



New South Wales

Government Sector Finance Amendment Regulation 2019

under the

Government Sector Finance Act 2018

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Government Sector Finance Act 2018*.

DOMINIC PERROTTET, MP
Treasurer

Explanatory note

The objects of this Regulation are as follows:

- (a) to prescribe certain kinds of government money received or recovered by GSF agencies to be deemed appropriation money for the purposes of section 4.7 of the *Government Sector Finance Act 2018*,
- (b) to prescribe the circumstances in which a GSF agency may establish and operate a working account and the kinds of money that may be deposited in the account,
- (c) to provide for additional matters in respect of which Treasurer's directions may be issued concerning securities,
- (d) to prescribe certain arrangements to be relevant tax-equivalent regimes for the purposes of section 5.3 of the Act,
- (e) to prescribe certain persons as persons to whom a Minister may delegate the function of making of act of grace payments under the Act,
- (f) to make other amendments to the *Government Sector Finance Regulation 2018* in the nature of law revision,
- (g) to amend Schedule 1 (Savings, transitional and other provisions) to the Act to include certain different or additional savings and transitional provisions that relate to provisions of the Act that will commence on 1 July 2019.

This Regulation is made under the *Government Sector Finance Act 2018*, including sections 2.4 (1) (l), 2.7 (3), 2.9 (1) (e), 3.1 (1) (c), 4.7, 4.17, 5.3 (5) (definition of **relevant tax-equivalent regime**), 5.7 (4) (c) and 10.4 (the general regulation-making power) and clause 1 of Schedule 1.

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1 Name of Regulation

This Regulation is the *Government Sector Finance Amendment Regulation 2019*.

2 Commencement

This Regulation commences on 1 July 2019 and is required to be published on the NSW legislation website.

Schedule 1 Amendment of Government Sector Finance Regulation 2018

[1] Clause 2 Commencement

Omit clause 2 (2).

[2] Clause 3 Definitions

Insert in alphabetical order in clause 3 (1):

customer good means a good that was acquired or created by a GSF agency for the purpose of sale or resale to customers.

[3] Clause 4 Prescribed GSF agencies: section 2.4 (1) (l) of Act

Omit “or (2)” wherever occurring in clause 4 (2) and (5) (a).

[4] Clause 5 Accountable authority: section 2.7 (3) of Act

Omit “Chief Executive of the Office of Environment and Heritage”.

Insert instead “Secretary of the Department of Premier and Cabinet”.

[5] Clause 6 Prescribed government officers: section 2.9 (1) (e) of Act

Omit “Department of Family and Community Services” from Column 1 of item 2 of the Table to clause 6 (2).

Insert instead “Department of Family and Community Services and Justice”.

[6] Clause 6 (2), Table, item 2

Insert after paragraph (b) in Column 2:

(c) the Ageing and Disability Commissioner.

[7] Clause 6 (2), Table, item 3

Omit the item. Insert instead:

3	Department of Customer Service	A Workers Compensation Independent Review Officer.
3A	Department of Planning, Industry and Environment	The Valuer-General.

[8] Clause 6 (2), Table, item 5

Omit “NSW State Emergency Service”.

Insert instead “Office of the NSW State Emergency Service”.

[9] Part 2A

Insert after Part 2:

Part 2A Roles and responsibilities

6A Treasurer’s directions: section 3.1 (1) (c) of Act

- (1) For the purposes of section 3.1 (1) (c) of the Act, the following matters are prescribed as kinds of matters for which the Treasurer’s directions are authorised to make provision:

- (a) the establishment and operation of securities and their registries by GSF agencies in respect of securities they issue (including the inspection of those registries),
 - (b) the surrender, transfer, exchange and transmission of securities by GSF agencies in respect of securities they issue,
 - (c) the purchase of securities issued by GSF agencies,
 - (d) the making of payments (including interest payments) by GSF agencies in respect of securities they issue,
 - (e) the form of securities issued by GSF agencies.
- (2) In this clause:
security includes an inscribed stock, debenture, promissory note or bank bill of exchange.

[10] Clause 12 Prescribed subdelegates for delegated expenditure functions of Planning Minister

Omit clause 12 (1).

[11] Clause 12 (3)

Omit “Minister for Planning” and “Department of Planning and Environment” wherever occurring.

Insert instead “Minister for Planning and Public Spaces” and “Department of Planning, Industry and Environment”, respectively.

[12] Parts 5 and 6

Insert after Part 4:

Part 5 Budget, appropriations and Special Deposits Account

13 Deemed appropriations: section 4.7 of Act

- (1) Each of the following kinds of government money received or recovered by a GSF agency is prescribed to be deemed appropriation money for the purposes of the definition of *deemed appropriation money* in section 4.7 (3) of the Act:
- (a) money from a fee, rent or charge for a service or customer good provided by the GSF agency to a customer, including:
 - (i) money from a surcharge charged for the use of a credit card to pay for a supplied service or good, and
 - (ii) money from interest or a charge paid for any overdue fee, rent or charge for a supplied service or good,
 - (b) money from a bequest, donation, sponsorship or gift made to the GSF agency by another entity, including money allocated to the GSF agency under clause 63 of the *Legal Profession Uniform Law Application Regulation 2015*,
 - (c) money from the proceeds of a sale or other disposal by the GSF agency of a minor asset,
 - (d) money paid to the GSF agency from the Treasury Managed Fund or by an insurer, including:
 - (i) any repayment to the agency of some or all of a contribution or premium paid to the Fund or an insurer, and

- (ii) any payments made by MetLife Insurance Limited in full or partial settlement of any entitlement of a police officer in respect of injuries or other loss sustained by the officer,
 - (e) money paid to the GSF agency as compensation under a judgment of a court or tribunal or in a settlement of proceedings for compensation, including any interest payable on the amount of compensation,
 - (f) money from a Commonwealth grant or other payment (except a general purpose Commonwealth grant) paid to the GSF agency for its benefit,
 - (g) money from returns on investments and derivative arrangements made by or on behalf of the GSF agency, including:
 - (i) interest received by the agency from a banking account of the agency, and
 - (ii) interest payments made to the agency by the Treasury instead of interest received by the agency from a banking account of the agency as a result of the operation of banking account structuring under a State financial service agreement, and
 - (iii) interest from a loan made by or on behalf of the agency,
 - (h) money from a grant, contribution or subsidy provided to the GSF agency to cover some or all of the cost of a service or good the agency is responsible for providing,
 - (i) money from a refund or rebate received or recovered by the GSF agency in respect of a purchase made by the agency.
- (2) Subclause (1) (d), (e), (f) and (h) apply regardless of whether the money concerned was paid to the GSF agency for its own benefit or for the benefit of another entity.
- (3) An appropriation under section 4.7 of the Act of money of the kind referred to in subclause (1) (h) is subject to the condition that it may only be spent in accordance with any terms or conditions applicable to the grant, contribution or subsidy concerned.
- (4) The kinds of government money prescribed by this clause extend to government money that was received or recovered before the commencement of section 4.7 of the Act.
- (5) An appropriation under section 4.7 of the Act of government money of the kind referred to in subclause (4) is taken to have been given:
 - (a) in the case of money in respect of which expenditure occurred before the commencement of section 4.7 of the Act—on the day the money was received or recovered, and
 - (b) in any other case—on the day on which section 4.7 of the Act commences.
- (6) To avoid doubt, the kinds of government money prescribed by this clause:
 - (a) is limited to money that:
 - (i) forms part of the Consolidated Fund, and
 - (ii) is not appropriated under the authority of an Act, and
 - (b) covers government money that is received or recovered from any other entity (including another GSF agency).
- (7) In this clause:
minor asset means an asset with an acquisition cost of less than \$200,000, but does not include:

- (a) a customer good, or
- (b) a building (or an interest in land or a building).

14 Working accounts: section 4.17 of Act

- (1) For the purposes of section 4.17 of the Act, a GSF agency may establish and operate a working account only if:
 - (a) the accountable authority for the agency applies to the Treasurer in a form approved by the Treasurer for authorisation to establish and operate the account, and
 - (b) the Treasurer gives written authorisation for the account to be established and operated.
- (2) Without limiting subclause (1) (b), the written authorisation may specify:
 - (a) the kinds of working account money that may be paid into the working account, and
 - (b) the purposes for which money may be paid out of the working account, and
 - (c) the use of investment returns on the money in the working account, and
 - (d) any other terms or conditions relating to the establishment or operation of the working account.
- (3) The Treasurer may, by written order given to the accountable authority for a GSF agency, direct that:
 - (a) the working account specified in the order is to be dissolved, and
 - (b) money in the account is to be paid into the Consolidated Fund or into another specified working account of a GSF agency.
- (4) Each of the following sources of money received by a GSF agency is prescribed for the purposes of the definition of **working account money** in section 4.17 (2) of the Act (regardless of whether or not it is also deemed appropriation money for the purposes of section 4.7 of the Act):
 - (a) money from a fee, rent or charge for a service or customer good provided by the GSF agency to a customer, including:
 - (i) money from a surcharge charged for the use of a credit card to pay for a supplied service or good, and
 - (ii) money from interest or a charge paid for any overdue fee, rent or charge for a supplied service or good,
 - (b) money from rent for land or a building paid to the GSF agency by another entity for a lease the other entity has over the land or building,
 - (c) money from a bequest, donation, sponsorship or gift made to the GSF agency by another entity, including money allocated to the GSF agency under clause 63 of the *Legal Profession Uniform Law Application Regulation 2015*,
 - (d) money from the proceeds of a sale or other disposal by the GSF agency of an asset unless legislation (other than the Act or the *Constitution Act 1902*) specifically requires the money to be paid into the Consolidated Fund,
 - (e) money paid to the GSF agency from the Treasury Managed Fund or by an insurer, including:
 - (i) any repayment to the agency of some or all of a contribution or premium paid to the Fund or an insurer, and

- (ii) any payments made by MetLife Insurance Limited in full or partial settlement of any entitlement of a police officer in respect of injuries or other loss sustained by the officer,
- (f) money paid to the GSF agency as compensation under a judgment of a court or tribunal or in a settlement of proceedings for compensation, including any interest payable on the amount of compensation,
- (g) money from a Commonwealth grant or other payment (except a general purpose Commonwealth grant) paid to the GSF agency for its benefit,
- (h) money from returns on investments and derivative arrangements made by or on behalf of the GSF agency, including:
 - (i) interest received by the agency from a banking account of the agency, and
 - (ii) interest payments made to the agency by the Treasury instead of interest received by the agency from a banking account of the agency as a result of the operation of banking account structuring under a State financial service agreement, and
 - (iii) interest from a loan made by or on behalf of the agency,
- (i) money from a grant, contribution or subsidy provided to the GSF agency to cover some or all of the cost of a service or good the agency is responsible for providing,
- (j) money from a refund or rebate received or recovered by the GSF agency in respect of a purchase made by the agency,
- (k) money from a loan provided to the GSF agency under a financial arrangement that is authorised for the purposes of section 6.22 of the Act,
- (l) money directed to be paid into the working account concerned in an order made by the Treasurer under subclause (3).

Note. The fact that money is prescribed to be working account money does not mean that it must be paid into a working account. Section 4.17 (1) of the Act provides that a GSF agency may establish and operate a working account in the circumstances permitted by the regulations.

- (5) Subclause (4) (b), (e), (f), (g) and (i) apply regardless of whether the money concerned was paid to the GSF agency for its own benefit or for the benefit of another entity.
- (6) To avoid doubt, subclause (4) covers money that is received from any other entity (including another GSF agency).

Part 6 Expenditure and gifts

15 Relevant tax-equivalent regimes: section 5.3 (5) of Act

- (1) For the purposes of the definition of *relevant tax-equivalent regime* in section 5.3 (5) of the Act, the National tax-equivalent regime and State tax-equivalent regime are prescribed.
- (2) The *National tax-equivalent regime* means the arrangements between the Commonwealth and the States and Territories relating to income tax equivalent payments to be made by government businesses under a National Tax Equivalent Regime, as referred to in Schedule B to the Intergovernmental Agreement and given effect to from time to time by a memorandum of understanding between the Commonwealth, the Commissioner of Taxation of the Commonwealth and the States and Territories.

- (3) The *State tax-equivalent regime* means the arrangements approved from time to time by the Treasurer relating to income tax equivalent payments to be made by government businesses that are not subject to the National tax-equivalent regime.
- (4) In this section:
Intergovernmental Agreement means the *Intergovernmental Agreement on Federal Financial Relations* entered into by the parties to the Council of Australian Governments, as in force from time to time.

16 Act of grace payments: section 5.7 (4) (c) of Act

Each of the following is prescribed for the purposes of section 5.7 (4) (c) of the Act:

- (a) any person employed in or by the NSW Health Service,
- (b) any member of the NSW Police Force.

Schedule 2 Amendment of Government Sector Finance Act 2018 No 55

[1] Schedule 1 Savings, transitional and other provisions

Omit clause 10. Insert instead:

10 Special provisions relating to legislation amended by amending Act pending commencement

- (1) A reference to the *Public Finance and Audit Act 1983* in each of the following provisions is to be read until 1 July 2020 as including a reference to this Act:

Item	
1	section 58 of the <i>Central Coast Water Corporation Act 2006</i>
2	section 5 (2) (c) of the <i>Children (Education and Care Services National Law Application) Act 2010</i>
3	section 7 (1) (i) and (2) (h) of the <i>Health Practitioner Regulation (Adoption of National Law) Act 2009</i>
4	clause 22 (e) of Schedule 6A to the <i>Health Services Act 1997</i>
5	section 6 (3) of the <i>Heavy Vehicle (Adoption of National Law) Act 2013</i>

- (2) A reference to this Act in each of the following provisions (as amended or substituted by the amending Act) is to be read on and from 1 July 2020 until 1 July 2021 as including a reference to the *Annual Reports (Statutory Bodies) Act 1984*:

Item	
1	section 20A of the <i>Charles Sturt University Act 1989</i>
2	section 7 (1) (d2) and (2) (d2) of the <i>Health Practitioner Regulation (Adoption of National Law) Act 2009</i>
3	section 17A of the <i>Macquarie University Act 1989</i>
4	section 17A of the <i>Southern Cross University Act 1993</i>
5	section 17A of the <i>University of New England Act 1993</i>
6	section 16A of the <i>University of New South Wales Act 1989</i>
7	section 17A of the <i>University of Newcastle Act 1989</i>
8	section 17A of the <i>University of Sydney Act 1989</i>
9	section 17A of the <i>University of Technology Sydney Act 1989</i>
10	section 17A of the <i>University of Wollongong Act 1989</i>
11	section 23A of the <i>Western Sydney University Act 1997</i>

- (3) A reference to this Act in section 16 of the *Innovation and Productivity Council Act 1996* (as substituted by the amending Act) is to be read on and from 1 July 2020 until 1 July 2021 as including a reference to the *Annual Reports (Departments) Act 1985*.

- (4) Until 1 July 2020:

- (a) a reference in section 7 of the *Legal Profession Uniform Law Application Act 2014* to the *Public Finance and Audit Act 1983* is to be read as including a reference to this Act, and
 - (b) a reference in that section to an authority within the meaning of the *Public Finance and Audit Act 1983* is to be read as including a reference to a GSF agency.
- (5) A reference in section 58 of the *National Environment Protection Council (New South Wales) Act 1995* to an authority that is not an authority to which the *Public Finance and Audit Act 1983* applies is to be read until 1 July 2020 as including a reference to a GSF agency that is not a GSF agency to which this Act applies.
- (6) The reference to public moneys for the purposes of the *Audit Act 1902* in section 19 (4) of the *Health Administration Act 1982* is to be read until 1 July 2020 as a reference to:
- (a) public money for the purposes of the *Public Finance and Audit Act 1983*, and
 - (b) government money for the purposes of this Act.

[2] Schedule 1, Part 2, Division 6

Insert after Division 5:

Division 6 Budget, appropriations and Special Deposits Account

19 Existing appropriations

- (1) This clause applies to an appropriation (an *existing unused appropriation*) that was given before the commencement of Part 4 of this Act if, immediately before that commencement, the appropriation had not been applied (whether wholly or partly).
- (2) Part 4 of this Act extends to an existing unused appropriation to the extent to which it has not been applied.
- (3) Without limiting subclause (2), an existing unused appropriation given as the Treasurer's advance is taken to be a Treasurer's State contingencies appropriation for the purposes of section 4.12 of this Act.

20 Existing working accounts

- (1) This clause applies to a working account established under section 13A of the *Public Finance and Audit Act 1983* for an authority within the meaning of that Act (an *existing working account*) if:
 - (a) the account was in existence immediately before the replacement day for that section (the *section 13A replacement day*), and
 - (b) the authority is a GSF agency for the purposes of this Act.
- (2) An existing working account is taken to be a working account established under section 4.17 of this Act for the GSF agency (a *continued working account*) concerned.
- (3) Any money (including money that is not working account money) held in an existing working account is taken to form part of the continued working account.

- (4) To avoid doubt, subclause (3) does not authorise the payment into a continued working account of money that is not working account money received on or after the section 13A replacement day.
- (5) Subject to any regulations made for the purposes of section 4.17, the operation of an existing working account, and the purposes for which money may be paid out of the account, continue to be subject to any terms and conditions specified in the instrument that established the account.
- (6) This section expires at the beginning of the third anniversary of the section 13A replacement day.
- (7) In this clause:
working account money has the same meaning as in section 4.17 of the Act.