(6) of the *Constitution Acts Amendment Act 1899* requires that an appropriation bill for the ordinary annual services of the Government “... shall deal only with such appropriation”. The High Court of Australia has observed that “... an Appropriation Act has a twofold purpose. It has a negative as well as a positive effect. Not only does it authorize the Crown to withdraw moneys from the Treasury, it ‘restrict(s) the expenditure to the particular purpose’”.²² Latham CJ also stated in the *Pharmaceutical Benefits Case*²³ that a statute would not operate as an appropriation Act unless it defined the purpose for which the money might be spent: “... there cannot be appropriations in blank, appropriations for no designated purpose, merely authorizing expenditure with no reference to purpose. An Act which merely provided that a minister or some other person could spend a sum of money, no purpose of the expenditure being stated, would not be a valid Appropriation Act.”
- 3.22 The subject of specification of purpose for an appropriation has been discussed by Professor Campbell in her article “Parliamentary Appropriations”.²⁴ In that article she refers to the United States case of *State v. Moore*²⁵ where the Supreme Court of Nebraska stated:

“Having in view the origin and history of appropriations, as well as the general lexicographic meaning of the word, to ‘appropriate’ is to set apart from the public revenue a certain sum of money for a specified object, in such manner that the executive officers of the

²¹ Ibid, p. 22.

²² *The Commonwealth v. Colonial Ammunition Co. Ltd.* (1924) 34 CLR 198, per Isaacs and Rich JJ, at 224.

²³ (1945) 71 CLR, at p 253.

²⁴ *Adelaide Law Review*, Vol. 4 (1971-1972), pp. 154-155.

²⁵ (1896) 69 NW 373.

*Government are authorized to use that money, and no more, for that object and for no other.*²⁶

- 3.23 The Committee also notes the wording of s34A(1) of the *Financial Management Act 1996 (ACT)*:

“34A End of year balances of departmental banking accounts

(1) Where at the end of a financial year amounts appropriated for a department for that financial year are held in a departmental banking account, the amounts may be applied after the end of that financial year for the purposes for which they were appropriated.”

[Emphasis added.]

- 3.24 The Committee also notes that there is no time limit set in the proposed s27(1a) for the expenditure of funds that have been transferred to a suspense account. The expenditure of the funds may occur many years after the appropriation was made. Additionally, nothing in the proposed 27(1) or 27(1a) prevents accumulation by means of transfer of successive appropriations for the very same “relevant commitment”.
- 3.25 The use of the following words in the proposed s27(1): “*any such transfer is to be regarded as a payment correctly chargeable against that appropriation for that financial year*”, appears to be an attempt to overcome the problem of unspent annual appropriations automatically reverting back to the Consolidated Fund at the end of the financial year. However, the use of these words may not go far enough to ensure that certain appropriation bills do not cease to be ones for the “ordinary annual services of the Government”.
- 3.26 Technically, an appropriation bill that contains an amount that is to be subsequently placed into a suspense account so that it may be expended in some future year (possibly on an expense unrelated to the programs of the Government for the year of the initial appropriation), may not properly be regarded as an appropriation bill “for the ordinary annual services of the Government”. The implications of such an interpretation may be that the appropriation bill would be subject to the possibility of limited amendment by the Legislative Council pursuant to s46 of the *Constitution Acts Amendment Act 1899* (remembering, of course, that the Legislative Council’s powers of amendment of such bills, that is bills not falling within s46(2) of the *Constitution Acts Amendment Act 1899*, would be restricted to amendments which would not increase any proposed charge or burden on the people).²⁷

²⁶ (1896) 69 NW 373, p. 376.

²⁷ S46(3), *Constitution Acts Amendment Act 1899*.

3.27 In summary, the Committee is of the opinion that clause 4 of the Bill may have the indirect effect of:

- (a) Parliament surrendering partial control of the appropriation cycle to the Executive; and
- (b) altering the powers of the Legislative Council with respect to the amendment of appropriation bills.

3.28 During the course of the Committee's inquiry, the Treasury Department advised the Committee that the Government proposed to amend clause 4 of the Bill as follows:

*“Page 2 [of the Bill], line 21 – to delete “the” and insert instead –
“any”.*

...

Page 2 [of the Bill], line 22 – to insert after “commitment” –

“

*and, subject to subsection (3), are not to be applied in
any other way*

”.

...

Page 2 [of the Bill], after line 22 – to insert –

“

(1b) In subsection (1) and (1a) –

*“**relevant commitment**” means a commitment that –*

*(a) is relevant to the financial year referred to in
subsection (1); and*

*(b) is in respect of superannuation, leave, depreciation or a
prescribed matter.*

”²⁸.

3.29 The Committee is satisfied that, subject to a further amendment as recommended by the Committee below, the Government's proposed amendment to the Bill should correct the technical problems identified by the Committee with respect to the types of

²⁸ Letter from Mr John Langoulant, Under Treasurer, to the Committee, July 10 2000.

expenses for which funds may be transferred to a suspense account to be met in subsequent years pursuant to s27 of the Act.

- 3.30 The Committee remains concerned at the wide discretion still left to the Treasurer in defining what types of expenses are a “relevant commitment” which may be provided for in a suspense account. The Government’s proposed amendment to the Bill provides for relevant commitments to be defined as “*a prescribed matter*”. In s3 of the Act, the definition of the word “prescribed” extends beyond the ordinary usage of the word (that is, to denote that a matter is prescribed by way of regulations under the Act), to also include matters which are “prescribed under the Treasurer’s Instructions”. Unlike regulations under the Act, which may be disallowed by Parliament pursuant to s42 of the *Interpretation Act 1984*, Treasurer’s Instructions are not subject to parliamentary disallowance.
- 3.31 The Committee is of the view that any expansion of the definition of “relevant commitment” should be by way of regulation rather than by Treasurer’s Instructions. The Committee suggests that a preferable approach would be for regulations made under the proposed s27 of the Act to be tabled before both Houses of Parliament (as regulations are in the normal course pursuant to s42(1) of the *Interpretation Act 1984*), with the additional requirement that the regulations be subject to a motion that they shall not come into operation unless affirmed by both Houses of Parliament.
- 3.32 It is envisaged by the Committee that both Houses of Parliament would have 14 sitting days in which to affirm the regulations, and if either or both Houses fail to affirm within that time, the regulations would lapse.
- 3.33 As part of the affirmation process, the Committee sees merit in introducing a procedure whereby there would be an automatic referral of the regulations to the Joint Standing Committee on Delegated Legislation for consideration and report prior to the affirmation motion being disposed of.
- 3.34 The Committee is of the view that the above affirmation procedure should only apply where regulations made pursuant to the proposed s27(1b)(b) of the Act prescribe a particular matter for the first time. The affirmation procedure would therefore not apply to any regulations which amend or repeal a previously prescribed matter. However, such amending regulations would, of course, still be subject to disallowance by Parliament in the usual way, that is, pursuant to s42 of the *Interpretation Act 1984*.
- 3.35 In order to facilitate the implementation of the two different procedures for different types of regulations made pursuant to the proposed s27(1b)(b) of the Act, the Committee is of the view that such regulations should deal with one subject matter only.

- 3.36 The Committee has set out its own proposed amendment to clause 4 of the Bill as a schedule to this report.

RECOMMENDATION 1

3.37 The Committee recommends that clause 4 of the Bill be amended in accordance with the schedule to this report.

- 3.38 The Committee also makes the following general observations regarding the Parliament's ability to scrutinize appropriations and Government expenditure.

3.39 As stated above, it is generally the case that an appropriation of money from the Consolidated Fund to meet the ordinary annual services of the Government must be made by way of an Act of Parliament pursuant to the requirements of s46 of the *Constitution Acts Amendment Act 1899*. S46 was inserted into the *Constitution Acts Amendment Act 1899* by Act No. 34 of 1921 s.2, and has been amended only twice since (by Act No. 63 of 1950 s.2; and Act No. 28 of 1977 s.2). Methods of accounting and public financial management have become considerably more complex since 1921. Over that time, it is possible that a number of the accounting practices employed by the Government may have departed from the intent of s46.

3.40 Arguably, the ability of Parliament to scrutinize Government expenditure has diminished significantly because of changes in accounting practices and the incremental use of standing appropriations. The Committee is concerned that legislation such as that dealt with in this report demonstrates the increasing inability of Parliament to provide effective supervision of annual appropriations.

3.41 As a result of this inquiry, the Committee is giving consideration to conducting a re-evaluation of parliamentary appropriations and of the powers as between the two Houses of Parliament with respect to revenue and expenditure.

4 CAPITAL USER CHARGE (“CUC”)

4.1 Clause 7 of the Bill proposes to insert a s58D into the Act, which will introduce a CUC.

4.2 A CUC is an annually imposed charge on capital employed by government agencies. It serves two basic purposes:

- (a) to create incentives for better asset management, that is, government agencies will be encouraged to dispose of unproductive assets in

exchange for either new and improved assets or a reduction in the CUC by paying the proceeds of disposal back to the government; and

- (b) to allow for a more accurate assessment of the full cost of public sector output provision (which may lead to the setting of more appropriate fees and charges by government agencies), that is, it places debt versus equity decisions on a more equal footing, by assigning an explicit cost to equity capital.

- 4.3 The Under Treasurer stated to the Committee that the major aim of the proposed CUC is to signal to agencies that capital assets are not free.²⁹ It is thought that a CUC makes government agencies aware that capital invested in and employed by government agencies has an opportunity cost in that these funds could be spent on other government priorities.³⁰ The cost of such investment is also a significant element of the full cost of goods and services provided by government agencies which is not presently reflected in financial statements.
- 4.4 A CUC is already in place in Victoria, the ACT, Queensland and at the Commonwealth level.³¹ The proposed CUC set out in clause 7 of the Bill was developed in consultation with the larger asset-holding Government agencies in Western Australia, such as the Health Department, the Ministry of Justice, the Department of Transport, the Department of Conservation and Land Management (“CALM”), and the Education Department.
- 4.5 The proposed CUC, as its name suggests, is a charge on all of the capital assets of government agencies. As such, the CUC will apply not just to the land and buildings held by agencies, but also to other capital equipment such as motor vehicles, computers, photocopiers, x-ray machines, and office equipment.³²
- 4.6 The proposed CUC will be charged at a rate to be determined by the Government and calculated quarterly on the net assets held at the close of the preceding quarter. The Under Treasurer stated to the Committee that the valuation of some assets has been

²⁹ Transcript of Evidence of Mr John Langoulant, Under Treasurer and Mr David Imber, Director Fiscal Policy, Treasury Department, May 3 2000, p. 3.

³⁰ Hon Max Evans MLC, *Financial Administration & Audit Amendment Bill 1999, Second Reading Speech Notes*, Legislative Council, November 17 1999, p. 7.

³¹ “Questions and Answers on the New Appropriation Regime and Capital User Charge”, Treasury Department of Western Australia, November 1999, p. 14.

³² Transcript of Evidence of Mr John Langoulant, Under Treasurer and Mr David Imber, Director Fiscal Policy, Treasury Department, May 3 2000, p. 3.

more difficult than for others, that is, the substantial unused land holdings of CALM.³³ Whilst conservation land is to be exempt from the CUC, commercially exploited forestry land held by CALM (or other government agencies) will be subject to the CUC.³⁴ The Treasury Department relies upon the Valuer General to calculate an appropriate value for such assets. Other assets which will be exempted from the CUC are those held by public trading enterprises (for example, Western Power, Water Corporation, and Alinta Gas), and infrastructure assets such as road reserves which are inherently difficult to value.³⁵

4.7 It is anticipated that the CUC will be fully funded (at least initially) through increased appropriations to government agencies for outputs. As the CUC is designed to provide an incentive for agencies to reduce the capital assets they employ through the disposal of surplus assets or by the seeking of more cost-effective replacements, when such disposals and replacements are actually made they will have the effect of lowering the CUC in the present and future years whilst also allowing agencies to retain the full initial level of funding that was made to the agency to meet the CUC for the year in which such actions were taken. Such actions will, of course, also contribute to a reduction in the State's net debt.

4.8 During its public hearings in relation to the Bill, the Committee heard evidence from a number of Government agencies and interested organisations as to the anticipated impact of the proposed CUC on public sector operations. Those Government agencies that appeared before the Committee were supportive of the general concept of a CUC.

Health Department

4.9 The Health Department of Western Australia, which has a capital base and fixed assets worth about \$1.5 billion (about \$1 billion of which would be subject to the proposed CUC after liabilities have been taken into account³⁶) has identified great benefits in a CUC. Ms Prudence Ford, Executive General Manager, Finance and Infrastructure, Health Department of WA, advised the Committee that:

“To summarise our position, we believe that the introduction of the capital user charge and the move to full accrual appropriations and budgeting are good and proper next steps in our system of financial reform which has been going on for two or three years. They will

³³ Ibid, p. 2.

³⁴ Ibid, p. 2.

³⁵ Ibid, p. 2.

³⁶ Transcript of Evidence of Ms Prudence Ford, Executive General Manager, Finance and Infrastructure, Health Department of WA, May 3 2000, p. 1.

*assist transparency and improve decision making on the allocation of the total resources that are available. However, it is a significant change. We must ensure that we have addressed as many of these administrative-type questions as we can up front to make sure the system runs smoothly, and that is what concerns me in my role. They do raise some significant issues.*³⁷

- 4.10 The Health Department acknowledged that it had not yet fully grasped many of the detailed administrative issues that it will confront with the introduction of a CUC. For instance, the Health Department has not yet determined whether the proposed CUC will be accounted for centrally, or apportioned for administrative purposes to each of the regional health services.³⁸ There is also the problem of allocating the CUC to the Health Department's separate output costs – Ms Ford stated that apportioning the CUC correctly to the appropriate output category will be a difficult administrative and accounting issue.³⁹ Ms Ford also advised the Committee that the Health Department was still engaged in discussions with the Treasury Department (along with a number of other agencies) regarding the likely impact of the CUC on the treatment of the depreciation of assets in light of the proposed simultaneous introduction of accrual accounting reforms under the Bill.⁴⁰
- 4.11 It was noted by the Health Department officials that appeared before the Committee that it will be expected at times that the Health Department's community service obligations will conflict with the efficiency aims of the CUC. For instance, the Health Department aims to provide adequate health services to people wherever they reside in the State, and accordingly the Health Department's assets are not always located in the most efficient areas in terms of cost.⁴¹
- 4.12 However, it is envisaged that the proposed CUC would encourage the Health Department to explore more cost-effective and commercial assets and asset-funding arrangements than those currently existing, wherever possible. Mr Andrew Weeks, Chief Executive Officer, Metropolitan Health Service, made the following point to the Committee:

“The Metropolitan Health Service is arguably the most high-tech, diverse, complicated business in Western Australia at the moment. It

³⁷ Ibid, p. 3.

³⁸ Ibid, p. 3.

³⁹ Ibid, p. 2.

⁴⁰ Ibid, p. 3.

⁴¹ Ibid, p. 2.

has a huge plethora of high-tech equipment. Because it is capital intensive and because the capital comes in chunks, it has a debilitating effect on governments over time. Governments tend to like a relatively smooth cash flow. We introduce a high level of lumpiness into cash flow as a result of these calls with high-tech equipment and periodically new facilities. One of the major benefits that comes from introducing a capital user charge is that the financial disincentive to utilise alternative sources of capital is taken away. One of those, for example, is leasing. If I were to lease an asset today from recurrent funding, I would pay an implicit financing charge within it. If I were to wait and bid for capital, I would not pick up that cost. Therefore, today there is a disincentive to use that. By putting a capital user charge into the appropriations continuum the playing field is levelled vis a vis those alternative sources of capital.”⁴²

Education Department

4.13 Officers of the Education Department raised the following concerns regarding the practical application of the proposed CUC:

- (a) there had been very little recent communication between the Treasury Department and the Education Department in relation to the CUC;
- (b) the Education Department holds a large amount of unused donated land (for example, education reserves in new land subdivisions which may not be utilised for many years); and
- (c) the Education Department is concerned about the application of the proposed CUC to capital items other than land and buildings (for example, schools receive many donated assets such as photocopiers and computers).

4.14 The Education Department acknowledged that the general concept of a CUC as a means of providing more accurate financial information to the Government on agency performance was deserving of support.⁴³ However, the Education Department also was of the view that the practical effect of the proposed CUC on individual agencies

⁴² Transcript of Evidence of Mr Andrew Weeks, Chief Executive Officer, Metropolitan Health Service, May 3 2000, pp. 5-6.

⁴³ Transcript of Evidence of Mr Peter Browne, A/Director General, Mr Ron Mance, A/Deputy Director General and Mr Peter McCaffrey, Director Finance, Education Department of WA, May 3 2000, p. 2.

had not yet been fully explored by the Treasury Department. Mr Peter McCaffrey, Director Finance, Education Department, stated the following:

“I think that there needs to be careful review of the implications for each of the agencies. Treasury has a particular view about how things should be done. In an economically level playing field and from an accountant's viewpoint, this all looks great theoretically, but when one gets into the real world it is not so easy. I am loath to criticise Treasury because it supports agencies very well, but at times I find that it looks easier on a piece of paper than it is in real life in making these reforms as meaningful as they should be. It has its decision-making process and its executive, and it is pushing the reform agenda in a manner that addresses the State's finances, but sometimes the issues that are big for us do not seem as big to them.”⁴⁴

- 4.15 The concerns expressed by the Education Department appear to have essentially arisen through the lack of information and ongoing feedback from the Treasury Department regarding the proposed CUC. Mr Browne referred to the Education Department as “flying a bit blind at the moment” with respect to the proposed CUC.⁴⁵ As to the existing level of consultation with the Treasury Department, Mr McCaffrey stated:

“Treasury formed a financial reform advisory group, on which the Education Department has representation. As part of that, subgroups addressed a number of the reforms that have been ongoing over the past four or five years. As part of those group discussions, we had the opportunity to raise issues. Whether they were the community service obligation issues, the donated land or under-utilised land issues, they were all raised with Treasury. It took them on board, prepared a draft document and then instituted a capital user charge implementation team, which I know included some government agencies, of which the Education Department is not one. The recent advice of the last meeting indicated that the implementation team was still working through a number of outstanding issues, and we would be advised of the result of those deliberations in due course. I have not had any contact from that team from Treasury since December.”⁴⁶

⁴⁴ Ibid, p. 6.

⁴⁵ Ibid, p. 5.

⁴⁶ Ibid, p. 6.

- 4.16 Mr Browne advised the Committee that the Education Department had been told that the CUC would apply only to buildings and land initially.⁴⁷ The Education Department stated that it would be very concerned if the CUC was, in fact, to be applied to smaller assets such as computers and photocopiers (many of which are donated to schools).⁴⁸
- 4.17 Many schools in Western Australia are old and require injections of considerable amounts of capital. Mr Browne observed that a \$5 million injection into such a school may not result in a \$5 million improvement in the value of the school as an asset in the Education Department's financial statements.⁴⁹ Furthermore, the community service obligations of the Education Department mean that, as was the case with the Health Department and hospitals, it is unlikely to close a school simply to retain the benefit of funding to meet a CUC. The CUC model presumes an ease of disposal and revenue return to the agency. However, asset realisation on the sale of schools is negligible, particularly in rural areas where it is difficult to find a buyer for school properties.⁵⁰
- 4.18 Mr Ron Mance, Acting Deputy Director General, Education Department, stressed that the Education Department has a statutory responsibility to provide education services to children throughout the State, and some of these services are at a much greater cost due to the locality of the schools. As such, the Education Department would be extremely reluctant to pinpoint a so-called "under performing" school that could be disposed of.⁵¹ As Mr Browne added:

*"We must remain mindful that we cannot take an economic rationalist approach to education. If we were to remove a school from some country towns, that would be the death of that community."*⁵²

- 4.19 The Education Department also had reservations about the day-to-day administrative costs of the proposed CUC. Mr Browne stated:

*"We have considerable concerns, based on history, as to who would pick up the cost of administration of capital user charges. We would not be at all surprised if we were expected to pick up that cost."*⁵³

⁴⁷ Ibid, p. 4.

⁴⁸ Ibid, p. 4.

⁴⁹ Ibid, p. 2.

⁵⁰ Ibid, p. 2.

⁵¹ Ibid, p. 3.

⁵² Ibid, p. 2.

⁵³ Ibid, p. 3.

Department of Employment and Training

- 4.20 The Department of Employment and Training identified a problem with the implementation of the proposed CUC for their agency in that two-thirds of the capital funding received by the agency comes from Commonwealth grants.⁵⁴ Furthermore, there is the added complication that most of this capital funding is spent on capital assets utilised by TAFE colleges, which are statutory authorities.⁵⁵
- 4.21 As with the other agencies examined by the Committee, the Department of Employment and Training is unsure of many practical issues relating to the proposed CUC, and would appreciate the opportunity to obtain more information from the Treasury Department on these issues prior to the implementation of the CUC.⁵⁶

Community and Public Sector Union and Civil Service Association (“CPSU/CSA”)

- 4.22 Ms Toni Walkington, Branch Assistant Secretary, CPSU/CSA, was concerned that the proposed CUC was premised on an assumption that Government agencies currently have a large number of idle assets.⁵⁷ At a time in which it perceives that the chief executive officers (“CEOs”) of Government agencies are under increasing pressure to be seen to be increasing their agencies’ productivity, and that ministers are adopting an increasingly “hands off” approach to major decisions within Government agencies, the CPSU/CSA is concerned that CEOs may be encouraged to dispose of assets of long-term or community value, such as family care centres, in exchange for short-term financial gain for their agency.⁵⁸
- 4.23 The CPSU/CSA suggests that such fears may be allayed by a public service disclosure requirement which compels an appropriate level of consultation with community stakeholders prior to the making of any decisions to dispose of ostensibly idle public assets.⁵⁹
- 4.24 The Committee was concerned initially that the proposed CUC may be applied so as to penalise land-rich agencies such as the Education Department. However, in

⁵⁴ Transcript of Evidence of Mr Ian Hill, Chief Executive Officer; Dr Susan King, Executive Director, Strategic Resource Management Division; Mr Kevin Smith, Director Financial Management and Analysis; and Ms Trish Fraga-Diaz, Manager Resource Analysis, Department of Training and Employment, May 3 2000, p. 2.

⁵⁵ Ibid, p. 2.

⁵⁶ Ibid, p. 2.

⁵⁷ Transcript of Evidence of Ms Toni Walkington, Branch Assistant Secretary, Community and Public Sector Union and Civil Service Association, May 3 2000, p. 2.

⁵⁸ Ibid, p. 2.

⁵⁹ Ibid, pp. 2-3.

evidence to the Committee, the Under Treasurer advised that the CUC will not act to penalise land-rich agencies, as they will continue to be fully funded for the CUC on any land which they retain.⁶⁰ The Committee was advised that the CUC is not designed to be a punishment of agencies holding idle assets, but rather as an incentive for such agencies to re-evaluate the necessity of retaining under-utilised land assets through the offering of the promise of additional funding in the short term for the purchase of more needed assets in exchange for the disposal of unused capital assets.⁶¹

- 4.25 It was the Under Treasurer's evidence that the proposed CUC will therefore generally have a neutral impact on an agency's total asset holdings.
- 4.26 The Committee recognises that a CUC may facilitate better asset management practices by Government agencies. The Committee is of the view that a CUC may have the potential to improve the transparency of the total cost of providing Government services.
- 4.27 The Committee has not identified any significant problems with the aims and practical application of clause 7 of the Bill. However, it appears from the evidence that was presented to the Committee that there remains some confusion on the part of individual Government agencies as to whether certain categories of asset will be subject to the CUC, for example, donated land, land which has roads upon it or which is subject to easements and restrictive covenants, medical equipment and office equipment such as computers and photocopiers. The Committee is of the view that there will need to be a much greater level of communication between the Treasury Department and individual agencies than that presently existing during the implementation stage of the proposed CUC.

RECOMMENDATION 2

4.28 The Committee recommends that Treasury Department officials immediately meet on a one-to-one basis with all Government agencies that will be subject to the proposed CUC, with the aim of identifying at the earliest possible opportunity any problems which individual agencies may encounter with applying the proposed CUC to particular categories of capital assets.

- 4.29 The Committee notes that in many cases the CUC will be determined by written directions issued by the Treasurer pursuant to subsections (2), (3) and (4) of the proposed s58D of the Act. The Committee believes that Parliament should be

⁶⁰ Transcript of Evidence of Mr John Langoulant, Under Treasurer, December 8 1999, p. 7.

⁶¹ Ibid, p. 7.

informed of any such directions by the Treasurer so as to ensure full accountability of the process of determining the CUC for individual agencies. The Committee is of the view that all such directions should be reported to Parliament as part of the annual Budget Papers.

RECOMMENDATION 3

4.30 The Committee recommends that all written directions issued by the Treasurer pursuant to subsections (2), (3) and (4) of the proposed s58D of the Act should be tabled in Parliament as part of the annual Budget papers.

RECOMMENDATION 4

4.31 The Committee endorses the Bill insofar as it proposes the addition of new section 58D to the Act.

5 FACILITATING E-COMMERCE

5.1 The Bill provides for Government participation in the efficiencies of e-commerce by allowing direct debiting arrangements, and by removing a barrier existing in the Act which has been interpreted as requiring physical certification of payments on paper. The proposed amendments contained in clauses 5 and 6 of the Bill provide for electronic certification to be regulated by way of Treasurer's Instructions.

5.2 S33 of the Act states:

“33 Payments to be certified

(1) No payment shall be made from the Public Bank Account or charged to any of the Treasurer's accounts unless certified as correct by a certifying officer.

(1a) No payment shall be made from a bank account maintained by a department or statutory authority unless certified as correct by a certifying officer.

... “.

5.3 Clause 5 of the Bill proposes the insertion of the following subsection after s33(1b) of the Act:

“(1c) Subsections (1) and (1a) do not prevent an accountable officer or accountable authority from making arrangements for payments

that are of a recurring nature to be directly charged to a bank account.”

- 5.4 S58(2) of the Act lists the matters on which the Treasurer may issue instructions. Clause 6 of the Bill proposes the insertion of the following paragraph after s58(2)(k) of the Act:


“(ka) the manner in which matters can be certified or authenticated for the purposes of this Act, including certification or authentication by electronic means.”

- 5.5 The Committee has not identified any concerns with respect to clauses 5 and 6 of the Bill. It is clear that these provisions are designed to ensure that the Government keeps up to date with changing technology, and as such the Committee believes that these provisions will generally have the effect of making the Government’s financial transactions more efficient.

- 5.6 The Committee does, however, note that, given the contents of the *Electronic Transactions Bill 2000*, the proposed amendments to the Act contained in clauses 5 and 6 of the Bill may be redundant. Nevertheless, the Committee has no objection to these clauses.

RECOMMENDATION 5

5.7 The Committee endorses the Bill insofar as it proposes the amendment of sections 33 and 58 of the Act.



**HON MARK NEVILL MLC
CHAIRMAN**

DATE: OCTOBER 10 2000

SCHEDULE

WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

SCHEDULE SHOWING AMENDMENTS RECOMMENDED BY THE STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

FINANCIAL ADMINISTRATION AND AUDIT AMENDMENT BILL 1999

When in Committee on the *Financial Administration and Audit Amendment Bill 1999*

Clause 4

1/4 Page 2, line 21 - To delete “the” and insert instead -

“ any ”.

2/4 Page 2, line 22 - To insert after “commitment” -

“ and, subject to subsection (3), are not to be applied in any other way ”.

3/4 Page 2 after line 22 - To insert the following new subsections -

“

(1b) In subsection (1) and (1a) —

“**relevant commitment**” means a commitment that —

- (a) is relevant to the financial year referred to in subsection (1); and
- (b) is in respect of superannuation, leave, depreciation or a matter prescribed by regulation.

(1c) Regulations that prescribe a matter under subsection (1b)(b) for a first time —

- (a) have no effect unless affirmed by both Houses of Parliament by resolution passed in each House not later than 14 sitting days of the day on which they were laid before it;
- (b) are not subject to section 42(2) of the *Interpretation Act 1984*; and

- (c) must deal with one matter only.
- (1d) If either or both Houses —
 - (a) fails to pass a resolution within the time prescribed under subsection (1c)(a); or
 - (b) within that time, resolves the question in the negative, the regulations lapse.
- (1e) Regulations have effect from the date of the later of the resolutions passed in accordance with subsection (1c)(a) if they are passed on different days or, if a day is specified in the regulations, on that day.
- (1f) Subsection (1c)(a) does not apply to any amendment or revocation of those regulations, but no amendment is to contravene subsection (1c)(c).
- (1g) In subsection (1c)(a) the sitting days are reckoned consecutively within a Parliament but without regard to any prorogation occurring at any time during that Parliament.

”.