



New South Wales

Government Sector Finance Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

The *Government Sector Finance Legislation (Repeal and Amendment) Bill 2018* is cognate with this Bill.

Overview of Bill

The object of this Bill is to consolidate in one Act a new framework for government sector financial and resource management in New South Wales.

Summary of the operation of this Bill and cognate Bill

Background

Currently, financial management in the government sector of New South Wales is governed by a number of Acts.

The *Public Finance and Audit Act 1983* contains provisions dealing with public finance administration, including in relation to accounting arrangements, public banking and appropriations. It also provides for the appointment of an Auditor-General, establishes the Audit Office and contains provisions relating to the conduct of audits for various kinds of public authorities.

The *Public Authorities (Financial Arrangements) Act 1987* enables certain public authorities to enter into financial arrangements (including investments and joint financing arrangements) and provides for approval for those arrangements.

The *Annual Reports (Departments) Act 1985* and *Annual Reports (Statutory Bodies) Act 1984* make provision for annual reports by Government Departments and certain statutory bodies, respectively. The provisions of each Act are largely the same.

Section 39 of the *Constitution Act 1902* requires all public moneys (including securities and all revenue, loans and other moneys whatsoever) collected, received or held by any person for or on behalf of the State to form one Fund (called the **Consolidated Fund**), except as otherwise provided by or in accordance with any Act. Section 21 of the *Public Finance and Audit Act 1983* provides that money cannot be drawn from (that is, paid out of) the Consolidated Fund except under the authority of an Act of Parliament.

The typical way for authority to be given to use public money forming part of the Consolidated Fund is for an Act (for example, the annual Appropriation Act passed at Budget time) to “appropriate” an amount of money for use for a specified purpose. An appropriation has been described as the conferral of authority on the Executive Government to spend public money, rather than the subsequent exercise of that authority and the debiting of the relevant account. See *Pape v Commissioner of Taxation* [2009] HCA 23 at [176] (Gummow, Crennan and Bell JJ).

Another typical way for authority to be given to use public money is for an Act to establish an account in the **Special Deposits Account** (called an **SDA account** in this Bill) and require specified public money to be paid into the SDA account. The Act will usually also specify the purposes for which money can be paid out of the SDA account. Section 21 of the *Public Finance and Audit Act 1983* also provides that money cannot be drawn from (that is, paid out of) an SDA account, except for the purposes of the account and under the authority that may be applicable to the constitution of the account.

This Bill

This Bill will consolidate in one Act a new framework for financial and resource management in the government sector of New South Wales, including provisions in relation to financial arrangements and annual reporting by certain agencies of the government sector (called **GSF agencies** in this Bill).

The cognate Bill

The *Government Sector Finance Legislation (Repeal and Amendment) Bill 2018*, which is cognate with this Bill, will:

- (a) repeal the following legislation:
 - (i) the *Annual Reports (Departments) Act 1985* No 156,
 - (ii) the *Annual Reports (Statutory Bodies) Act 1984* No 87,
 - (iii) the *Public Authorities (Financial Arrangements) Act 1987* No 33,
 - (iv) the regulations under any of those Acts, and
- (b) rename the *Public Finance and Audit Act 1983* as the *Government Sector Audit Act 1983* and amend that Act to omit provisions being relocated to the proposed Act, and
- (c) make other amendments to legislation that is consequential on the enactment of the proposed Act and the renaming and amendment of the *Public Finance and Audit Act 1983*.

The amendments made to the *Public Finance and Audit Act 1983* will not relocate provisions relating to the Auditor-General, the Audit Office and the conduct of audits. Other amendments that are consequential on the enactment of the proposed Act (particularly in relation to terminology) will also be made.

Application of proposed Act

The proposed Act will apply in relation to GSF agencies. Each of the following will be a **GSF agency**:

- (a) a separate GSF agency,
- (b) a NSW Health entity,
- (c) the NSW Police Force,
- (d) the New South Wales Treasury Corporation,

- (e) the Law Enforcement Conduct Commission,
- (f) the Independent Pricing and Regulatory Tribunal,
- (g) a Council within the meaning of Part 5A of the *Health Practitioner Regulation National Law (NSW)*,
- (h) a State owned corporation,
- (i) an entity that is a statutory body representing the Crown (including an entity that is a NSW Government agency to which section 13A of the *Interpretation Act 1987* applies),
- (j) an entity with money held in an SDA account (but the account itself is not to be treated as being a GSF agency),
- (k) any Public Service agency not already covered by a previous paragraph,
- (l) any other entity (or entity of a kind) prescribed by the regulations as a GSF agency.

The proposed Act will include provisions for certain GSF agencies (including in respect of the giving of directions and delegations by Ministers). These agencies (defined as *separate GSF agencies*) are:

- (a) the Audit Office,
- (b) the Independent Commission Against Corruption,
- (c) the Judicial Commission of New South Wales,
- (d) the New South Wales Electoral Commission,
- (e) the Ombudsman's Office,
- (f) any other entity (or an entity of a kind) prescribed by the regulations.

The regulations will be able to add entities as GSF agencies for the purposes of the proposed Act. The additions can be for the whole of the proposed Act or specified provisions of it.

Each GSF agency will have an **accountable authority** that will be responsible for the performance and financial management of the agency in accordance with the requirements of the proposed Act. The proposed Act will also contain certain provisions that extend to government officers and Ministers, for example in relation to entering into financial arrangements.

Reforms to be introduced by proposed Act

The principal reforms to be introduced by the proposed Act are as follows:

- (a) to require all GSF agencies to have accountable authorities that are responsible for the performance and financial management of their agencies,
- (b) to specify the respective roles and responsibilities of accountable authorities for GSF agencies and government officers under the proposed Act,
- (c) to rationalise and extend the use of Treasurer's directions to regulate financial management by GSF agencies (including in relation to their financial arrangements),
- (d) to provide for a consultation mechanism for the Treasurer to follow before recommending the making of certain kinds of regulations or giving or making certain kinds of directions or determinations,
- (e) to provide for there to be automatic appropriations to be given to the responsible Ministers for GSF agencies for the amounts of certain kinds of money the agencies receive or recover,
- (f) to reform the way in which working accounts in the Special Deposits Account are established and used,
- (g) to provide for budget control authorities issued by the Treasurer to replace current expenditure control authorities issued by the Treasurer,
- (h) to specify the circumstances in which government officers can lawfully make gifts of government property,

- (i) to provide a statutory basis for Ministers to make act of grace payments (sometimes called ex gratia payments) and to delegate the power to do so,
- (j) to expand and clarify the authority of the Treasurer to enter agreements concerning financial services (including for banking services and financial arrangements) on behalf of the State or GSF agencies,
- (k) to create one consolidated set of provisions for annual reporting by GSF agencies and to provide for more flexibility in relation to reporting requirements (including in relation to the determination of annual reporting periods for GSF agencies),
- (l) to enable the Treasurer to require the preparation of financial reports about the management of accounts in the Special Deposits Account (called *SDA accounts* in the proposed Act),
- (m) to provide for the keeping of performance information about GSF agencies,
- (n) to require and facilitate the sharing of certain information about GSF agencies in respect of their financial operations and performance,
- (o) to clarify the extent to which functions under the proposed Act can be delegated and to whom,
- (p) to provide for civil recovery in connection with the unauthorised or inappropriate use of government resources and related money.

Outline of provisions

Part 1 Preliminary

Division 1.1 Introduction

Clause 1.1 sets out the name (also called the short title) of the proposed Act.

Clause 1.2 provides for the commencement of the proposed Act.

Clause 1.3 sets out the objects of the proposed Act.

Division 1.2 Interpretation generally

Clause 1.4 defines certain words and expressions used in the proposed Act.

Clause 1.5 provides that notes in the proposed Act do not form part of the proposed Act.

Division 1.3 Application of Act

Clause 1.6 provides that the proposed Act binds the Crown in right of New South Wales.

Clause 1.7 provides that the proposed Act is intended to have an extraterritorial operation in relation to the activities of Ministers, GSF agencies, accountable authorities for GSF agencies and government officers.

Division 1.4 Relationship of Act with other laws

Clause 1.8 provides that the proposed Act, the regulations and the Treasurer's directions under the proposed Act are not intended to limit or exclude the operation of any other legislation (whenever enacted or made). However, an exception is made in relation to paramount provisions of the proposed Act.

Each of the following is a *paramount provision* of the proposed Act:

- (a) proposed section 5.3 (Payment of tax-equivalents to Treasurer),
- (b) proposed section 5.4 (Payment of financial distributions to Treasurer),
- (c) Part 6 (Financial services and arrangements),
- (d) Part 7 (Reporting), subject to proposed sections 7.1, 7.4 and 7.10.

The proposed section requires a paramount provision of the proposed Act to be interpreted as prevailing over the provisions of other legislation to the extent of any inconsistency. However, this will not be the case if another Act expressly provides for that legislation generally, or those provisions specifically, to have effect despite the proposed Act generally or the paramount provision.

Also, a person or other entity to whom a paramount provision applies must comply with the provision (including any regulations made for the purposes of that provision) even if it may result in a contravention of other legislation unless the contravention would be an offence.

A paramount provision is also declared to be a Corporations legislation displacement provision for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth. This will mean that the *Corporations Act 2001* of the Commonwealth will be displaced in favour of the paramount provision to the extent of any inconsistency.

Clause 1.9 enables the regulations to provide for certain matters referred to in, or arising under or in connection with, the proposed Act or the regulations under the proposed Act to be an excluded matter for the purposes of section 5F of the *Corporations Act 2001* of the Commonwealth. It also enables the regulations to declare any provision of the proposed Act to be a Corporations legislation displacement provision for the purposes of section 5G of the *Corporations Act 2001* of the Commonwealth.

Part 2 Key concepts

Division 2.1 Entities generally

Division 2.1 defines the following:

- (a) an *entity*,
- (b) a *controlled entity*,
- (c) a *NSW Health entity*.

Division 2.2 GSF agencies and related concepts

Division 2.2 defines the following:

- (a) a *GSF agency*,
- (b) a *separate GSF agency*,
- (c) the *responsible Minister* for a GSF agency.

The Division also requires each GSF agency to have an *accountable authority* and provides for who is to be that accountable authority.

In relation to separate GSF agencies, the Division provides that a separate GSF agency (and the accountable authority for the agency and its government officers) are not required to comply with certain requirements of the Treasurer and other Ministers under the proposed Act if the accountable authority considers that the requirements are not consistent with exercise of the statutory functions of the agency. The accountable authority for a separate GSF agency will be required to ensure that the reasons for any non-compliance are:

- (a) given to the Minister who issued the requirement, and
- (b) included in the annual reporting information for the separate GSF agency for the annual reporting period during which the non-compliance occurred or reported in any other way prescribed by the regulations.

Finally, the Division requires the accountable authority for an entity that becomes a GSF agency:

- (a) to give written notice to the Treasurer of that fact within one month after the entity becomes a GSF agency, and

- (b) to give written notice to the Auditor-General of that fact within one month after the entity becomes a GSF agency and ensure that appropriate steps are taken to have the GSF agency audited by the Auditor-General.

Division 2.3 Government officers

Division 2.3 defines the following:

- (a) a *government officer*,
(b) a *government officer of a GSF agency*.

Division 2.4 Annual reporting periods

Division 2.4 provides for the *annual reporting period* for a GSF agency and for the NSW Government.

Part 3 Roles and responsibilities

Division 3.1 Treasurer

Division 3.1 enables the Treasurer to give directions (called the *Treasurer's directions*) for the purposes of the proposed Act. The Treasurer's directions:

- (a) will be required to be published on the NSW legislation website (and may also be published on the Treasury's website and in any other way the Treasurer considers appropriate), and
(b) will not apply to Ministers (except in relation to Part 6) or to universities and their controlled entities, and
(c) cannot be limited to a particular GSF agency unless the responsible Minister for the agency consents (although directions can apply to classes of agencies).

Proposed section 3.5 sets out the form of consultation that the Treasurer must undertake if a provision of the proposed Act or the regulations requires the Treasurer to consult a specified person in accordance with the proposed section about a matter that is proposed to be included in the regulations or in directions or determinations of the Treasurer.

Division 3.2 Accountable authorities

Division 3.2 requires the accountable authority for a GSF agency to develop and maintain certain financial management policies and procedures and other systems and arrangements.

Division 3.3 Government officers

Division 3.3 provides that a government officer of a GSF agency should be guided by certain values and associated principles when exercising functions in connection with financial management (including under the proposed Act).

Part 4 Budget, appropriations and Special Deposits Account

Division 4.1 Budget

Division 4.1 provides for:

- (a) what the Budget Papers are and their content, and
(b) the time when the Budget is to be presented to Parliament each year, and
(c) the Treasurer's directions to require the accountable authority for a GSF agency to prepare information for use in Budget preparations concerning the agency and its controlled entities for the times and in the manner directed.

Division 4.2 Appropriations

Division 4.2:

- (a) provides that money must not be paid out of:
 - (i) the Consolidated Fund except under the authority of an Act, or
 - (ii) an SDA account except for the purposes of the account and under the authority that may be applicable to the constitution of the account, and
- (b) confirms that money is not paid out of the Consolidated Fund or an SDA account merely because it is deposited in a banking account of the State or a GSF agency or is invested in securities provided that the money or securities continue to be appropriately held, and
- (c) provides for the responsible Minister for a GSF agency to be taken to have been given an appropriation out of the Consolidated Fund, at the time the agency receives or recovers money of a kind prescribed by the regulations (called *deemed appropriation money*), for an amount equivalent to the money that is received or recovered, and
- (d) provides that an appropriation made by an annual Appropriation Act for an annual reporting period for the NSW Government for a service, function or program does not lapse merely because the responsibility for the service, function or program is transferred from one GSF agency to another during that period, and
- (e) enables the Treasurer to authorise the payment of certain sums out of the Consolidated Fund to meet the requirements of an annual reporting period for the NSW Government if an annual Appropriation Act for the period is not enacted before the period commences, and
- (f) provides for the variation of annual appropriations based on money provided under Commonwealth grants to deal with certain changes made by the Commonwealth to those grants, and
- (g) requires the Treasurer to include details of any sums spent for State contingencies out of the Treasurer's State contingencies appropriation (currently called the *Treasurer's Advance*) during an annual reporting period for the NSW Government to be included in the Budget Papers for the next annual reporting year for the NSW Government, and
- (h) enables the Treasurer, with the approval of the Governor, to determine that additional money is to be paid out of the Consolidated Fund during the annual reporting period for the NSW Government in anticipation of appropriation by Parliament if it is required to meet any exigencies of Government during the current annual reporting period for the NSW Government, and
- (i) requires certain unclaimed money to be paid to the Treasurer for credit to the Consolidated Fund and providing for its repayment when claimed.

Division 4.3 Special Deposits Account

Division 4.3 provides for:

- (a) the continuation of the Special Deposits Account, and
- (b) the responsible manager for an SDA account to keep certain records and other information concerning the operation of the account, and
- (c) the continuation and regulation of working accounts in the Special Deposits Account in respect of certain kinds of money received by GSF agencies.

Part 5 Expenditure and gifts

Division 5.1 Expenditure

Division 5.1 enables the Treasurer:

- (a) to issue Budget control authorities to regulate expenditure by GSF agencies that are part of the General Government Sector, and

- (b) to direct a GSF agency to pay income tax-equivalents and financial distributions to the Treasurer.

The Division also:

- (a) confirms that Ministers may impose certain kinds of terms and conditions on delegations they give under the proposed Act regarding the expenditure of money out of the Consolidated Fund under the authority of an appropriation, and
- (b) specifies the circumstances in which expenditure for the NSW Government or a GSF agency by government officers is authorised and makes the accountable authority for a GSF agency responsible for ensuring that the agency's expenditure is authorised.

Division 5.2 Gifts and act of grace payments

Division 5.2 prevents a person handling government resources from making a gift of government property unless:

- (a) the property was acquired or produced to use as a gift, or
- (b) the gift has been authorised by the Treasurer in writing, or
- (c) the gift is made in accordance with the Treasurer's directions, or
- (d) the gift was authorised by or under any law.

The Division also enables a Minister to make act of grace payments (sometimes called *ex gratia* payments) if the Minister is satisfied that there are special circumstances or other circumstances of a kind prescribed by the regulations.

Part 6 Financial services and arrangements

Division 6.1 Introduction

Division 6.1 contains provisions concerning the application of Part 6. In particular, Part 6 will require Ministers (but not the Treasurer) to be treated as GSF agencies for the purposes of the Part. The provisions of Part 6 will be paramount provisions. They will also apply despite any powers, privileges or other rights under general law of the Crown, Ministers or other entities acting for or on behalf of the Crown. These powers, privileges or other rights include Executive or prerogative powers, privileges or other rights of the Crown because of the definition of *general law* in proposed section 1.4.

The Division also includes provisions:

- (a) enabling functions that are conferred by or under Part 6 on GSF agencies that are not persons to be exercised by the accountable authorities for the agencies and, in certain cases, the responsible Ministers for the agencies, and
- (b) authorising a trustee for a trust to invest money in certain government issued investments unless expressly forbidden by the trust instrument, if any, for the trust.

Division 6.2 Key concepts

Division 6.2 defines key concepts used in the Part, including:

- (a) *banking account*, *banking service* and *banking information*, and
- (b) *arrangement*, which is defined to mean a contract, agreement, understanding, scheme or other arrangement (whether formal or informal), and
- (c) *financial service*, which is defined to include a banking service and services concerning banking accounts.

Most importantly, the expression *financial arrangement* is defined to mean an arrangement (whether entered into or occurring in or outside of Australia) with respect to any of the following:

- (a) a borrowing,

- (b) an investment,
- (c) a derivative arrangement,
- (d) a joint financing arrangement,
- (e) a joint venture arrangement,
- (f) any other arrangement (or arrangement of a kind) prescribed by the regulations as a financial arrangement.

Also, each of the kinds of arrangements listed in this definition are defined in Division 6.2.

Finally, the Division enables regulations to be made for or with respect to what does or does not constitute appropriate prudential protections in relation to an entity for the purposes of a provision of Part 6 that uses that expression.

Division 6.3 Financial services

Division 6.3 enables the Treasurer, on behalf of the State, to enter into one or more agreements with one or more entities to provide financial services for the State or GSF agencies (or both). These agreements are called *State financial service agreements*.

A State financial service agreement that covers banking services can only be entered into with an authorised deposit-taking institution within the meaning of the *Banking Act 1959* of the Commonwealth or an entity that the Treasurer is satisfied is subject to or has appropriate prudential protections.

The Treasurer will be able to give directions to GSF agencies concerning the use of banking services (whether or not provided under a State financial service agreement) and any other financial services provided under a State financial service agreement. The Treasurer will also be able to give:

- (a) guarantees on behalf of the State about the repayment of money in banking accounts that are provided under a State financial service agreement, and
- (b) guarantees and indemnities on behalf of the State and GSF agencies concerning bank account structuring under a State financial service agreement.

The Division also includes provisions:

- (a) enabling the Treasurer and accountable authorities for GSF agencies to open and close (or consolidate, group, set off or structure in any other way) banking accounts of those agencies, and
- (b) enabling the Treasurer to require certain GSF agencies that hold a banking account to give the Treasurer, or a person nominated by the Treasurer, written consent if the banker requests it for access to banking information or to open or close (or consolidate, group, set off or structure in any other way) the banking account, and
- (c) enabling the Treasurer, or a person nominated by the Treasurer, to access (or require access to) any information of a GSF agency (including banking information) concerning the agency's use of financial services under a State financial service agreement.

Division 6.4 Financial arrangements

Division 6.4 enables the Treasurer to enter into financial arrangements for or on behalf of the State or GSF agencies (including those without power to do so directly). It also enables the Treasurer to repay the debts of the State or GSF agencies and provide loans to GSF agencies (whether or not under a financial or other arrangement).

GSF agencies will be able to enter a financial arrangement only if:

- (a) the arrangement for the agency is authorised, and
- (b) the terms and conditions for the authorisation are complied with.

An arrangement will be relevantly authorised if:

- (a) a provision of the proposed Act, the regulations or the Treasurer's directions requires or permits the arrangement (or arrangement of a kind), or
- (b) the arrangement (or arrangement of a kind) is required or permitted under a financial arrangement approval given by the Treasurer under the Division.

Finally, the Division provides that (subject to certain exceptions) borrowings for GSF agencies and fund management services must be obtained from the New South Wales Treasury Corporation constituted by the *Treasury Corporation Act 1983*. The Division also enables the New South Wales Treasury Corporation to enter derivative arrangements for or on behalf of the State or GSF agencies for certain purposes.

Division 6.5 Guarantees for financial arrangements

Division 6.5 provides that:

- (a) the State guarantees the repayment of certain borrowings (including interest and other charges relating to them) when due if they were obtained under the authority of a financial arrangement approval, and
- (b) the State may guarantee the due performance by a GSF agency of any obligations incurred by the agency as a result of or in connection with the agency entering into any financial arrangement (whenever entered) as authorised by the proposed Act, and
- (c) payments or repayments that are due under certain financial arrangements for a GSF agency (including interest and other charges due under the arrangement) operate as charges on the income and revenue of the agency regardless of its source, and
- (d) the Treasurer's directions may provide for the fees payable by GSF agencies for certain guarantees, and
- (e) the priorities of obligations under certain financial arrangements and guarantees are to rank equally, and
- (f) the State may agree to make a payment under certain financial arrangements for a GSF agency even though the agency may be prevented from doing so by law, and
- (g) a GSF agency is liable to repay to the Treasurer any amount paid for the agency under certain guarantees, and
- (h) any liability of the Treasurer or the State under the Division, or arising out of any action taken under the Division, is to be discharged out of the Consolidated Fund without any further appropriation.

Division 6.6 Funds managers

Division 6.6:

- (a) requires a GSF agency wishing to engage a funds manager in relation to the management of some or all of its financial arrangements to engage the New South Wales Treasury Corporation to do so except if the Treasurer gives written approval for another entity to act as the agency's funds manager, and
- (b) provides for the functions of funds managers engaged under the Division.

Part 7 Reporting

Division 7.1 Interpretation

Division 7.1 defines a *reporting GSF agency* to be any GSF agency (except a GSF agency of a kind prescribed by the regulations not to be a reporting GSF agency).

The Division makes it clear that the provisions of Part 7 apply in addition to, and without limiting, any other reporting requirements that an entity may have under other legislation (including legislation of the Commonwealth).

Finally, the Division modifies the application of certain provisions of Part 7 in respect of the Audit Office.

Division 7.2 Financial reporting

Division 7.2 provides that:

- (a) an accountable authority for a GSF agency must ensure that certain accounts and records are kept for the agency and the Treasurer and the responsible Minister for the GSF agency (or a person authorised by either of them) are entitled to have access to those accounts and records, and
- (b) an accountable authority for a reporting GSF agency (including a former reporting GSF agency) must prepare annual GSF financial statements for the agency and have those statements audited by the Auditor-General, and
- (c) the responsible manager for an SDA account must cause certain financial reports about the management of the account to be prepared, given and published in accordance with the Treasurer's directions, and
- (d) the Treasurer may direct an accountable authority for a GSF agency to prepare special purpose financial reports for the agency.

The Division extends to universities and their controlled entities (which are to be treated as both GSF agencies and reporting GSF agencies for the purposes of the Division).

Division 7.3 Annual reporting information for reporting GSF agencies

Division 7.3 requires the accountable authority for a reporting GSF agency to ensure that the annual reporting information for the agency is prepared within the period specified by the Treasurer's directions after the end of the annual reporting period for the agency to which it relates. The responsible Minister will be required to cause the reporting information to be tabled in each House of Parliament.

The Division extends to universities and their controlled entities (which are to be treated as both GSF agencies and reporting GSF agencies for the purposes of the Division).

The **annual reporting information** for a reporting GSF agency is the following information about the agency's activities during an annual reporting period for the agency:

- (a) annual GSF financial statements audited by the Auditor-General,
- (b) the Auditor-General's audit report concerning the annual GSF financial statements,
- (c) information concerning the performance of the agency of a kind prescribed by the regulations or specified by the Treasurer's directions,
- (d) information that is required or permitted to be included in the annual reporting information for the GSF agency by other legislation,
- (e) any other information of a kind prescribed by the regulations or specified by the Treasurer's directions.

Division 7.4 Consolidated government sector reporting

Division 7.4 requires the Treasurer:

- (a) to release publicly a statement for the General Government Sector (called a **monthly statement**) for each month of an annual reporting period for the NSW Government, and
- (b) to release publicly a statement (called the **half-yearly review**) containing revised projections for the current annual reporting period for the NSW Government, revised forward estimates and the latest economic projections for the current annual reporting period for the NSW Government, and

- (c) to prepare at the end of the annual reporting period for the NSW Government a set of statements (called the *Consolidated State Financial Statements*) for the Total State sector and the General Government Sector as at 30 June of that period, cause the statements to be audited by the Auditor-General and table them in each House of Parliament.

Part 8 Performance information of GSF agencies

Part 8 provides that the accountable authority for a GSF agency is to ensure that records and other information are kept that properly explain the agency's performance.

Part 9 Administration

Division 9.1 Information sharing

Division 9.1 enables:

- (a) the Treasurer to request that the accountable authority for any GSF agency provide specified relevant agency information about the agency to the Treasurer for the purposes of decisions about resource allocation to be made by or for the Government, and
- (b) a Minister to request that the accountable authority for a GSF agency provide specified relevant agency information about the agency for the purposes of decisions about resource allocation if the agency:
- (i) has authority to pay out of the Consolidated Fund from appropriations made to the Minister or any other GSF agency for which the Minister is the responsible Minister, or
 - (ii) receives some or all of its funding from the Minister or any other GSF agency for which the Minister is the responsible Minister, or
 - (iii) is an agency for which the Minister is the responsible Minister.

The accountable authority for a GSF agency will be required to comply with a request unless the disclosure of the information is prohibited by any other legislation.

Division 9.2 Delegations

Division 9.2 enables the Treasurer, other Ministers, GSF agencies that are persons and accountable authorities for GSF agencies and universities to delegate (and, in some cases, subdelegate) a delegable function to certain persons. Subject to certain exclusions, a *delegable function* is defined to mean each of the following functions:

- (a) a function that is conferred or imposed on the entity by or under the proposed Act,
- (b) a function that is conferred or imposed on a person or other entity by or under the proposed Act or any other legislation (including an annual Appropriation Act) regarding the expenditure of money (including out of the Consolidated Fund),
- (c) a function of a person or other entity under a financial arrangement to which the person or other entity is a party (regardless of how it is conferred or imposed),
- (d) a function that is conferred or imposed on the entity by or under the proposed Act or any other legislation to make payments for a use or purpose from an SDA account or statutory special purpose fund.

If a Minister has functions in relation to a separate GSF agency, the Minister will be limited to delegating those functions to the accountable authority for the agency or a government officer of the agency.

Division 9.3 Documents

Division 9.3:

- (a) enables documents that are permitted or required to be tabled in a House of Parliament under the proposed Act to be presented to the Clerk of the House if the House is not sitting, and
- (b) provides for how documents may be served under the proposed Act, and
- (c) requires certain records to be kept in the English language or in a manner that enables them to be readily accessible and readily converted into writing in the English language.

Division 9.4 Civil recovery

Division 9.4 provides for persons handling government resources to incur debts that are recoverable by the Crown for the following conduct:

- (a) certain contraventions of proposed section 5.6 (Gifts of government property),
- (b) the loss of government resources or related money because of misconduct or a deliberate or serious disregard of reasonable standards of care.

Part 10 Miscellaneous

Part 10:

- (a) makes it clear that the Workers Compensation Insurance Fund is not a controlled entity of the Government of New South Wales for the purposes of the preparation of the Consolidated State Financial Statements or part of the General Government Sector for the purposes of the proposed Act or the *Fiscal Responsibility Act 2012*, and
- (b) provides that, unless the Treasurer directs differently in writing in a particular case, a GSF agency is not liable to pay a duty under the *Duties Act 1997* in respect of anything done by the agency for the purposes of the proposed Act, and
- (c) allows the Treasurer to refer certain matters to the Public Accounts Committee of Parliament for examination and report to the Treasurer and requires certain other matters to be referred when they arise, and
- (d) enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 Savings, transitional and other provisions

Schedule 1 enables the Governor to make regulations of savings or transitional nature consequent on the enactment of the proposed Act and the proposed *Government Sector Finance Legislation (Repeal and Amendment) Act 2018*.