

Government Sector Finance Regulation 2018

[2018-685]



New South Wales

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New South Wales

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Government Sector Finance Regulation 2018



New South Wales

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Government Sector Finance Regulation 2018*.

2 Commencement

- (1) This Regulation commences on 1 December 2018 and is required to be published on the NSW legislation website.
- (2) (Repealed)

3 Definitions

- (1) In this Regulation—

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

Teaching Service has the same meaning as in the *Teaching Service Act 1980*.

the Act means the *Government Sector Finance Act 2018*.

Note—

The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) Notes included in this Regulation do not form part of this Regulation.

Part 2 Key concepts

4 Prescribed GSF agencies: section 2.4 (1) (I) of Act

- (1) The purpose of this clause is to prescribe certain entities as GSF agencies for the purposes of section 2.4 (1) (I) of the Act (whether generally or for specified provisions of the Act).
- (2) Each existing prescribed PAFA entity that is not already covered by section 2.4 (1)

(a)–(k) of the Act is prescribed as a GSF agency only for the purposes of Divisions 6.4–6.6 of the Act.

(3) Subclause (2) applies in relation to an existing prescribed PAFA entity that was prescribed as an authority or controlled entity for the purposes of certain provisions of the *Public Authorities (Financial Arrangements) Act 1987* as follows—

(a) if the entity was prescribed only for the purposes of Part 2A (Financial adjustments) of that Act—the entity is prescribed as a GSF agency only for the purposes of provisions that concern derivative arrangements,

(b) if the entity was prescribed only for the purposes of Part 3 (Investments) of that Act—the entity is prescribed as a GSF agency only for the purposes of provisions that concern investments.

(4) Each of the following entities is prescribed as a GSF agency only for the purposes of Part 7 of the Act—

(a) the Statutory Trustee, or the Statutory Trustees, of a Fund (within the meaning of the *Technical Education Trust Funds Act 1967*),

(b) the Border Fence Maintenance Board.

(5) Subject to subclauses (2)–(4), each of the following entities is prescribed as a GSF agency for the purposes of the Act generally—

(a) an entity not already covered by section 2.4 (1) (a)–(k) of the Act that is—

(i) an authority within the meaning of the *Public Finance and Audit Act 1983*, or

(ii) any other entity specified in Schedule 2 or Column 1 of Schedule 3 to that Act,

(b) the FANMAC trustee within the meaning of Schedule 4 to the *Housing Act 2001*,

(c) the Trustee of the Home Purchase Assistance Fund.

(6) However, this clause does not operate to prescribe the following entities to be GSF agencies (whether generally or for specified provisions of the Act)—

(a) the Teaching Service,

(b) a university or the council or senate for a university.

(7) In this clause—

existing prescribed PAFA entity means an entity that was prescribed as an authority or controlled entity in Schedule 1 to the *Public Authorities (Financial Arrangements) Regulation 2013* immediately before its repeal.

5A Separate GSF agencies: section 2.5(1)(f) of Act

The Independent Planning Commission is prescribed as a separate GSF agency for the purposes of section 2.5(1)(f) the Act.

5 Accountable authority: section 2.7 (3) of Act

For the purposes of section 2.7 (3) of the Act, the Secretary of the Department of Premier and Cabinet is to be treated as the accountable authority for the corporation sole with the corporate name “Minister administering the Heritage Act 1977” incorporated under section 102 of the *Heritage Act 1977*.

6 Prescribed government officers: section 2.9 (1) (e) of Act

- (1) For the purposes of section 2.9 (1) (e) of the Act, any person who is an officer of an authority within the meaning of the *Public Finance and Audit Act 1983* (and not already covered by section 2.9 (1) (a)-(d) of the Act) is prescribed as a government officer.
- (2) For the purposes of section 2.9 (1) (e) and (3) (b) of the Act, each person specified in Column 2 next to the GSF agency specified in Column 1 of the following Table is prescribed as a government officer of the agency—

Column 1	Column 2
GSF agency	Prescribed government officer
1 Department of Education	<p>Each of the following is prescribed for the Department—</p> <p>(a) a member of the Teaching Service,</p> <p>(b) a person employed under the <i>Education (School Administrative and Support Staff) Act 1987</i>.</p>
2 Department of Family and Community Services and Justice	<p>Each of the following is prescribed for the Department—</p> <p>(a) the Advocate for Children and Young People appointed under the <i>Advocate for Children and Young People Act 2014</i>,</p> <p>(b) the Registrar appointed under section 10 of the <i>Community Housing Providers (Adoption of National Law) Act 2012</i>,</p> <p>(c) the Ageing and Disability Commissioner.</p>
3 Department of Customer Service	A Workers Compensation Independent Review Officer.

3A	Department of Planning, Industry and Environment	The Valuer-General. A person authorised under an insurance services contract to exercise expenditure functions (regardless of whether the person is a party to that contract) is prescribed for the Corporation, but only in connection with the exercise of those functions that the person is authorised to exercise under the contract.
4	NSW Self Insurance Corporation	Each of the following is prescribed for the Service— (a) a NSW State Emergency Service Local and Unit Commander (Volunteer role), (b) a NSW State Emergency Service Local and Unit Deputy Commander (Volunteer role), (c) during and for an operational event— (i) a State Duty Operations Controller, (ii) a Deputy State Duty Operations Controller, (iii) a State Logistics Officer, (iv) an Incident Controller (Zone or Area of Operations), (v) a Deputy Incident Controller (Zone or Area of Operations), (vi) a Logistics Officer (Zone or Area of Operations), (vii) a Unit Incident Officer, (viii) a Unit Logistics Officer.
5	Office of the NSW State Emergency Service	
6	Statutory health organisation	A person appointed under Chapter 8 of the Health Services Act 1997 as a visiting practitioner.

- 7 Transport for NSW
- Each of the following is prescribed for Transport for NSW—
- (a) the Point to Point Transport Commissioner,
 - (b) an employee of Serco Australia Pty Limited (ABN 44 003 677 352), but only in connection with the exercise of expenditure functions for or on behalf of Transport for NSW,
 - (c) an employee of Cubic Transportation Systems (Australia) Pty Limited (ABN 82 003 617 561), but only in connection with the exercise of expenditure functions for or on behalf of Transport for NSW.

(3) In this clause—

expenditure function means a function that is conferred or imposed on a person or other entity by or under the Act or any other legislation (including an annual Appropriation Act) regarding the expenditure of money (including out of the Consolidated Fund).

insurance services contract means an agreement or arrangement entered into by the NSW Self Insurance Corporation in accordance with section 8 (1) (b) of the [NSW Self Insurance Corporation Act 2004](#).

statutory health organisation has the same meaning as in the [Health Services Act 1997](#).

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.

Part 3 Financial services and arrangements

7 Definitions

In this Part—

bank guarantee means an arrangement under which an entity that provides finance (the **guarantor**) undertakes either of the following in relation to another entity (the **guarantee recipient**)—

- (a) to guarantee to a third party the performance of an obligation by the guarantee recipient,
- (b) to pay a third party on demand by the guarantee recipient.

operating or finance lease arrangement means an arrangement under which an entity (the **lessor**) grants another entity (the **lessee**) for value—

- (a) a right for the lessee to use an asset (other than land) of the lessor for a specified period, and
- (b) any entitlements to the risks and rewards resulting from the use of the asset.

social benefit bond means an arrangement created by an instrument under which any financial return is made contingent on the achievement of specified social outcomes.

supplier finance arrangement means an agreement between parties under which—

- (a) one party (the **finance provider**) assumes the liability of the other party (the **finance recipient**) for the payment of invoices from suppliers for the finance recipient, and
- (b) the finance recipient has an obligation to repay the finance provider for any amounts paid (including interest or an amount in the form of interest).

8 Prescribed borrowings: section 6.8 (1) (c) of Act

For the purposes of section 6.8 (1) (c) of the Act, each of the following arrangements is prescribed as a borrowing—

- (a) issuing a social benefit bond,
- (b) becoming a guarantee recipient under a bank guarantee,

- (c) becoming a finance recipient under a supplier finance arrangement,
- (d) becoming a lessee under an operating or finance lease arrangement.

9 Prescribed investment: section 6.9 (1) (b) of Act

For the purposes of section 6.9 (1) (b) of the Act, each of the following arrangements is prescribed as an investment—

- (a) purchasing a social benefit bond,
- (b) depositing money in a banking account even if it is not primarily for the purpose or with the expectation of producing income, interest, profit, capital growth or any other financial benefit.

Part 4 Delegations

10 Prescribed delegates and subdelegates for Judicial Commission of New South Wales

- (1) The purpose of this clause is to enable certain delegations and subdelegations in relation to the Judicial Commission of New South Wales to be made to members of staff of the Commission even though they are not government officers.

Note—

Section 2.9 (2) (e) of the Act provides that a **government officer** does not include a member of the staff of the Judicial Commission of New South Wales employed under the [Judicial Officers Act 1986](#).

- (2) For the purposes of paragraph (b) of item 3 of the Table to section 9.9 (5) of the Act, a member of staff of the Judicial Commission of New South Wales is prescribed as an entity to which the accountable authority for the Commission may subdelegate.
- (3) For the purposes of section 9.11 (1) (b) of the Act, a member of staff of the Judicial Commission of New South Wales is prescribed as an entity to which the accountable authority for the Commission may delegate.
- (4) For the purposes of item 2 of the Table to section 9.11 (4) of the Act, a member of staff of the Judicial Commission of New South Wales is prescribed as an entity to which a delegate prescribed by subclause (3) may subdelegate.

11 Prescribed delegates and subdelegates for transport GSF agencies

- (1) The purpose of this clause is to enable certain delegations and subdelegations to be made in relation to a transport GSF agency to a member of the Transport Service of New South Wales even if the member is not a government officer of the agency concerned.

Note—

Division 9.2 of the Act already makes provision for delegations and subdelegations to be made to persons who are government officers for a transport GSF agency.

- (2) For the purposes of section 9.9 (2) (f) of the Act, a member of the Transport Service of New South Wales who is not a government officer of a transport GSF agency for which the Minister is the responsible Minister is prescribed as an entity to which a Minister may delegate.
- (3) For the purposes of paragraph (b) of item 4 of the Table to section 9.9 (5) of the Act, a member of the Transport Service of New South Wales who is not a government officer of a transport GSF agency is prescribed as an entity to which the accountable authority for that agency may subdelegate.
- (4) For the purposes of paragraph (b) of item 6 of the Table to section 9.9 (5) of the Act, a member of the Transport Service of New South Wales who is not a government officer of a transport GSF agency is prescribed as an entity to which a government officer of that agency may subdelegate.
- (5) For the purposes of section 9.11 (1) (b) of the Act, a member of the Transport Service of New South Wales who is not a government officer of a transport GSF agency is prescribed as an entity to which the accountable authority for that agency may delegate.
- (6) For the purposes of paragraph (b) of item 1 of the Table to section 9.11 (4) of the Act, a member of the Transport Service of New South Wales who is not a government officer of the agency concerned is prescribed as an entity to which a government officer of the agency may subdelegate.

(7) In this clause—

transport GSF agency means—

- (a) a transport authority within the meaning of Part 6B of the [Transport Administration Act 1988](#), or
- (b) a public subsidiary corporation within the meaning of section 55C of that Act.

12 Prescribed subdelegates for delegated expenditure functions of Planning Minister

- (1) (Repealed)
- (2) For the purposes of the following provisions of the Table to section 9.9 (5) of the Act, the Planning Secretary and Planning government officers are prescribed as entities to which a delegate of the Planning Minister may subdelegate an expenditure function of the Minister—
 - (a) paragraph (d) of item 1,
 - (b) paragraph (c) of item 2,
 - (c) paragraph (b) of item 4,

(d) paragraph (c) of item 5,

(e) paragraph (b) of item 6.

(3) In this clause—

expenditure function of the Planning Minister means a function that is conferred or imposed on the Planning Minister by or under the Act or any other legislation (including an annual Appropriation Act) regarding the expenditure of money (including out of the Consolidated Fund).

Planning Minister means the Minister for Planning and Public Spaces.

Planning Secretary means the Secretary of the Department of Planning, Industry and Environment.

Planning government officer means a government officer of the Department of Planning, Industry and Environment.

Part 5 Budget, appropriations and Special Deposits Account

12A Consumer price adjustments for payments authorised on lapse of appropriation—section 4.10 of Act

- (1) The purpose of this clause is to provide for the purposes of section 4.10(4)(a) of the Act for the adjustment for consumer prices in an annual reporting period for the NSW Government (the **current period**) of the amount appropriated under the annual Appropriation Act (the **previous appropriated amount**) for the previous annual reporting period (the **previous period**).
- (2) The previous appropriated amount is to be adjusted by whichever of the following percentages is the greater—
 - (a) the percentage change in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics between the March quarter immediately before the commencement of the current period compared with the March quarter immediately before the commencement of the previous period,
 - (b) the percentage (as at 31 March immediately before the commencement of the current period) declared by a regulation made for the purposes of section 146C of the *Industrial Relations Act 1996* to be government policy in respect of the maximum percentage for increases in the remuneration of public sector employees.

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 1 (Repealed)