

PUBLIC FINANCE AND AUDIT (AMENDMENT)
BILL 1992 AND ANNUAL REPORTS
LEGISLATION (AMENDMENT) BILL 1992

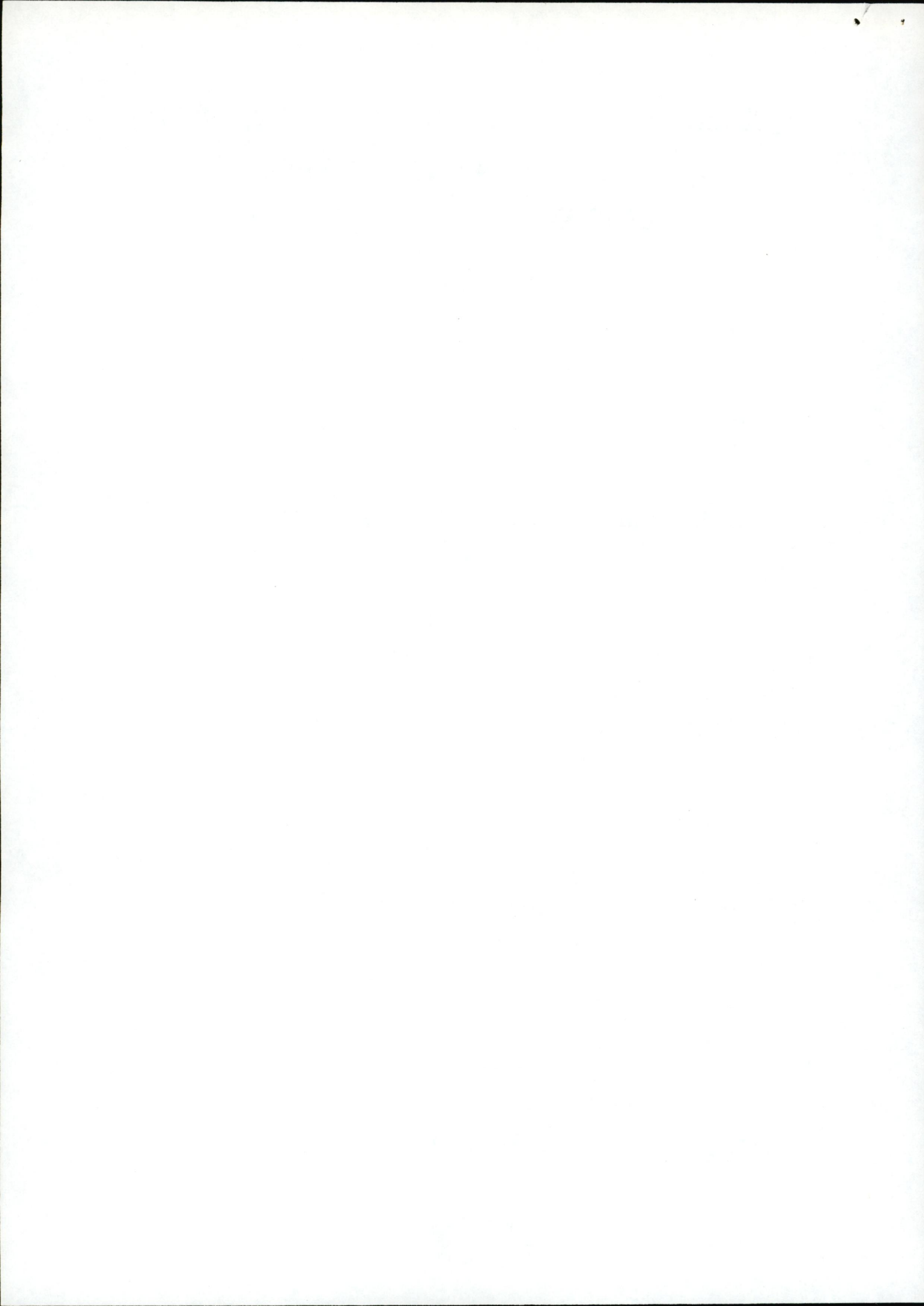
I move

that these Bills now be read a second time.

At the outset of my remarks, I indicate to the House that these Bills do not contain those proposals that have been discussed with the non-aligned Independent members of the other place.

There are likely to be further amendments to the Annual Reports Legislation later in the year .

Honourable Members will be aware that this Government, since coming to office in 1988, has implemented the most ambitious program of microeconomic and public sector management reforms of any Government in Australia.

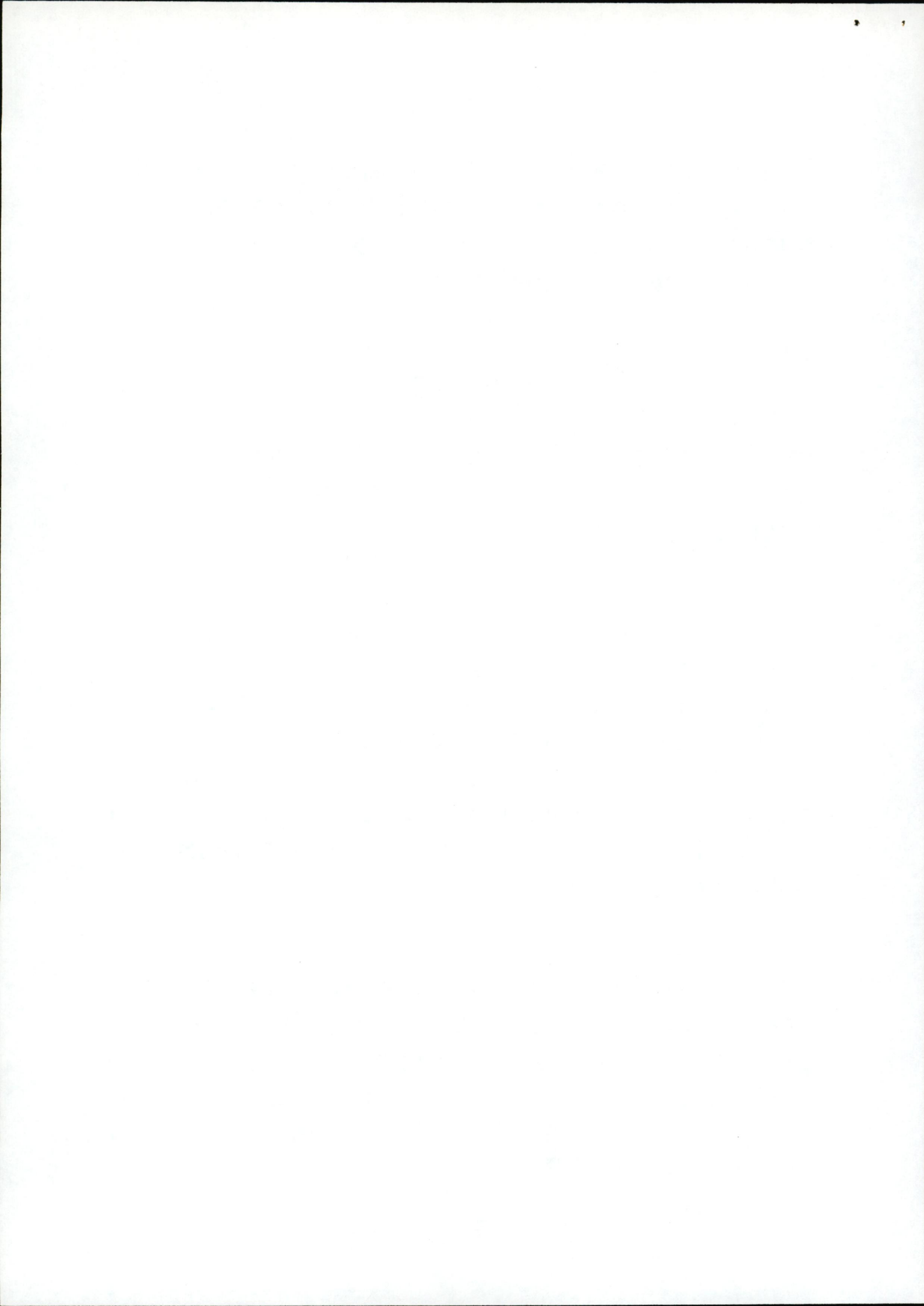


The Government has undertaken a systematic program of economic, financial and management reforms with the objective of better serving the people of New South Wales.

A number of financial management initiatives have consolidated New South Wales as a leader in public finance. But we are not resting on our laurels. We are proposing to introduce further reforms.

The amendments proposed in the two Bills before the House today can be divided into two broad categories. The first category is designed to facilitate the introduction of a number of financial and resource management reform initiatives. The second category primarily deals with additional accountability and reporting requirements for public sector bodies.

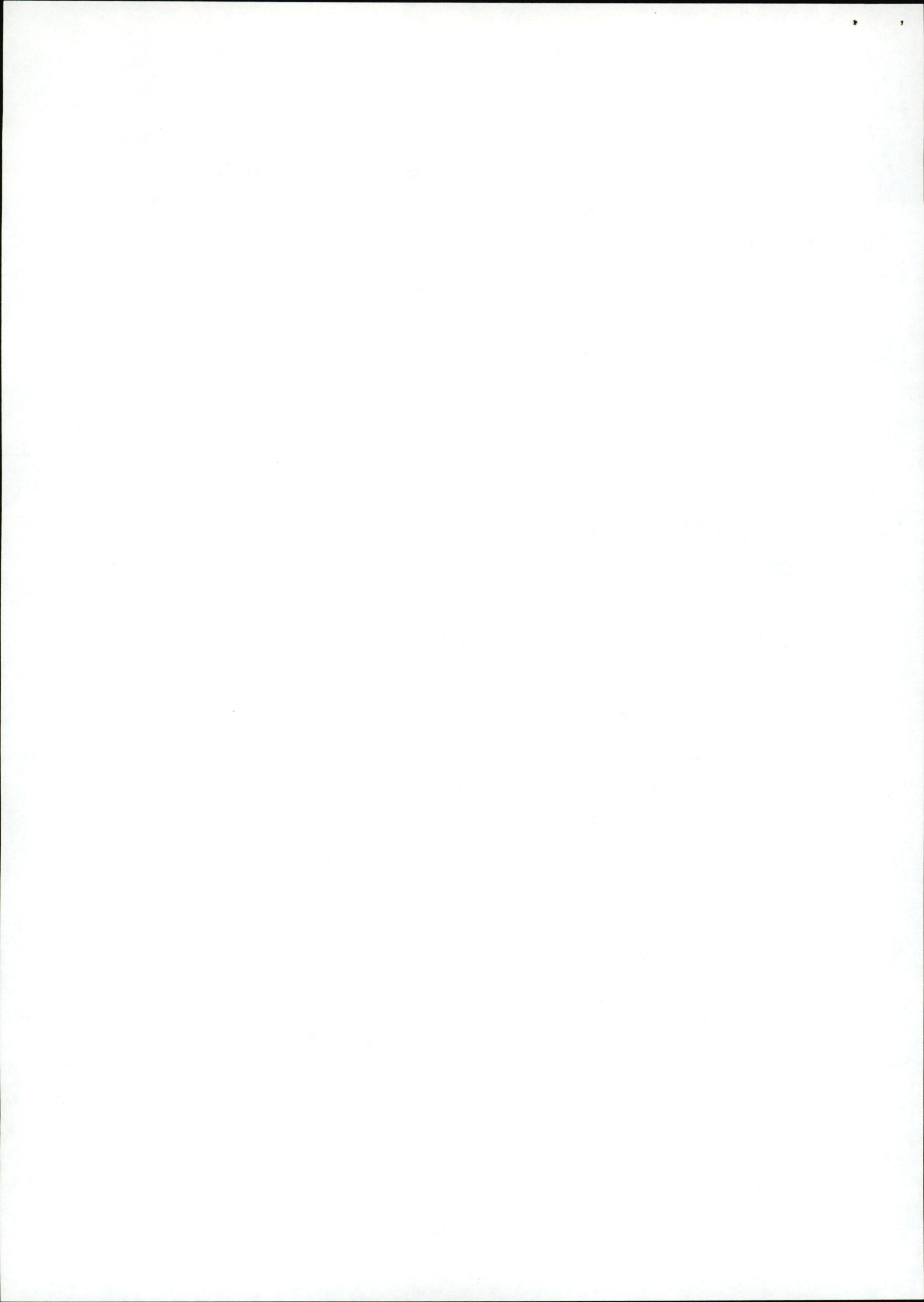
The Public Finance and Audit Act, as presently drafted, requires the Treasurer to publish monthly, quarterly and annual statements principally on the operations of the Consolidated Fund. They are known as the Niemeyer Statements, Quarterly Gazettes and Public Accounts respectively.



The legislation only requires the disclosure of receipts and payments which pass through the Consolidated Fund which is the main account of the State. The disclosures are deficient on the coverage of the Budget Sector's financial transactions because they do not capture all sources of revenues and payments.

For the first time, the 1991-92 New South Wales Budget Papers were presented on the basis of the "total funds" concept and the principles utilized by the Australian Bureau of Statistics in compiling its Government Finance Statistics data for the Commonwealth and the States. This is in accordance with the agreement reached at the May 1991 Special Premiers' Conference that all Governments should move to a uniform basis in preparing their Budget information.

The objective of the Premiers' Conference initiative is to facilitate inter-governmental financial comparisons and to enable an assessment to be made of the impact of public sector budgets on the economy.



The purpose of the amendments before the House is to bring the format of presentation of the Treasurer's monthly and quarterly financial statements into line with the new format of the Budget Papers.

Pending the enactment of the necessary legislative changes, the Treasurer commenced issuing the monthly financial statements on the revised format in January 1992. At this stage, the only other State Government in Australia which publishes its monthly statements on a similar basis is Victoria. The New South Wales Government is delighted that Victoria does so, because it enables us to show how well we are doing.

Where it is considered necessary to depart from the GFS principles, the Treasurer will be required by the amendment to make a full disclosure of the deviation to Parliament within seven days. Such departures are expected to be both infrequent and of a minor nature.

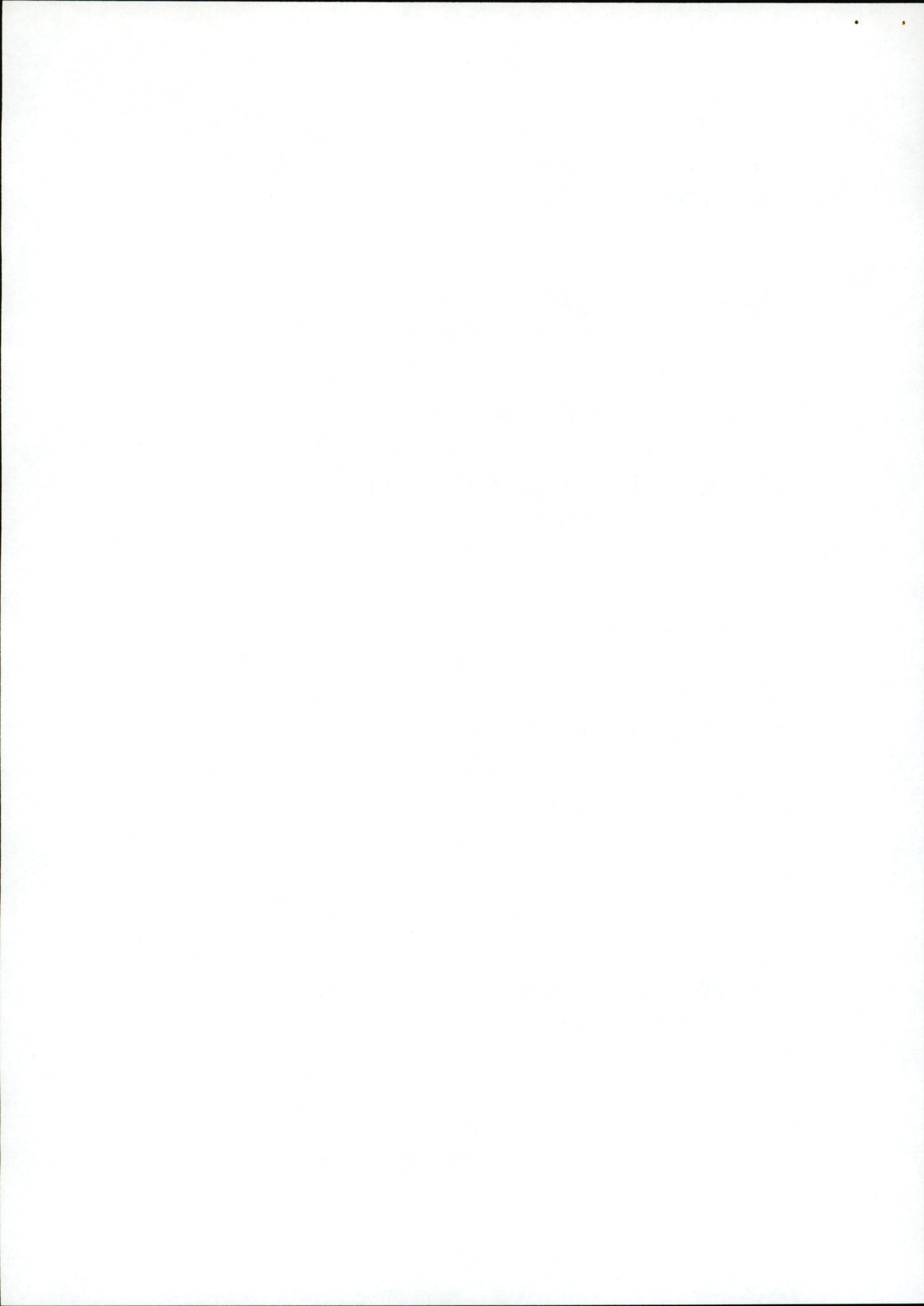
Future Public Accounts will principally comprise the consolidated financial statements of the Budget Sector together with much of the material presently provided. The new reporting format

however can only commence when all departments have converted to accrual accounting.

In 1989, the Government announced that it would introduce accrual accounting to the Budget Sector over a five year period. In view of the significant progress achieved to date, the implementation period has now been shortened. The plan, at this stage, is that all departments will be on full accrual accounting by 1992-93.

The advantage of an accrual accounting system as compared to a cash system is that the financial statements fully reflect all the revenues, expenses, assets and liabilities of an agency rather than just the movements in its cash balances. It is generally accepted that such a system provides a far more effective tool for financial and resource management. The reason for this is that it generates useful information for asset/liability management as well as decision-making about the allocation of scarce resources to meet service delivery objectives.

Apart from New Zealand and some jurisdictions in the North American continent and Western Europe,

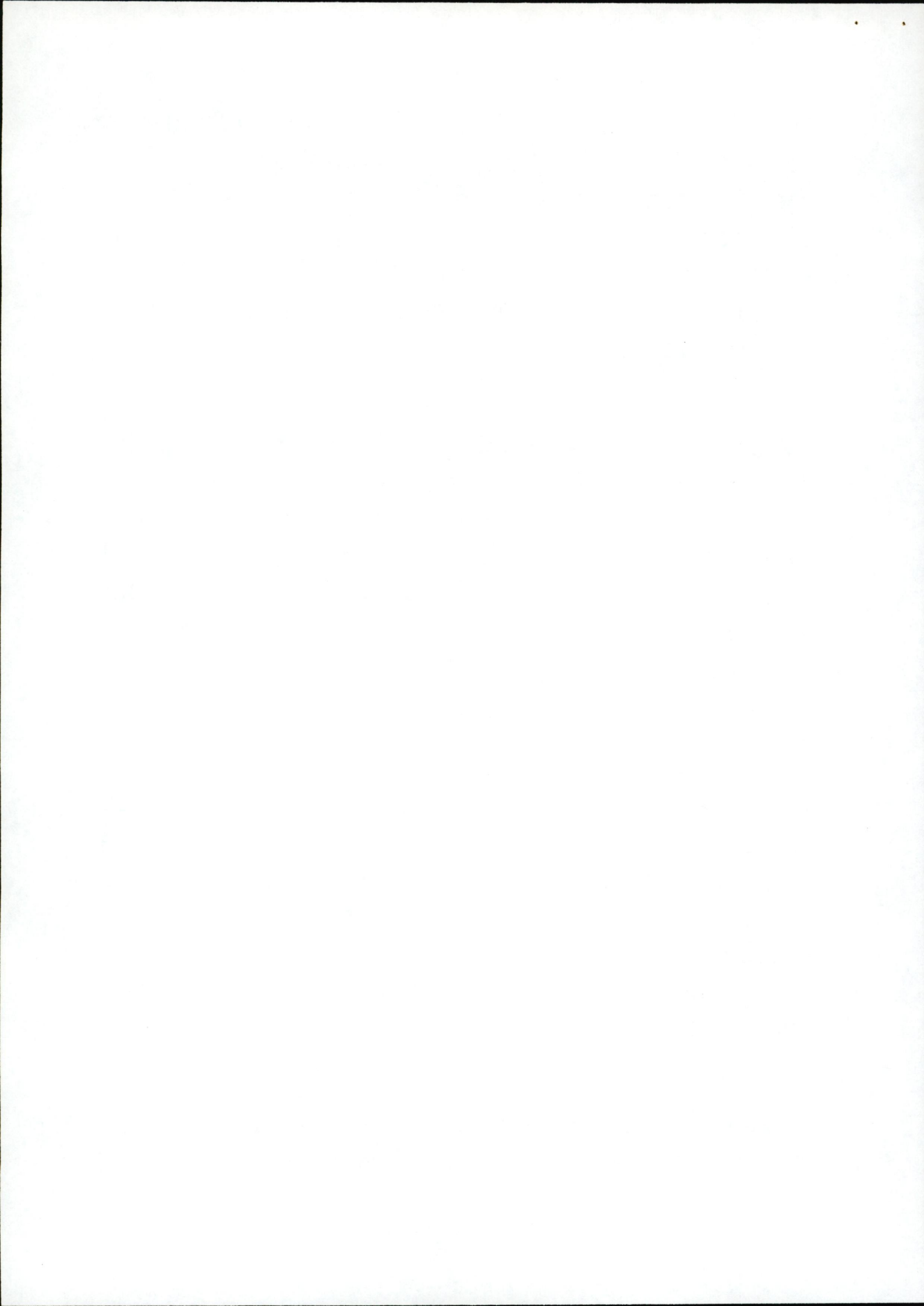


New South Wales is one of the few Governments in the world to be introducing accrual accounting to the General Government Sector. This State's direction has been endorsed by the Australian Accounting Research Foundation, the accounting standards development arm of the two major accounting bodies.

In its proposed accounting standard on "Financial Reporting by Government Departments" published in early 1992, the Foundation advocates the adoption of full accrual accounting by all government departments in Australia. It looks like a number of the other States may soon be following the New South Wales' path.

The amendments proposed are designed to empower the Treasurer to direct those departments, which have already adopted an accrual accounting system, to comply with the "Financial Reporting Code" as well as other disclosure requirements in the Public Finance and Audit Act in so far as they are not inconsistent with the Code.

During the transitional period, those departments still on cash accounting, will follow the cash-based

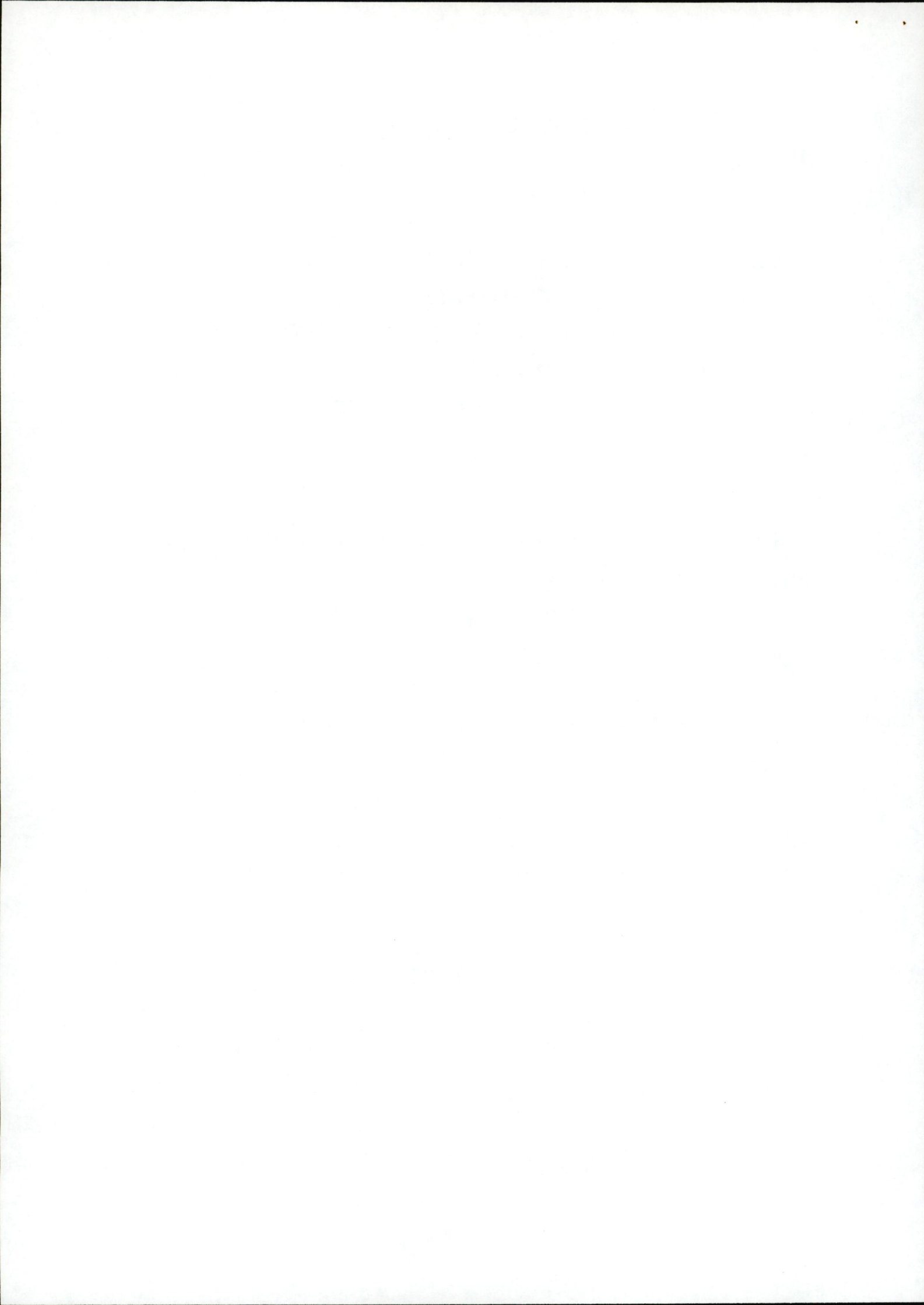


reporting requirements as presently prescribed in the Act.

Given the diverse range of activities that government agencies are engaged in, it is important to allow some degree of flexibility in the application of financial reporting standards to ensure that they fit the circumstances of each case.

It is therefore proposed that a formal regime be incorporated in the Public Finance and Audit Act under which the Treasurer can grant exemptions from and modifications to specific reporting requirements, subject to the agencies concerned complying with certain conditions, where considered appropriate. There are similar discretionary powers vested in the Federal Attorney-General under the Corporations Law which apply to all companies in the private sector.

In line with the Corporations Law, the powers will be exercised in respect of either an individual agency or a class of agencies. Further, before granting an exemption or modification, the Treasurer must consult with the Auditor-General and be satisfied that compliance with a particular

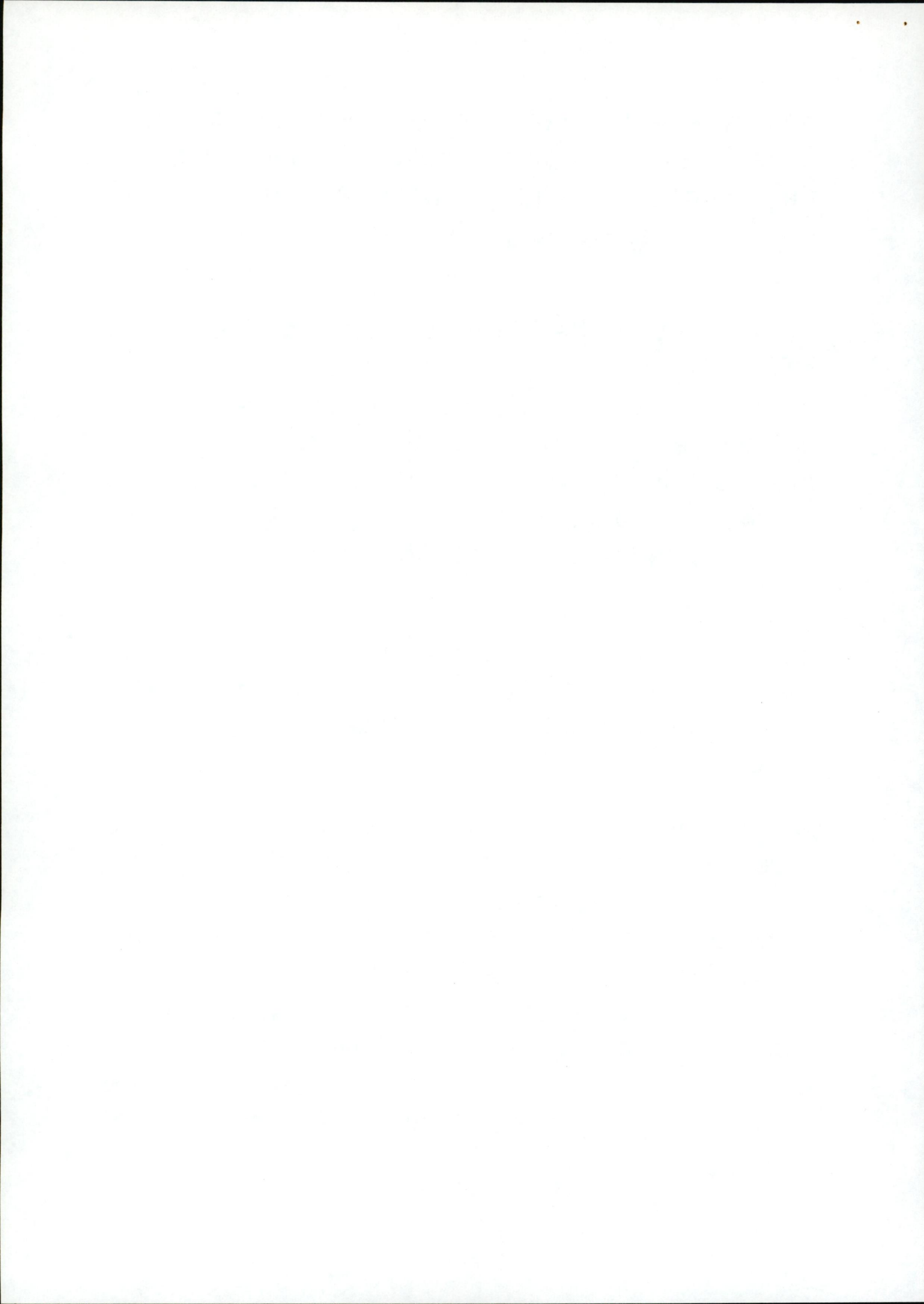


reporting requirement would render the financial statements misleading; would be inappropriate to the agency; or would impose an unreasonable burden on the agency, as the case may be.

Turning now to the State's banking operations, the NSW Treasury presently operates a banking facility - the Treasury Banking System - which comprises over 2,500 individual bank accounts at the local level to record the daily receipts and payments transactions of all Budget Sector agencies and a number of statutory boards.

These bank accounts are domiciled with one of the three government contract bankers (Westpac, State Bank and National Australia Bank).

Apart from certain trust monies, all revenues received by users of the Treasury Banking System are initially paid into the bank accounts at the local level. Ultimately, they find their way to a centralised Treasury-operated Public Funds bank account established with one of the contract bankers. Agencies' expenditures are initially paid out of their own local drawing or advance accounts and are subsequently reimbursed by the Treasury out of



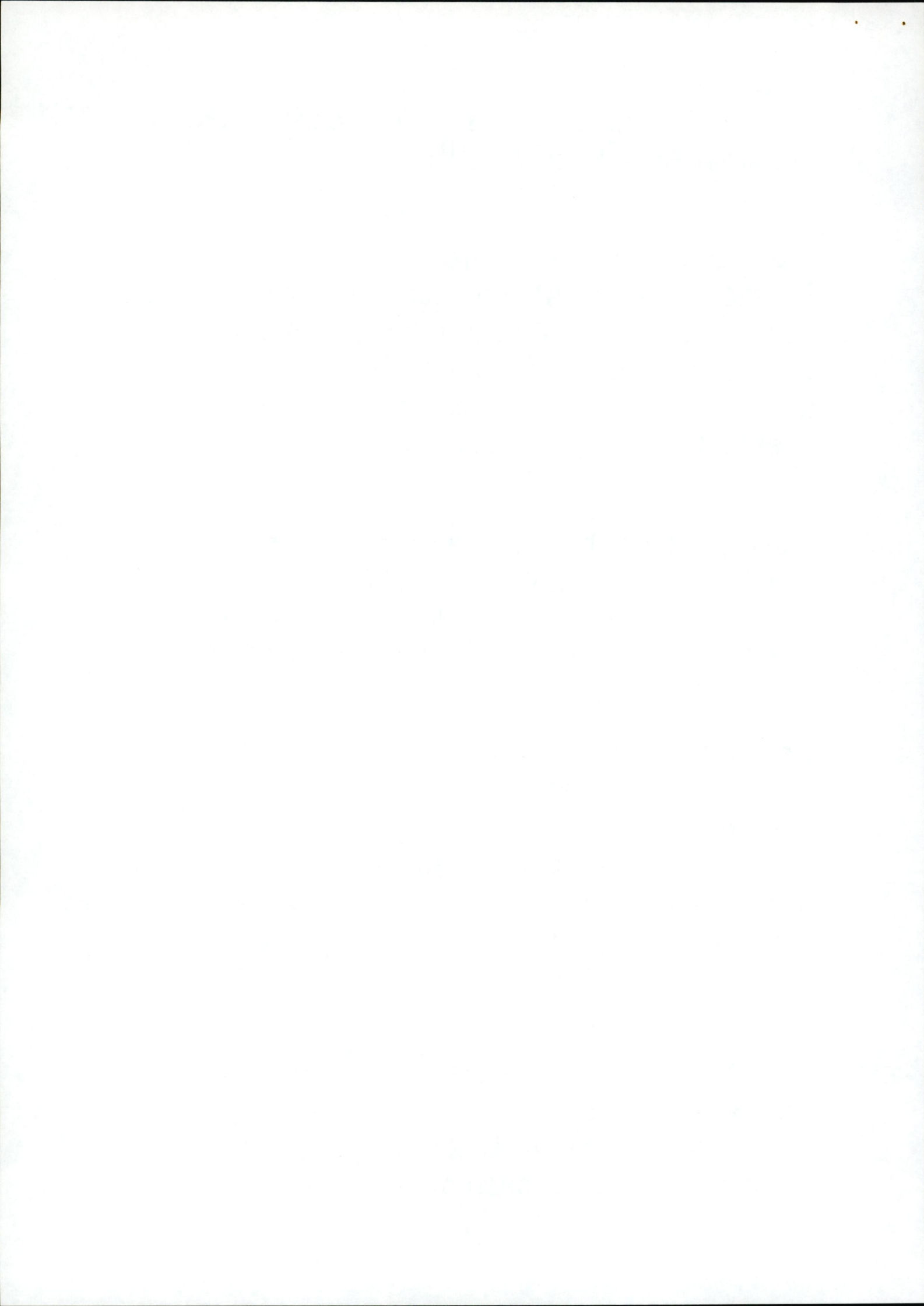
one of the three Public Funds bank accounts - generally on a weekly basis.

Perhaps because they are not directly responsible for the accuracy of the cash forecasts and they neither see nor receive any of the interest earned on the surplus funds within the banking system, agencies may not have been optimising the interest return for the State.

Also, because banking services are regarded as "free" by agencies, there is little incentive for them to restrict either the number of accounts opened or the level of transactions flowing through them.

Accordingly, the Government proposes to change the Treasury Banking System. Firstly, it will transfer all revenues of agencies from budget allocations and Special Deposits Accounts under their administration back to the local level and, secondly, it will devolve responsibility for cash budgeting and forecasting to the agencies.

The Treasury will continue to monitor the cash balances of the agencies and there will be an appropriate rewards/sanctions system put in place to encourage better cash management practices.

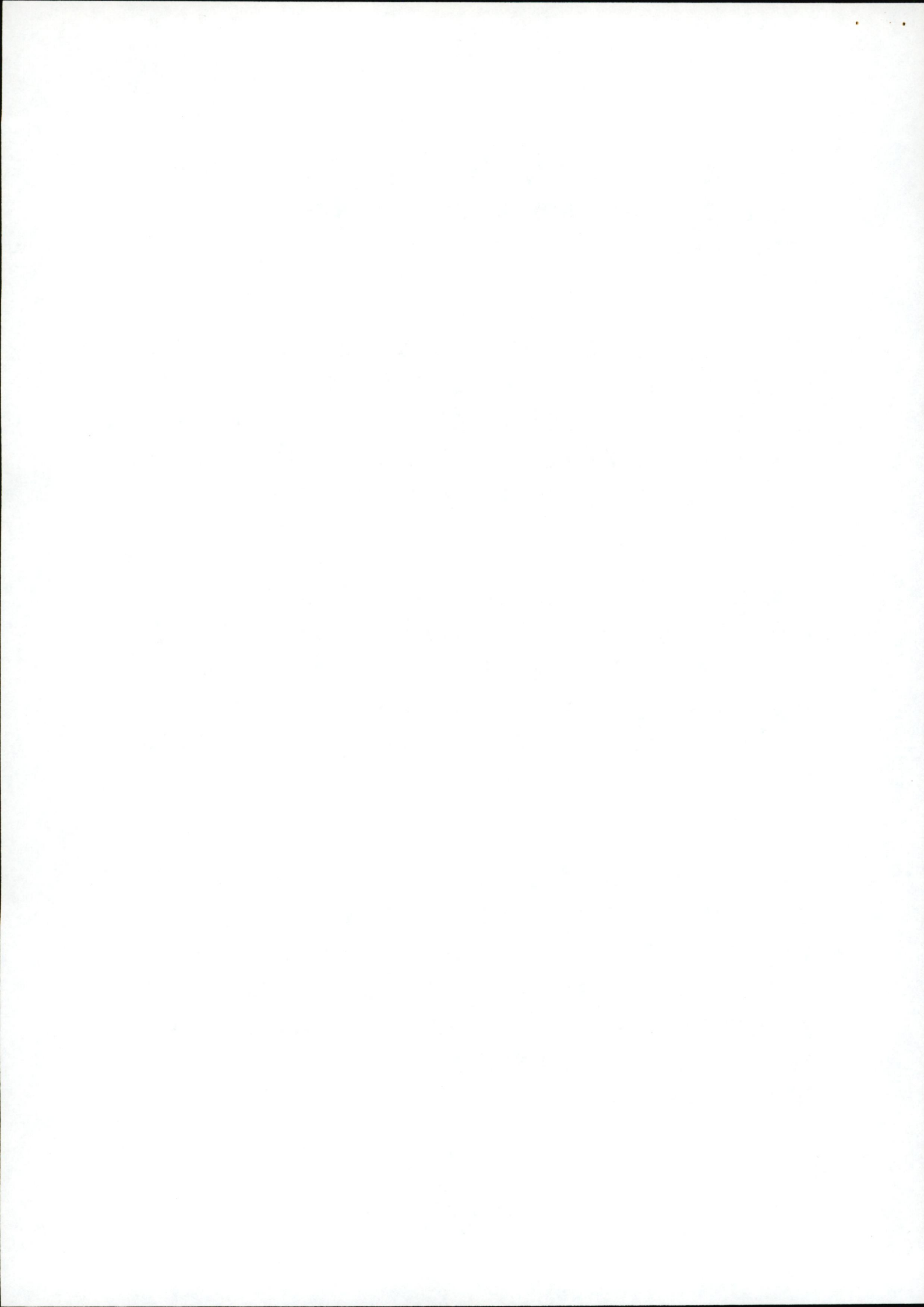


The new Treasury Banking System will be revenue-neutral so far as the State Budget is concerned.

Where appropriate, each agency will be allowed to open and maintain an operating bank account, a statutory and other funds bank account and a commercial activities bank account. Each account may in fact comprise many sub-accounts.

The new arrangements will require the preparation by agencies of a detailed annual forecast of cashflows from all sources. After agreement with the Treasury, this forecast will form the basis of periodic payments from the Consolidated Fund to meet expected cash needs.

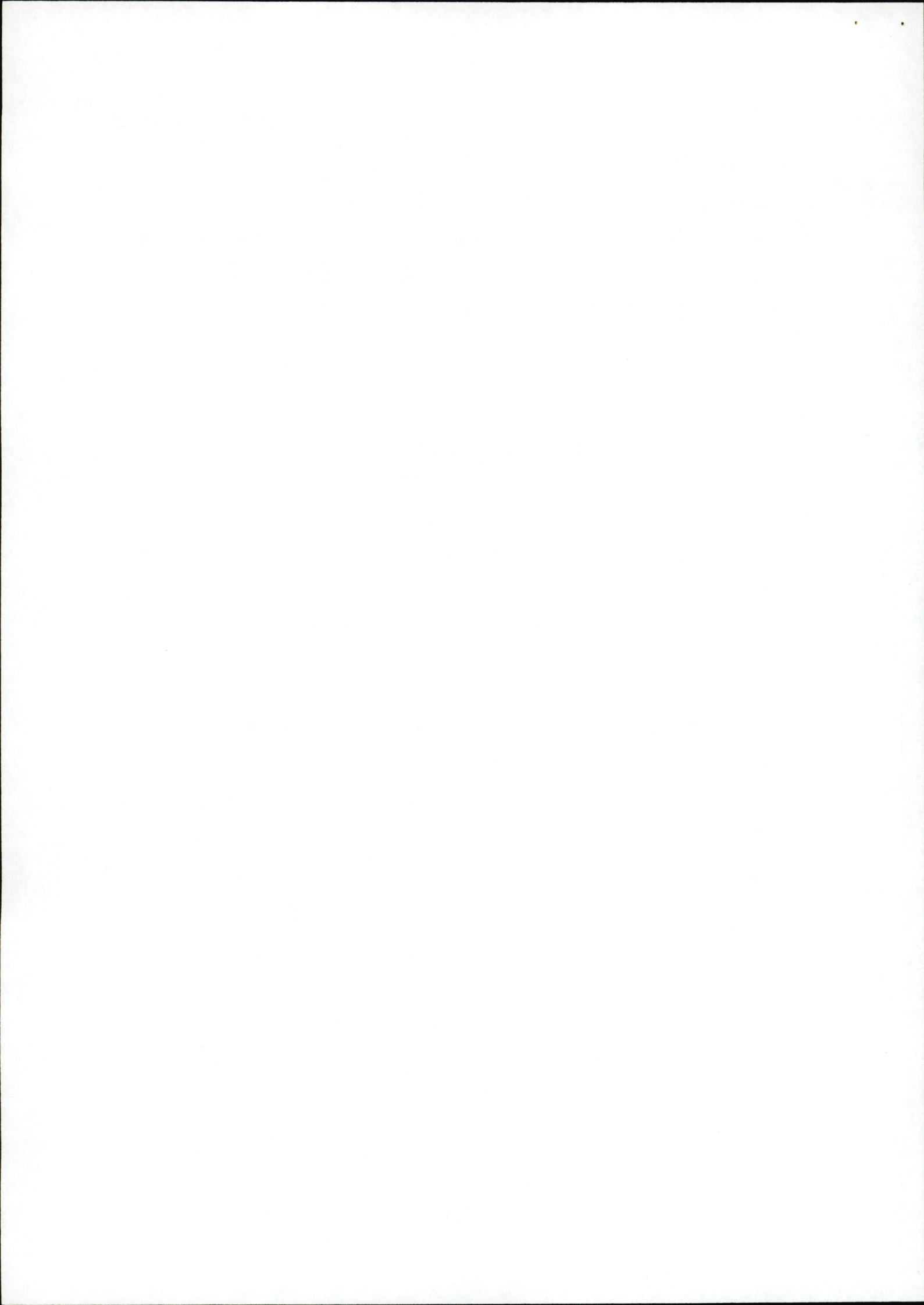
After a reasonable trial period, each agency's actual performance will be measured against its forecast position with any significant variations forming the basis of a sanction. Details of the rewards/sanctions system are currently being developed in consultation with the users of the Treasury Banking System.



The proposed cash management and banking procedures are seen as a further step in the process of implementing the Government's financial and resource management reforms. It is consistent with the principle of "letting the managers manage" and current commercial practice.

Once fully instituted, it should lead to more efficient management of the State's cash resources. Under the new arrangements, the Treasury will continue to have responsibility for the macro control of cash and will co-ordinate the investment of surplus funds through the NSW Treasury Corporation.

To facilitate the introduction of the new banking and cash management arrangements during the 1992-93 financial year, the Public Finance and Audit Act will need to be amended. This is necessary to enable the transfer of certain funds relating to the Special Deposits Accounts presently held in the Treasury Public Funds bank accounts back to the agencies' own bank accounts. It is also necessary to facilitate the making of periodic payments to agencies from the Consolidated Fund to meet their projected cash needs.

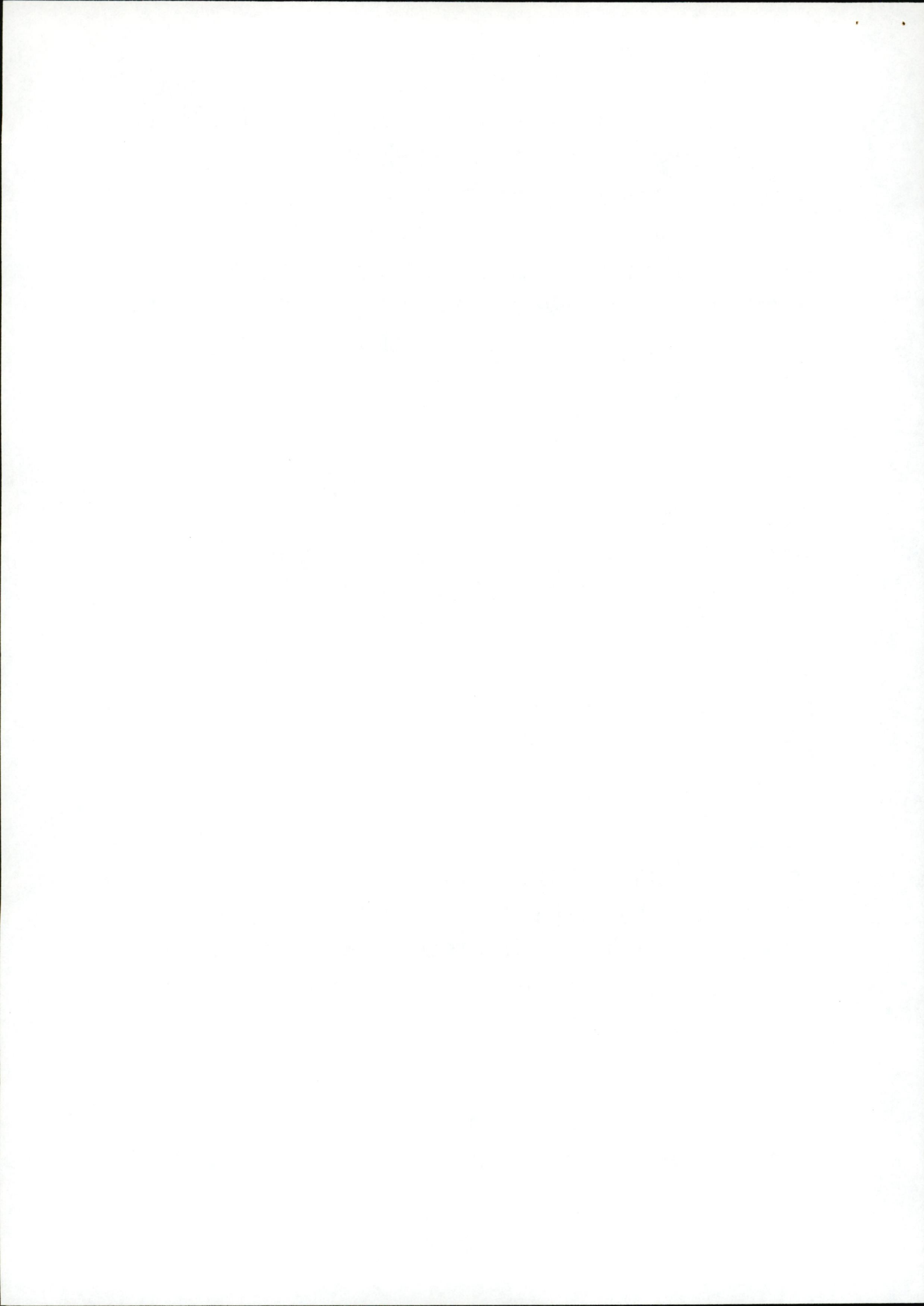


Concurrently with the cash management initiative, the Treasury is also reviewing its present arrangements with the three contract bankers and the rationale for having three bankers instead of just one. Tenders have recently been issued to a number of banks who have the proven technology to assist the State in the efficient management of its banking requirements.

The plan is to move to a single banker for Budget Sector agencies if it is found to be the most effective approach. It has been suggested that the change will minimise transactional costs and should lead to improved efficiencies by adopting one common technology instead of three slightly different ones, as is presently the case with three separate contract bankers.

Most of the other amendments that I am now going to briefly outline emanate from the Public Accounts Committee Report No. 47 entitled "The Challenge of Accountability". That report examined issues of financial accountability and reporting associated with Departments and statutory bodies.

Some of the recommendations of the Committee have already been implemented as a result of the

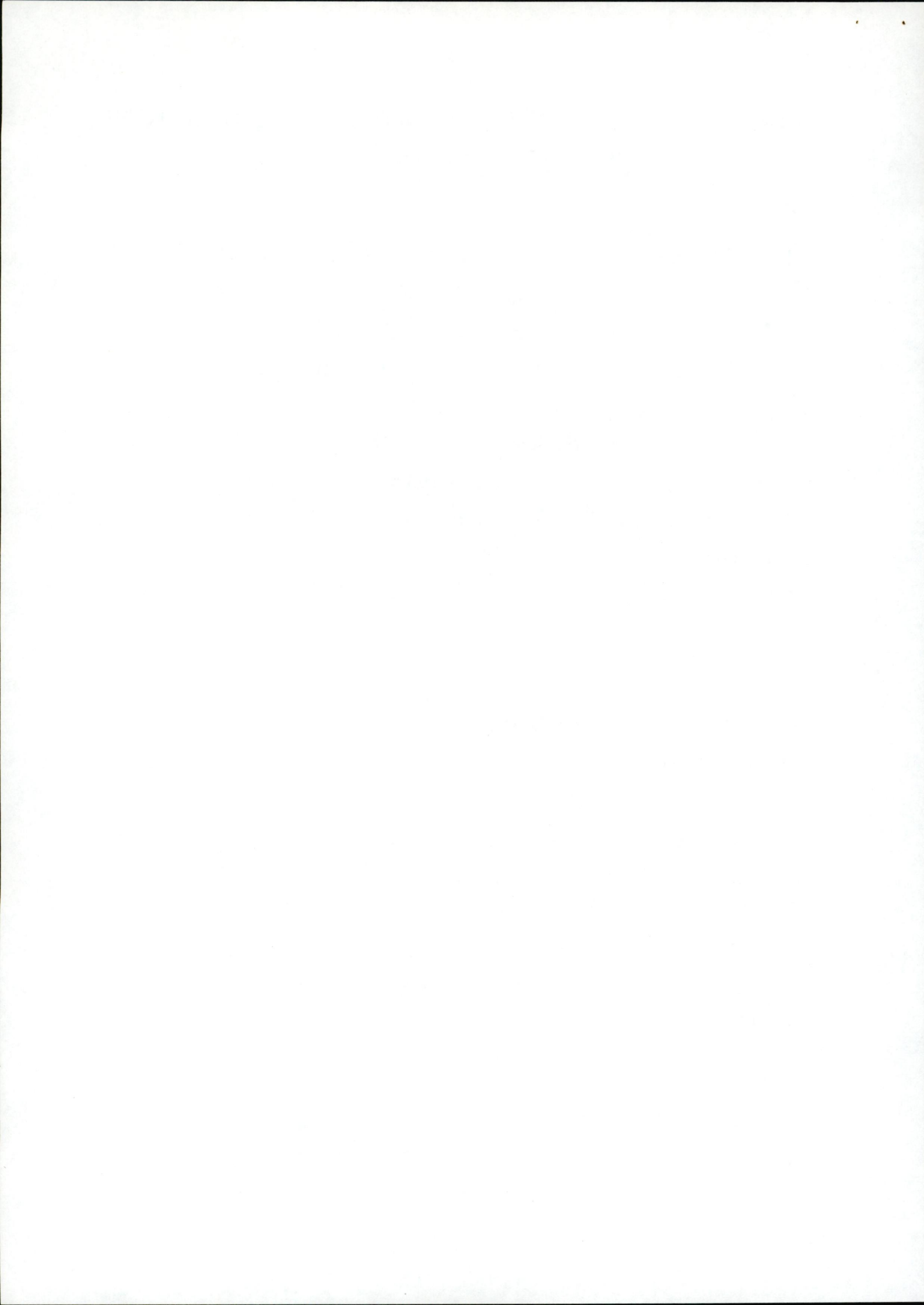


recent enactment of the Public Finance and Audit (Auditor-General) Amendment Act.

The Public Accounts Committee, in the "The Challenge of Accountability" report, expressed particular concern about the timeliness of the submission of annual reports to Ministers and the tabling of them in Parliament. The Committee recommended mandatory disclosure of the failure to meet prescribed deadlines and the reasons therefor as well as details of extensions of time granted (where applicable) as a strategy to improve compliance. These recommendations are covered by the proposed amendments.

At present, Departments are required to submit signed financial statements to their Ministers and to the Auditor-General for audit within six weeks of the end of the financial year. Such a tight time-frame has posed a particular problem for some Departments. The statements currently submitted within the six weeks are often merely draft figures and are subject to change, frequently as a result of audit.

The period prescribed in the Public Finance and Audit Act for Departments may be compared with

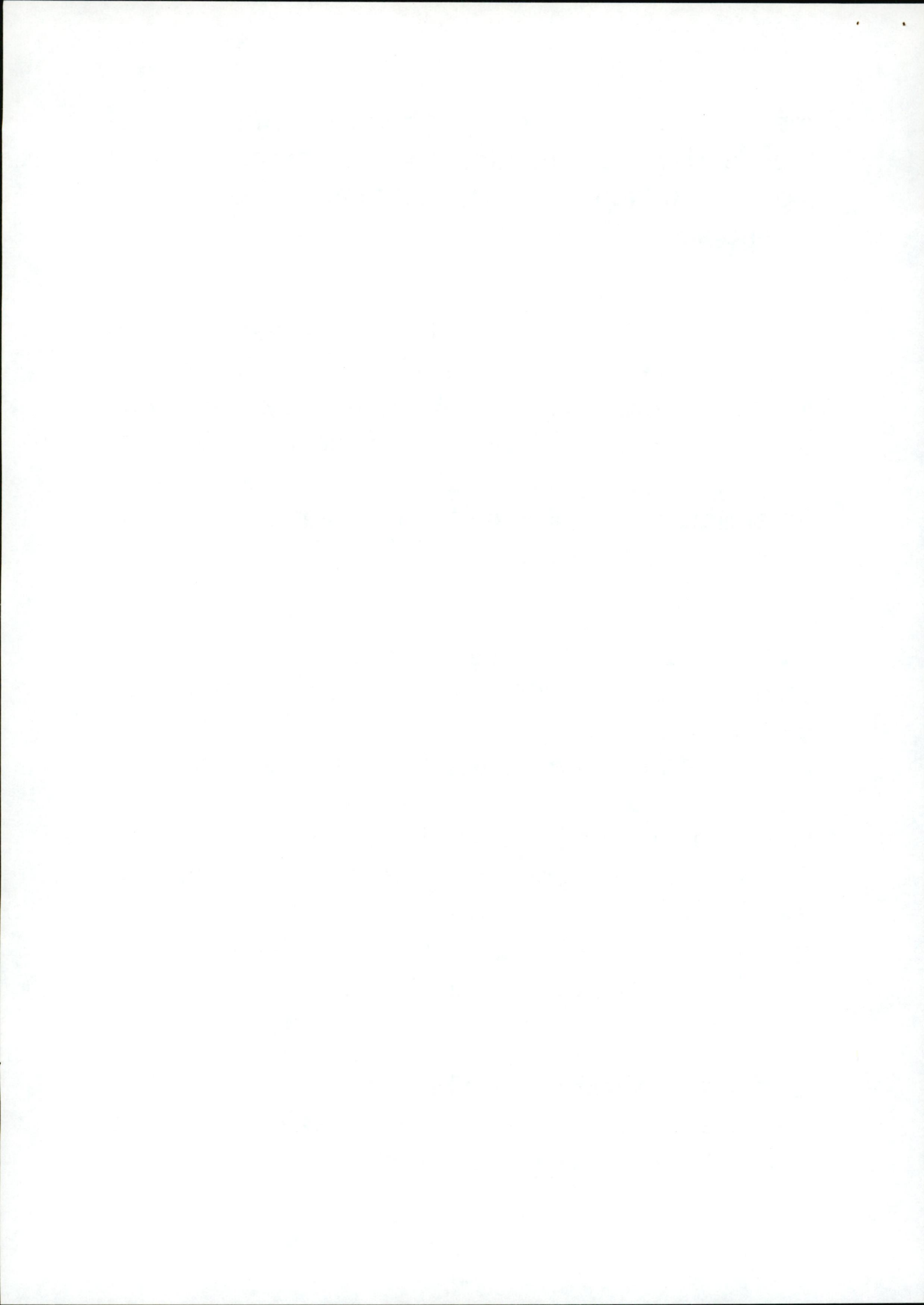


the Corporations Law which allows a maximum of four and a half months for the preparation of signed audited financial statements by public companies.

It is proposed that the Act be amended to allow Departments to submit draft financial statements to their Ministers and to the Auditor-General for audit within six weeks of the end of the financial year instead of signed statements. A similar amendment covering statutory bodies has recently been enacted.

Occasionally subsidiary companies and other unincorporated "controlled" entities (such as partnerships, trusts and joint ventures) are set up by Departments and statutory bodies as vehicles to assist in pursuing their commercial objectives. Both the Auditor-General and the Public Accounts Committee have pointed out that the problem with this trend is that public sector activities may become removed from the normal Parliamentary scrutiny and the accountability process.

Under the existing Public Finance and Audit Act, all subsidiary companies and certain types of unincorporated bodies under the control of a

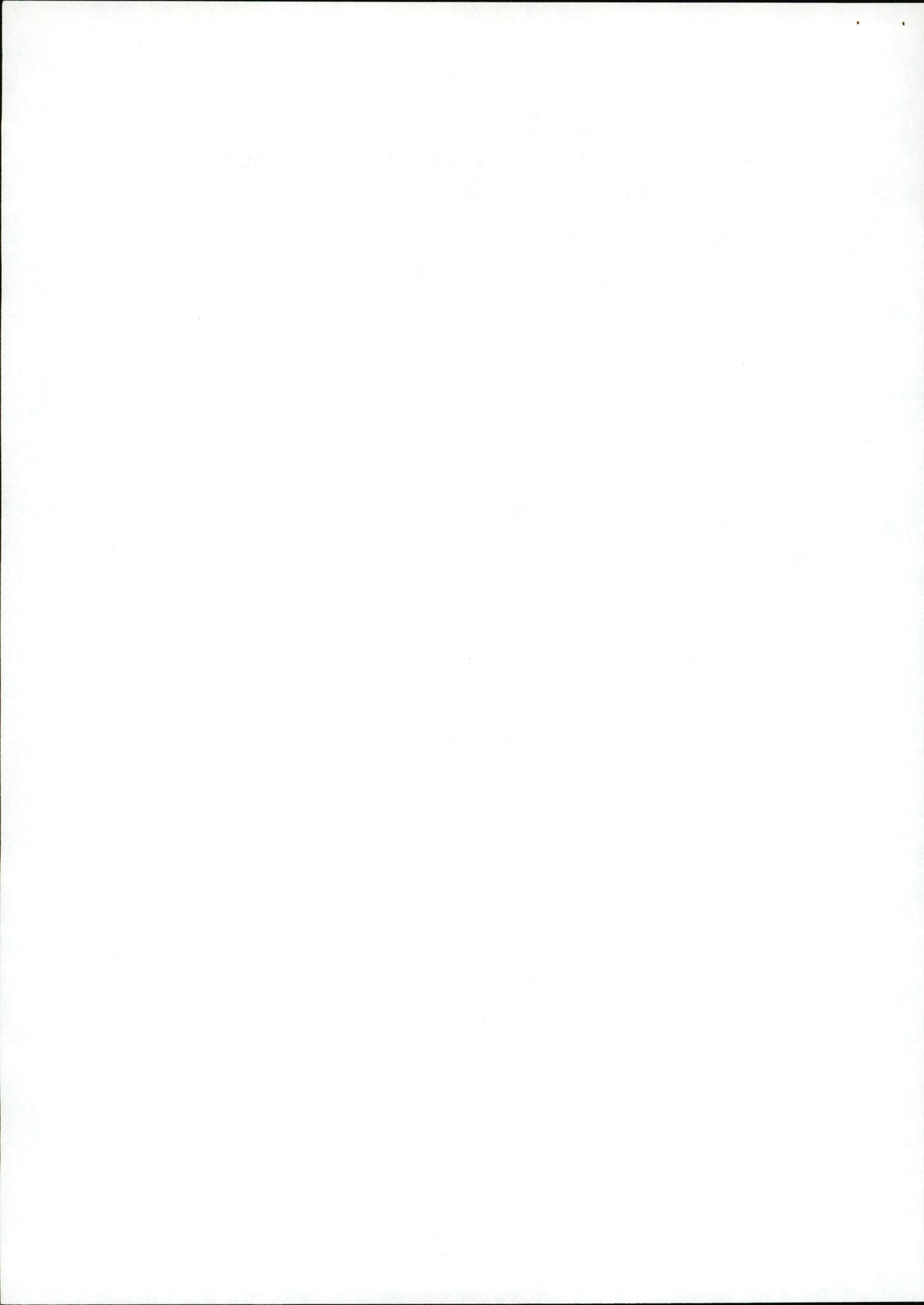


statutory body are subject to audit by the Auditor-General although a private sector auditor may be appointed, if the Treasurer so approves. However, although the form and content of the annual financial statements of these "controlled" entities are governed by the Act, the statements are not required to be presented to Parliament. Worse still, "controlled" entities formed by Departments are not caught by the Act at all.

In order to address these problems, the Treasurer issued in January 1991 a memorandum to all Ministers setting out detailed guidelines which deal with the formation, auditing and reporting of "controlled" entities. The auditing and reporting guidelines were issued as an interim measure pending the necessary amendments to the Public Finance and Audit Act and the Annual Reports Legislation.

The amendments in the Bills are principally directed at giving legislative backing to the Treasurer's guidelines. I will outline the key features of the amendments.

Firstly, all controlled "entities" established by Departments and statutory bodies are to be



defined with reference to the Corporations Law for the purpose of the Public Finance and Audit Act.

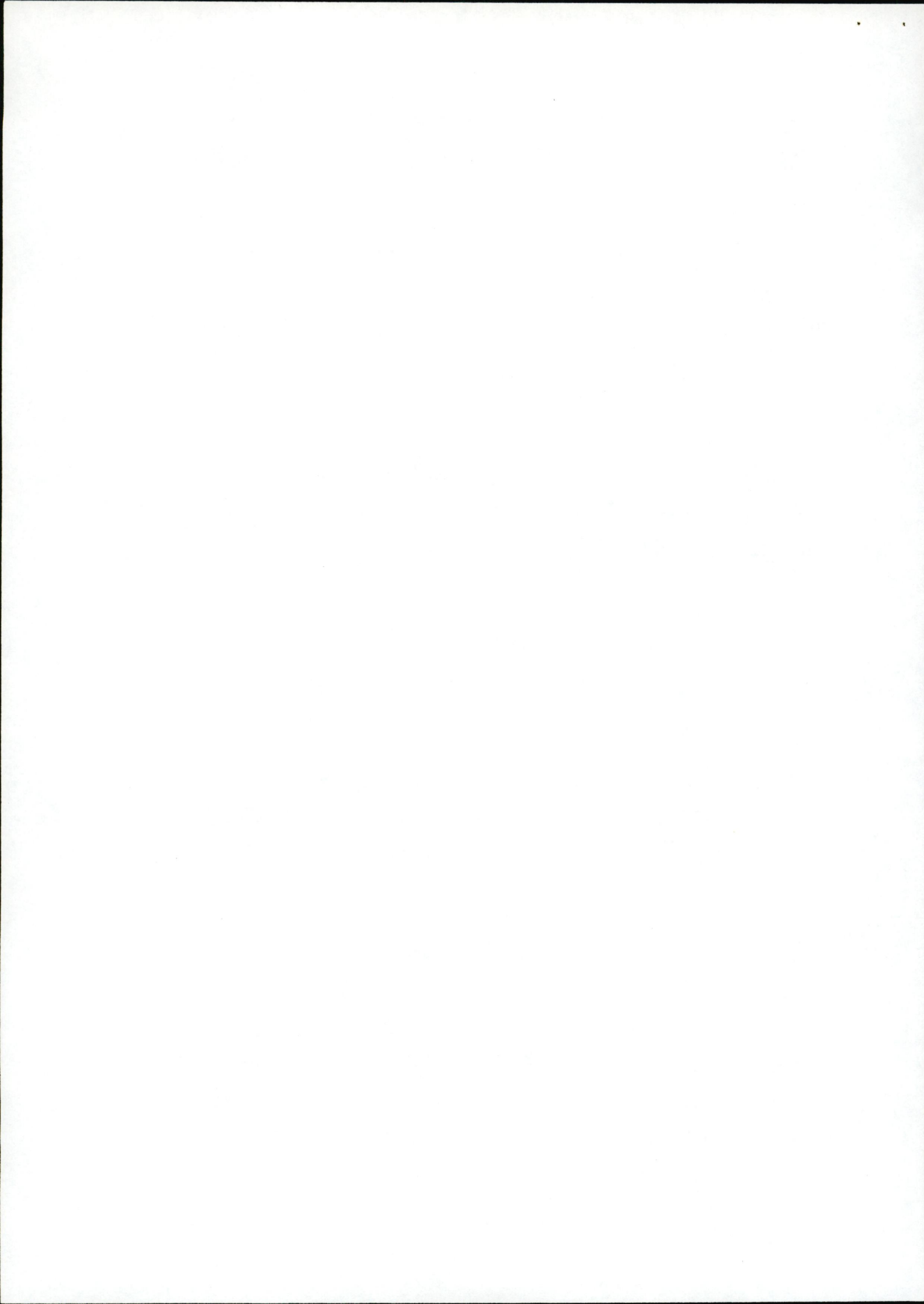
Secondly, the form and content of the financial statements of all entities under the control of a Department are to be in accordance with the Public Finance and Audit Act.

Thirdly, the financial statements of individual "controlled" entities are to be included in the annual report of the parent entity.

Fourthly, all "controlled" entities are to be subject to audit by the Auditor-General or his agent.

Lastly, Departments and statutory bodies are to report the creation of all entities which they control to the Auditor-General and the Treasurer.

As part of the enhanced reporting regime, appropriate amendments will be made to the Public Finance and Audit Regulations to require the inclusion in the consolidated statements of key figures for each "controlled" entity (e.g. turnover, profit etc.) and their proportion to group totals. In

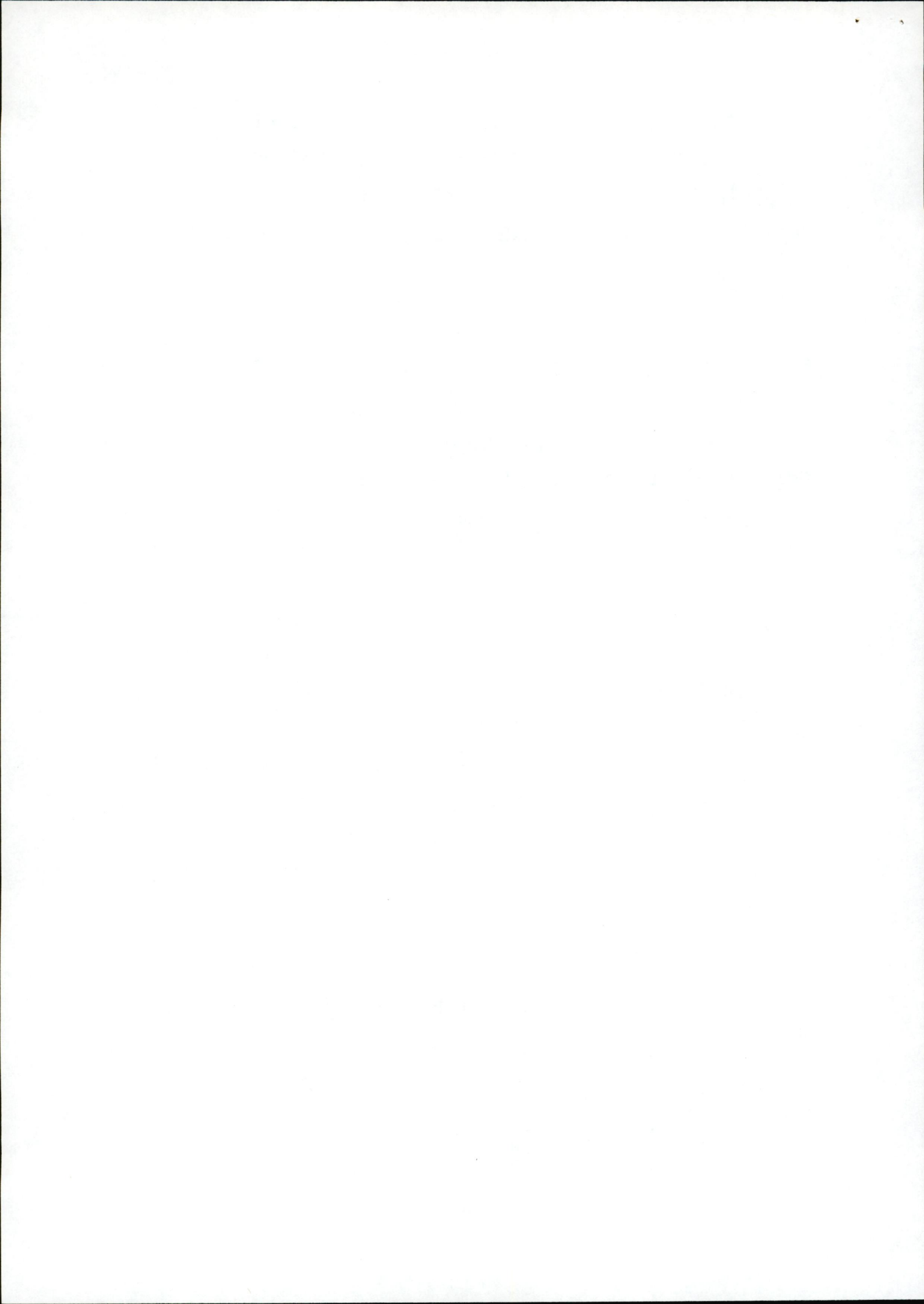


addition, the annual report of the parent entity will be required to include a statement of the objectives, activities and operations of each "controlled" entity as well as its performance targets and measures.

Most of the discretionary powers vested in the Treasurer under the Public Finance and Audit Act and the Annual Reports Legislation are of a technical or administrative nature. To facilitate administration, a system of delegation has been put in place.

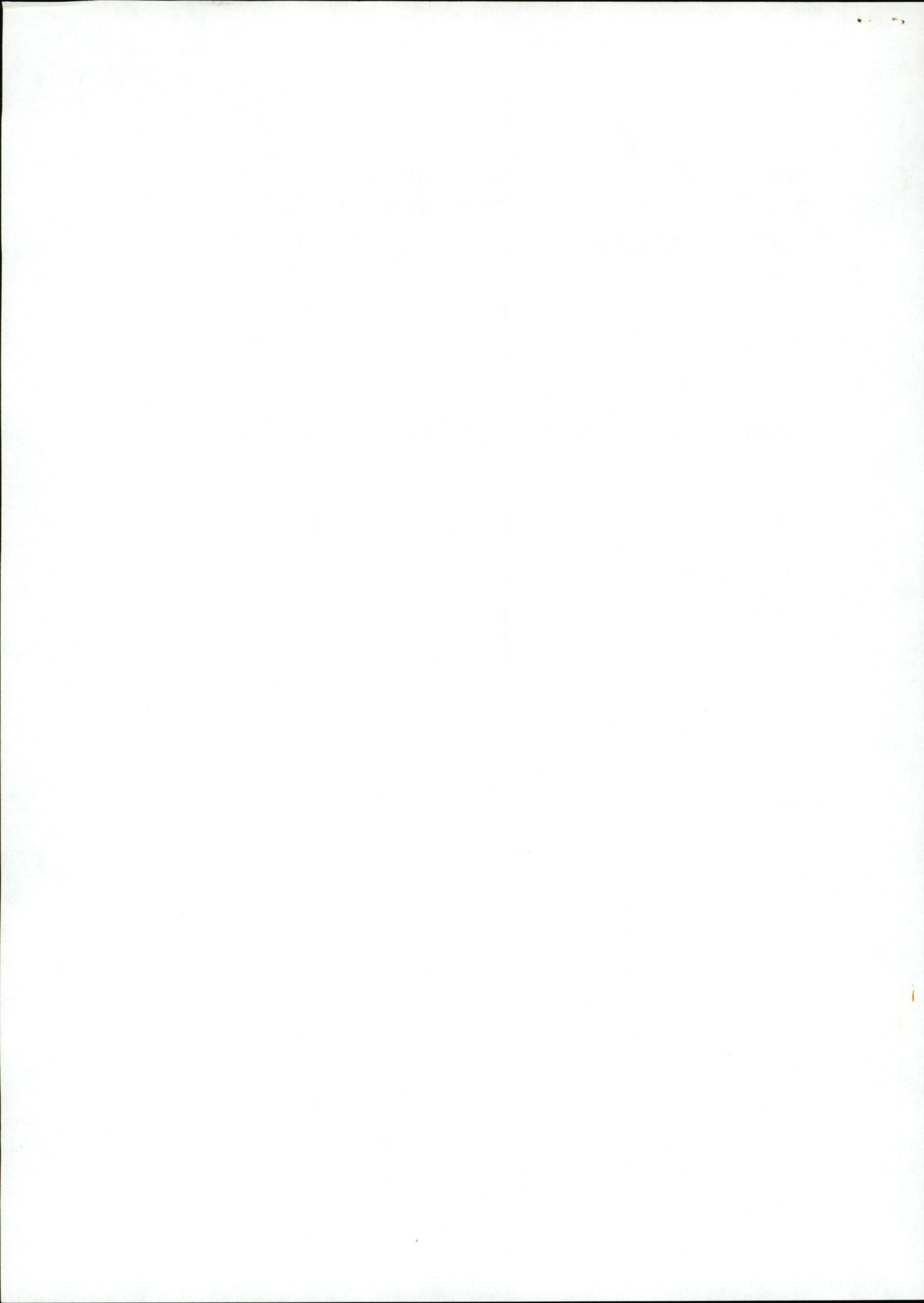
It is now proposed that specific provisions be included in the legislation to formalise the present arrangements and to enable a delegate to sub-delegate, if the Treasurer so approves. The sub-delegation power may be exercised, for example, in respect of the opening of bank accounts at the local level under the new decentralized banking arrangements.

Honourable Members will see that despite the enormous strides we have made in improving the financial management and accountability of the public sector, we are still looking to do more.



The amendments I have just outlined are further proof of the NSW Government's commitment to have an efficient, well managed and accountable public sector.

I commend the Bills to the House.



FIRST PRINT

PUBLIC FINANCE AND AUDIT (AMENDMENT) BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Annual Reports Legislation (Amendment) Bill 1992 is cognate with this Bill. The objects of this Bill are to amend the Public Finance and Audit Act 1983:

- (a) to enable the introduction of a new system of decentralised bank accounts to be kept by users of the Treasury banking system;
- (b) to require Departments to prepare their annual financial statements on an accrual accounting basis;
- (c) to confer on the Treasurer a general discretion to adapt the financial reporting requirements under the Act to the circumstances of individual authorities;
- (d) to bring entities controlled by a Department within the financial reporting requirements under the Act;
- (e) to permit Departments to submit draft financial statements to their Ministers and the Auditor-General instead of signed statements as is presently the case;
- (f) to improve the presentation of published information on the State's budget sector finances;
- (g) to give the Treasurer express authority to delegate administrative functions under the Act to certain specified persons.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the provisions of the proposed Act on various days. Those days, where fixed, are specified in the explanatory notes relating to the various amendments.

Clause 3 gives effect to Schedule 1.

Clause 4 is a transitional provision for unclaimed money, currently in the Special Deposits Account as required by section 14 of the Act, to be paid into the Consolidated Fund once the amendment to that section (made by Schedule 1 (6)) commences.

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Clause 5 validates any direction given by the Treasurer in relation to the form or content of the financial statements of Departments if that direction is given before the proposed section 45E of the Act takes effect. An example of such a direction would be one designed to ensure for Departments a phased introduction of the accrual accounting requirements detailed below.

Clause 6 similarly validates variations made by the Treasurer before the proposed section 45EA takes effect.

Schedule 1 makes the amendments to the Public Finance and Audit Act 1983 described in more detail below.

SCHEDULE 1—AMENDMENTS

Definitions

Schedule 1 (1) inserts a definition of "budget sector" in section 4.

Public accounts

Schedule 1 (2) amends section 5 to enable money relating to the Consolidated Fund and the Special Deposits Account, presently kept in Treasury bank accounts, to be kept in future in bank accounts outside the Treasury as well. This amendment, like those detailed below under the heading "Public sector banking", take effect from 1 July 1992, the date from which the proposed system of decentralised bank accounts is to be progressively introduced.

Published information on budget sector finances

Schedule 1 (3) and (4) amend sections 6 and 8 to change the requirements relating to the publication of monthly, quarterly and annual financial information concerning the budget sector by the Treasurer. The requirements will now reflect the new "total funds basis" of budget presentation. In addition, the principles utilised by the Australian Bureau of Statistics in compiling its Government Finance Statistics data, where appropriate, are to be applied to the monthly and quarterly summaries that are to form part of that information.

Treasurer's directions

Schedule 1 (5) amends section 9 with respect to the directions given by the Treasurer to authorities as to the accounting policies they must follow.

Unclaimed money

Certain unclaimed money is presently retained in the Special Deposits Account for 2 years before being paid into the Consolidated Fund.

Schedule 1 (6) amends section 14 to provide in future for it to be paid directly into the Consolidated Fund.

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Public sector banking

Schedule 1 (7) and (8) amend sections 16 and 18 so that they are compatible with the proposed decentralised system of bank accounts operated by individual agencies, instead of with the existing Treasury-based arrangements for banking.

Schedule 1 (9) amends section 20 as a consequence of the amendment made by Schedule 1 (7).

These amendments take effect from 1 July 1992, the date from which the decentralised system of bank accounts is to be progressively introduced.

Controlled entities

Schedule 1 (10) amends section 39, and Schedule 1 (16) substitutes section 63B, to change the concept of a "subsidiary organisation" of a statutory body to bring it into line with the "controlled entity" concept in the new Corporations Law.

Schedule 1 (16) also extends the new section 63B to Departments. In future, both Departments and statutory bodies will be required to report the creation of entities which they control to the Auditor-General and the Treasurer, and to take immediate steps to ensure those entities are audited by the Auditor-General. (Section 63B, as substituted, does not repeat the present provision for a 3 year period in which those steps may be taken by a statutory body.)

Schedule 1 (13) amends section 45A so that Division 4A of Part 3 of the Act will require the accounts, records, financial statements and audit of any Department to cover also the entities which the Department controls. A similarly extended requirement (in Division 3 of Part 3 of the Act) presently applies only to statutory bodies.

Variation of reporting requirements by Treasurer

Schedule 1 (12) and (14) insert sections 41BA and 45EA to provide for situations where the financial reporting provisions of the Principal Act and the regulations made under it would be inappropriate to a Department or statutory body. The Treasurer will be able to modify those provisions or to grant exemptions from them, in the circumstances outlined by the provisions.

Schedule 1 (11) amends section 41B to ensure that notice of any such variation is included in the financial statements of any statutory body to which the variation applies.

Of the above Schedule items, only Schedule 1 (14) is given effect from 1 July 1992. This will allow the Treasurer to ensure a progressive introduction of the requirement (which also takes effect from 1 July 1992) that *Departments* prepare their financial statements on an accrual basis. This requirement is explained below.

Accrual accounting: Departments

Schedule 1 (14) substitutes section 45E to extend to Departments the obligation (which presently applies to statutory bodies) to prepare their financial statements on an accrual basis. This requirement is subject to directions which the Treasurer may give regarding the form and content of those statements. As explained above, Schedule 1 (14) is given effect from 1 July 1992.

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Draft financial statements: Departments

By substituting section 45E, Schedule 1 (14) will also remove the present requirement that Departments submit formal signed financial statements to the responsible Minister and the Auditor-General within 6 weeks of the end of each financial year. In future, draft statements will suffice during that period.

Nevertheless, Schedule 1 (15) amends section 45F to ensure that no Auditor-General's opinion may be issued in relation to the financial statements until a formal opinion as to the truth and fairness of the statements has been received from the appropriate Department Head.

These amendments bring Departments into line with the requirements applying to statutory bodies. The amendments take effect from 1 July 1992, to ensure their application in respect of the financial year which closes on 30 June 1992.

Delegation of Treasurer's functions

Schedule 1 (17) inserts a new provision, section 63E, to put beyond doubt the Treasurer's power to delegate functions, and for delegates to sub-delegate those functions in certain circumstances.

FIRST PRINT

PUBLIC FINANCE AND AUDIT (AMENDMENT) BILL 1992

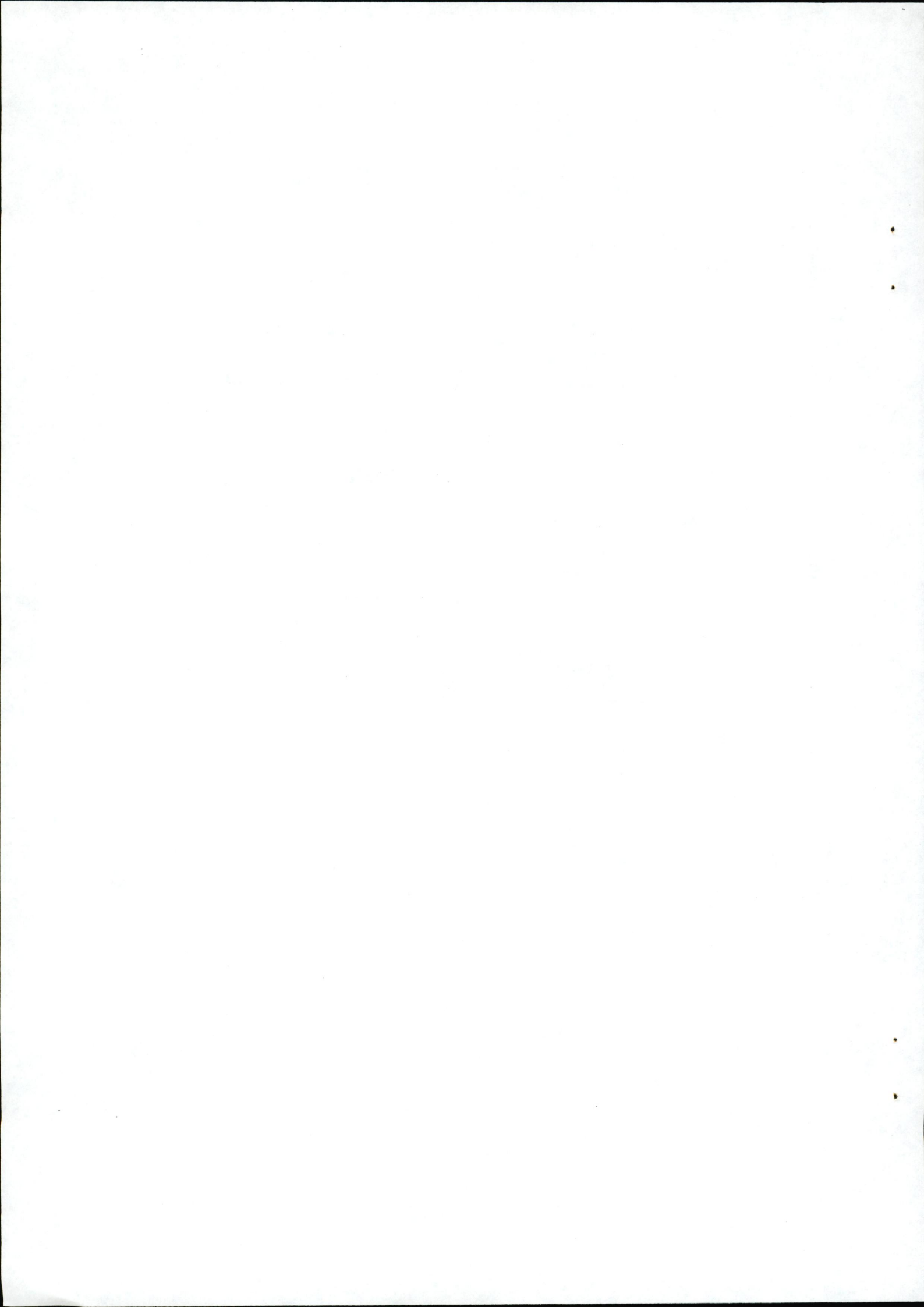
NEW SOUTH WALES



TABLE OF PROVISIONS

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2. Commencement
3. Amendment of Public Finance and Audit Act 1983 No. 152
4. Unclaimed money
5. Directions as to financial statements
6. Variation of requirements

SCHEDULE 1—AMENDMENTS



PUBLIC FINANCE AND AUDIT (AMENDMENT) BILL 1992

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Public Finance and Audit Act 1983 with respect to the banking of public money, financial information concerning the budget sector, accounting and reporting requirements, and delegations.

See also Annual Reports Legislation (Amendment) Bill 1992

Public Finance and Audit (Amendment) Bill 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Finance and Audit (Amendment) Act 1992.

5 Commencement

2. (1) This Act commences on a day to be appointed by proclamation, except as provided by this section.

(2) Schedule 1 (2), (7), (8), (9), (14) and (15), and section 3 in its application to those items, commence, or are taken to have commenced, on 1 July 1992.

Amendment of Public Finance and Audit Act 1983 No. 152

3. The Public Finance and Audit Act 1983 is amended in the manner set out in Schedule 1.

Unclaimed money

15 4. Money paid into the Special Deposits Account pursuant to section 14 (2) of the Public Finance and Audit Act 1983, as in force immediately before the commencement of Schedule 1 (6) is, after that commencement, to be paid into the Consolidated Fund.

Directions as to financial statements

20 5. A direction given by the Treasurer, which would have been valid if section 45E of the Public Finance and Audit Act 1983 (as amended by this Act) had been in force at the time the direction was given, is validated by this section.

Variation of requirements

25 6. An exemption, omission, modification or variation made by the Treasurer, which would have been valid if section 45EA of the Public Finance and Audit Act 1983 (as amended by this Act) had been in force at the time the exemption, omission, modification or variation was made, is validated by this section.

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS

(Sec. 3)

- (1) Section 4 (**Definitions**):
- After the definition of “bank” in section 4 (1), insert:
- “**budget sector**” comprises, in relation to any financial year: 5
- (a) the programs specified in the Budget Estimates for that year; and
- (b) such programs created after the Budget Estimates for that year as the Treasurer considers would have been specified in those Estimates if the programs had been created before those Estimates were determined; 10
- (2) Section 5 (**Treasurer’s accounts**):
- (a) Omit “keep in the Treasury”, insert instead “cause to be kept”. 15
- (b) At the end of section 5, insert:
- (2) In spite of any other Act or law, the Treasurer is not required to cause any account in, or relating to, the Consolidated Fund or the Special Deposits Account to be kept in the Treasury. 20
- (3) An account referred to in any Act or law relating to the Consolidated Fund or the Special Deposits Account, and in or at the Treasury immediately before the date of the commencement of this subsection, is from that date to be caused to be kept by the Treasurer in accordance with subsection (1), either in the Treasury or outside the Treasury. 25
- (3) Section 6 (**Preparation of the Public Accounts**):
- Omit section 6 (1) and (2), insert instead:
- (1) As soon as practicable after the end of each financial year, the Treasurer is to prepare in relation to the budget sector a consolidated statement of its financial position as at 30 June in that year, together with a consolidated operating statement and a consolidated statement of cash flows. 30
- (1A) Those statements are to include the following: 35
- (a) Consolidated Fund financial statements;
- (b) balances as at 30 June, summarised and distributed into cash and securities;

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS—*continued*

- 5 (c) balances of trust money held as at that date;
 (d) annual interest as at that date and information as to the
 movement of loan liabilities to the Commonwealth
 under the Financial Agreement over the financial year;
 10 (e) the indebtedness as at that date which falls outside the
 Financial Agreement for the obtaining of financial
 accommodation;
 (f) details of advances which are repayable to the
 Treasurer as at that date;
 (g) details of such other matters as may be prescribed.

15 (2) A statement under subsection (1) may include amounts
 rounded to the nearest dollar or, if the Treasurer so
 determines, to the nearest one thousand or one hundred
 thousand dollars.

(4) Section 8:

Omit section 8, insert instead:

Periodic statements

- 20 8. (1) The Treasurer is to publish:
 (a) a monthly summary of the outlays, revenue and grants
 received by, and the financing transactions of, the
 budget sector; and
 (b) a monthly statement of the balance of cash and
 securities held by the Treasurer,
 25 as soon as practicable after the month to which the summary
 and statement relate.
 (2) The Treasurer is to publish in the Gazette:
 (a) a quarterly summary of the outlays, revenue and grants
 received by, and the financing transactions of, the
 30 budget sector, and a statement of the balances of trust
 money held by the budget sector, as at 30 September,
 31 December and 31 March in each financial year; and
 (b) quarterly balances as at the same dates, summarised
 and distributed into cash and securities; and
 35 (c) a quarterly statement of such other matters as may be
 prescribed,

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS—*continued*

as soon as practicable after the quarter to which the summary, balances and statement relate.

(3) The summaries referred to in subsections (1) and (2) are to be prepared so far as possible according to the principles utilised by the Australian Bureau of Statistics in compiling its Government Finance Statistics data, unless the Treasurer otherwise determines. 5

(4) The Treasurer is to present a copy of any determination given under subsection (3) to the Legislative Assembly on a day within 7 days after making the determination, if the Assembly is sitting on that day. 10

(5) If at the time when the Treasurer seeks to present a copy of a determination to the Legislative Assembly the Assembly is not sitting, the Treasurer is to present a copy of the determination to the Clerk of the Legislative Assembly to be dealt with in accordance with section 63C. 15

(5) Section 9 (**Treasurer's directions**):

Omit section 9 (2) (n), insert instead:

(n) the form and content of financial statements and the accounting policies to be observed in preparing those statements; 20

(6) Section 14 (**Unclaimed money**):

(a) From section 14 (2), omit "Special Deposits Account", insert instead "Consolidated Fund". 25

(b) Omit section 14 (3).

(c) From section 14 (4), omit "subsection (3)", insert instead "subsection (2)".

(7) Section 16:

Omit the section, insert instead: 30

Accounts to be kept in bank

16. Authorities may open such accounts in such banks and on such terms as the Treasurer determines for the banking of public money.

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS—*continued*

(8) Section 18:

Omit the section, insert instead:

Banking of public money

5 18. An accounting officer collecting or receiving public money is to bank the money collected or received in accordance with this Act, the regulations and any directions of the Treasurer.

(9) Section 20 (**Investment of funds**):

10 Omit “to invest money in the Consolidated Fund or other money to which section 16 applies”, insert instead “to invest public money”.

(10) Section 39 (**Application and interpretation**):

(a) Omit section 39 (1), insert instead:

15 (1) A reference in this Division to a statutory body is a reference to:

(a) a person, group of persons or body specified in Schedule 2; and

20 (b) a person, group of persons or body (not being a person, group of persons or body specified in Schedule 3) whose funds are held in an account within the Special Deposits Account.

25 (1A) A reference in this Division to a statutory body also includes a reference to an entity which is an entity for the purposes of Part 3.6 of the Corporations Law and which would, if the statutory body were a company for the purposes of that Part, be an entity controlled by the statutory body within the meaning of that Part.

30 (1B) A reference in this Division to a statutory body does not include a reference to a person, group of persons, body or entity who or which is, by a regulation made for the purposes of this subsection, declared not to be a statutory body for the purposes of this Division.

35 (b) From section 39 (2A), omit “a corporation, partnership, joint venture, trust or other association referred to in subsection (1) (c), (d), (e) or (f)”, insert instead “an entity referred to in subsection (1A)”.

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS—*continued*

(11) Section 41B (**Nature of financial statements**):

Omit section 41B (1) (c) (iv) and (v), insert instead:

- (iv) a statement of cash flows; 5
- (v) proper and adequate notes to the statements referred to in subparagraphs (i)–(iv);
- (va) a statement of all exemptions, omissions, modifications and variations made by the Treasurer under section 41BA which apply to the statutory body, and a summary of the reasons for them; and 10

(12) Section 41BA:

After section 41B, insert:

Variation of requirements

41BA. (1) If, after consulting the Auditor-General, the Treasurer is satisfied that compliance with a provision of this Act or the regulations which relates to the form or content of financial statements: 15

- (a) would render the financial statements of a statutory body misleading; or
- (b) would be inappropriate to the circumstances of a statutory body; or 20
- (c) would impose unreasonable burdens on a statutory body,

the Treasurer may, by notice in writing, exempt the statutory body from compliance with the provision or declare that the provision applies to it as if omitted, or modified or varied in a specified manner. 25

(2) An exemption, omission, modification or variation under this section:

- (a) may be specific or general; and 30
- (b) may be made in respect of a single statutory body or a class of them; and
- (c) may be made on such terms and conditions as the Treasurer thinks fit; and
- (d) may be revoked or varied by the Treasurer in relation to a statutory body by notice in writing. 35

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS—*continued*

(13) Section 45A (**Application and interpretation**):

Omit section 45A (1), insert instead:

5 (1) A reference in this Division to a Department is a reference to a person, group of persons or body specified in Column 1 of Schedule 3.

10 (1A) A reference in this Division to a Department also includes a reference to an entity which is an entity for the purposes of Part 3.6 of the Corporations Law and which would, if the Department (or an officer of, or the Minister responsible for, the Department) were a company for the purposes of that Part, be an entity controlled by the Department (or an officer of, or the Minister responsible for, the Department) within the meaning of that Part.

15 (1B) A reference in this Division to a Department does not include a reference to a person, group of persons, body or entity who or which is, by a regulation made for the purposes of this subsection, declared not to be a Department for the purposes of this Division.

20 (14) Section 45E:

Omit the section, insert instead:

Nature of financial statements

45E. (1) A Department's financial statements referred to in section 45D:

- 25 (a) are to be prepared on an accrual accounting basis; and
(b) are to comply with any written directions of the Treasurer as to form and content.

(2) Before giving a direction referred to in subsection (1) (b), the Treasurer is to consult the Auditor-General.

30 (3) Such a direction may be given subject to conditions.

Variation of requirements

35 45EA. (1) If, after consulting the Auditor-General, the Treasurer is satisfied that compliance with a provision of this Act or the regulations which relates to the form or content of financial statements:

- (a) would render the financial statements of a Department misleading; or

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS—*continued*

- (b) would be inappropriate to the circumstances of a Department; or
- (c) would impose unreasonable burdens on a Department, the Treasurer may, by notice in writing, exempt the Department from compliance with the provision or declare that the provision applies to it as if omitted, or modified or varied in a specified manner. 5
- (2) An exemption, omission, modification or variation under this section: 10
- (a) may be specific or general; and
- (b) may be made in respect of a single Department or a class of them; and
- (c) may be made on such terms and conditions as the Treasurer thinks fit; and 15
- (d) may be revoked or varied by the Treasurer in relation to a Department by notice in writing.
- (15) Section 45F (**Auditing etc. of financial statements**):
- Before section 45F (2), insert:
- (1B) An opinion in relation to the financial statements of a Department is not to be furnished under subsection (1A) unless the Auditor-General has received a statement as to whether, in the opinion of the Department Head, the financial statements exhibit a true and fair view of the financial position and transactions of the Department. 20
- (1C) The statement is to be signed by the Department Head. 25
- (16) Section 63B:
- Omit the section, insert:
- Notification of controlled entities** 30
- 63B. (1) Within 1 month after an entity becomes an entity referred to in section 45A (1A), the appropriate Department Head must notify the Auditor-General and the Treasurer in writing of that fact.

Public Finance and Audit (Amendment) Bill 1992

SCHEDULE 1—AMENDMENTS—*continued*

5 (2) Within 1 month after an entity becomes an entity referred to in section 39 (1A), the appropriate statutory body must notify the Auditor-General and the Treasurer in writing of that fact.

10 (3) A Department or statutory body must take such steps as are appropriate to ensure that an entity referred to in section 45A (1A) or 39 (1A) which is controlled by the Department or statutory body is audited by the Auditor-General.

(17) Section 63E:

Before section 64, insert:

Delegation of Treasurer's functions

15 63E. (1) The Treasurer may delegate to an authorised person any of the functions of the Treasurer under this Act, other than this power of delegation.

20 (2) A delegate may sub-delegate to an authorised person any function delegated by the Treasurer under this section if the delegate is authorised in writing to do so by the Treasurer.

(3) In this section, "**authorised person**" means a member of the staff of the Treasury or a person of a class prescribed by the regulations or approved by the Treasurer.

PUBLIC FINANCE AND AUDIT (AMENDMENT) ACT 1992
No. 23

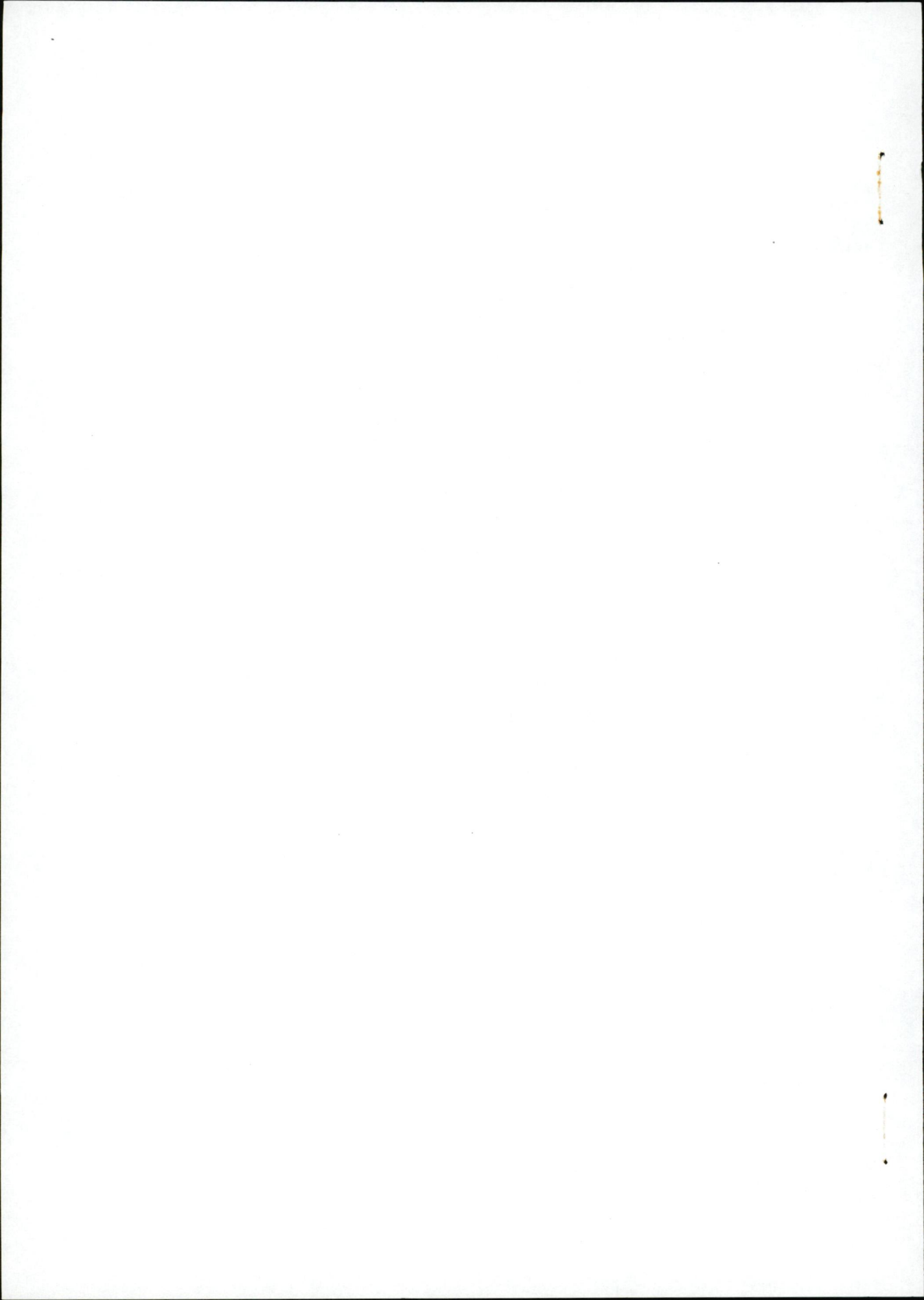
NEW SOUTH WALES



TABLE OF PROVISIONS

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SCHEDULE 1—AMENDMENTS



PUBLIC FINANCE AND AUDIT (AMENDMENT) ACT 1992
No. 23

NEW SOUTH WALES



Act No. 23, 1992

An Act to amend the Public Finance and Audit Act 1983 with respect to the banking of public money, financial information concerning the budget sector, accounting and reporting requirements, and delegations. [Assented to 14 May 1992]

See also Annual Reports Legislation (Amendment) Act 1992.

Public Finance and Audit (Amendment) Act 1992 No. 23

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Finance and Audit (Amendment) Act 1992.

Commencement

2. (1) This Act commences on a day to be appointed by proclamation, except as provided by this section.

(2) Schedule 1 (2), (7), (8), (9), (14) and (15), and section 3 in its application to those items, commence, or are taken to have commenced, on 1 July 1992.

Amendment of Public Finance and Audit Act 1983 No. 152

3. The Public Finance and Audit Act 1983 is amended in the manner set out in Schedule 1.

Unclaimed money

4. Money paid into the Special Deposits Account pursuant to section 14 (2) of the Public Finance and Audit Act 1983, as in force immediately before the commencement of Schedule 1 (6) is, after that commencement, to be paid into the Consolidated Fund.

Directions as to financial statements

5. A direction given by the Treasurer, which would have been valid if section 45E of the Public Finance and Audit Act 1983 (as amended by this Act) had been in force at the time the direction was given, is validated by this section.

Variation of requirements

6. An exemption, omission, modification or variation made by the Treasurer, which would have been valid if section 45EA of the Public Finance and Audit Act 1983 (as amended by this Act) had been in force at the time the exemption, omission, modification or variation was made, is validated by this section.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 4 (**Definitions**):

After the definition of “bank” in section 4 (1), insert:

“**budget sector**” comprises, in relation to any financial year:

- (a) the programs specified in the Budget Estimates for that year; and
- (b) such programs created after the Budget Estimates for that year as the Treasurer considers would have been specified in those Estimates if the programs had been created before those Estimates were determined;

(2) Section 5 (**Treasurer’s accounts**):

(a) Omit “keep in the Treasury”, insert instead “cause to be kept”.

(b) At the end of section 5, insert:

(2) In spite of any other Act or law, the Treasurer is not required to cause any account in, or relating to, the Consolidated Fund or the Special Deposits Account to be kept in the Treasury.

(3) An account referred to in any Act or law relating to the Consolidated Fund or the Special Deposits Account, and in or at the Treasury immediately before the date of the commencement of this subsection, is from that date to be caused to be kept by the Treasurer in accordance with subsection (1), either in the Treasury or outside the Treasury.

(3) Section 6 (**Preparation of the Public Accounts**):

Omit section 6 (1) and (2), insert instead:

(1) As soon as practicable after the end of each financial year, the Treasurer is to prepare in relation to the budget sector a consolidated statement of its financial position as at 30 June in that year, together with a consolidated operating statement and a consolidated statement of cash flows.

(1A) Those statements are to include the following:

- (a) Consolidated Fund financial statements;
- (b) balances as at 30 June, summarised and distributed into cash and securities;

Public Finance and Audit (Amendment) Act 1992 No. 23

SCHEDULE 1—AMENDMENTS—*continued*

- (c) balances of trust money held as at that date;
- (d) annual interest as at that date and information as to the movement of loan liabilities to the Commonwealth under the Financial Agreement over the financial year;
- (e) the indebtedness as at that date which falls outside the Financial Agreement for the obtaining of financial accommodation;
- (f) details of advances which are repayable to the Treasurer as at that date;
- (g) details of such other matters as may be prescribed.

(2) A statement under subsection (1) may include amounts rounded to the nearest dollar or, if the Treasurer so determines, to the nearest one thousand or one hundred thousand dollars.

(4) Section 8:

Omit section 8, insert instead:

Periodic statements

8. (1) The Treasurer is to publish:
- (a) a monthly summary of the outlays, revenue and grants received by, and the financing transactions of, the budget sector; and
 - (b) a monthly statement of the balance of cash and securities held by the Treasurer,

as soon as practicable after the month to which the summary and statement relate.

- (2) The Treasurer is to publish in the Gazette:
- (a) a quarterly summary of the outlays, revenue and grants received by, and the financing transactions of, the budget sector, and a statement of the balances of trust money held by the budget sector, as at 30 September, 31 December and 31 March in each financial year; and
 - (b) quarterly balances as at the same dates, summarised and distributed into cash and securities; and
 - (c) a quarterly statement of such other matters as may be prescribed,

Public Finance and Audit (Amendment) Act 1992 No. 23

SCHEDULE 1—AMENDMENTS—*continued*

as soon as practicable after the quarter to which the summary, balances and statement relate.

(3) The summaries referred to in subsections (1) and (2) are to be prepared so far as possible according to the principles utilised by the Australian Bureau of Statistics in compiling its Government Finance Statistics data, unless the Treasurer otherwise determines.

(4) The Treasurer is to present a copy of any determination given under subsection (3) to the Legislative Assembly on a day within 7 days after making the determination, if the Assembly is sitting on that day.

(5) If at the time when the Treasurer seeks to present a copy of a determination to the Legislative Assembly the Assembly is not sitting, the Treasurer is to present a copy of the determination to the Clerk of the Legislative Assembly to be dealt with in accordance with section 63C.

(5) Section 9 (**Treasurer's directions**):

Omit section 9 (2) (n), insert instead:

(n) the form and content of financial statements and the accounting policies to be observed in preparing those statements;

(6) Section 14 (**Unclaimed money**):

(a) From section 14 (2), omit "Special Deposits Account", insert instead "Consolidated Fund".

(b) Omit section 14 (3).

(c) From section 14 (4), omit "subsection (3)", insert instead "subsection (2)".

(7) Section 16:

Omit the section, insert instead:

Accounts to be kept in bank

16. Authorities may open such accounts in such banks and on such terms as the Treasurer determines for the banking of public money.

Public Finance and Audit (Amendment) Act 1992 No. 23

SCHEDULE 1—AMENDMENTS—*continued*

(8) Section 18:

Omit the section, insert instead:

Banking of public money

18. An accounting officer collecting or receiving public money is to bank the money collected or received in accordance with this Act, the regulations and any directions of the Treasurer.

(9) Section 20 (**Investment of funds**):

Omit “to invest money in the Consolidated Fund or other money to which section 16 applies”, insert instead “to invest public money”.

(10) Section 39 (**Application and interpretation**):

(a) Omit section 39 (1), insert instead:

(1) A reference in this Division to a statutory body is a reference to:

- (a) a person, group of persons or body specified in Schedule 2; and
- (b) a person, group of persons or body (not being a person, group of persons or body specified in Schedule 3) whose funds are held in an account within the Special Deposits Account.

(1A) A reference in this Division to a statutory body also includes a reference to an entity which is an entity for the purposes of Part 3.6 of the Corporations Law and which would, if the statutory body were a company for the purposes of that Part, be an entity controlled by the statutory body within the meaning of that Part.

(1B) A reference in this Division to a statutory body does not include a reference to a person, group of persons, body or entity who or which is, by a regulation made for the purposes of this subsection, declared not to be a statutory body for the purposes of this Division.

- (b) From section 39 (2A), omit “a corporation, partnership, joint venture, trust or other association referred to in subsection (1) (c), (d), (e) or (f)”, insert instead “an entity referred to in subsection (1A)”.

Public Finance and Audit (Amendment) Act 1992 No. 23

SCHEDULE 1—AMENDMENTS—*continued*

(11) Section 41B (**Nature of financial statements**):

Omit section 41B (1) (c) (iv) and (v), insert instead:

- (iv) a statement of cash flows;
- (v) proper and adequate notes to the statements referred to in subparagraphs (i)–(iv);
- (va) a statement of all exemptions, omissions, modifications and variations made by the Treasurer under section 41BA which apply to the statutory body, and a summary of the reasons for them; and

(12) Section 41BA:

After section 41B, insert:

Variation of requirements

41BA. (1) If, after consulting the Auditor-General, the Treasurer is satisfied that compliance with a provision of this Act or the regulations which relates to the form or content of financial statements:

- (a) would render the financial statements of a statutory body misleading; or
- (b) would be inappropriate to the circumstances of a statutory body; or
- (c) would impose unreasonable burdens on a statutory body,

the Treasurer may, by notice in writing, exempt the statutory body from compliance with the provision or declare that the provision applies to it as if omitted, or modified or varied in a specified manner.

(2) An exemption, omission, modification or variation under this section:

- (a) may be specific or general; and
- (b) may be made in respect of a single statutory body or a class of them; and
- (c) may be made on such terms and conditions as the Treasurer thinks fit; and
- (d) may be revoked or varied by the Treasurer in relation to a statutory body by notice in writing.

Public Finance and Audit (Amendment) Act 1992 No. 23

SCHEDULE 1—AMENDMENTS—*continued*

(13) Section 45A (**Application and interpretation**):

Omit section 45A (1), insert instead:

(1) A reference in this Division to a Department is a reference to a person, group of persons or body specified in Column 1 of Schedule 3.

(1A) A reference in this Division to a Department also includes a reference to an entity which is an entity for the purposes of Part 3.6 of the Corporations Law and which would, if the Department (or an officer of, or the Minister responsible for, the Department) were a company for the purposes of that Part, be an entity controlled by the Department (or an officer of, or the Minister responsible for, the Department) within the meaning of that Part.

(1B) A reference in this Division to a Department does not include a reference to a person, group of persons, body or entity who or which is, by a regulation made for the purposes of this subsection, declared not to be a Department for the purposes of this Division.

(14) Section 45E:

Omit the section, insert instead:

Nature of financial statements

45E. (1) A Department's financial statements referred to in section 45D:

- (a) are to be prepared on an accrual accounting basis; and
- (b) are to comply with any written directions of the Treasurer as to form and content.

(2) Before giving a direction referred to in subsection (1) (b), the Treasurer is to consult the Auditor-General.

(3) Such a direction may be given subject to conditions.

Variation of requirements

45EA. (1) If, after consulting the Auditor-General, the Treasurer is satisfied that compliance with a provision of this Act or the regulations which relates to the form or content of financial statements:

- (a) would render the financial statements of a Department misleading; or

Public Finance and Audit (Amendment) Act 1992 No. 23

SCHEDULE 1—AMENDMENTS—*continued*

(b) would be inappropriate to the circumstances of a Department; or

(c) would impose unreasonable burdens on a Department, the Treasurer may, by notice in writing, exempt the Department from compliance with the provision or declare that the provision applies to it as if omitted, or modified or varied in a specified manner.

(2) An exemption, omission, modification or variation under this section:

(a) may be specific or general; and

(b) may be made in respect of a single Department or a class of them; and

(c) may be made on such terms and conditions as the Treasurer thinks fit; and

(d) may be revoked or varied by the Treasurer in relation to a Department by notice in writing.

(15) Section 45F (**Auditing etc. of financial statements**):

Before section 45F (2), insert:

(1B) An opinion in relation to the financial statements of a Department is not to be furnished under subsection (1A) unless the Auditor-General has received a statement as to whether, in the opinion of the Department Head, the financial statements exhibit a true and fair view of the financial position and transactions of the Department.

(1C) The statement is to be signed by the Department Head.

(16) Section 63B:

Omit the section, insert:

Notification of controlled entities

63B. (1) Within 1 month after an entity becomes an entity referred to in section 45A (1A), the appropriate Department Head must notify the Auditor-General and the Treasurer in writing of that fact.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Within 1 month after an entity becomes an entity referred to in section 39 (1A), the appropriate statutory body must notify the Auditor-General and the Treasurer in writing of that fact.

(3) A Department or statutory body must take such steps as are appropriate to ensure that an entity referred to in section 45A (1A) or 39 (1A) which is controlled by the Department or statutory body is audited by the Auditor-General.

(17) Section 63E:

Before section 64, insert:

Delegation of Treasurer's functions

63E. (1) The Treasurer may delegate to an authorised person any of the functions of the Treasurer under this Act, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by the Treasurer under this section if the delegate is authorised in writing to do so by the Treasurer.

(3) In this section, "**authorised person**" means a member of the staff of the Treasury or a person of a class prescribed by the regulations or approved by the Treasurer.

[*Minister's second reading speech made in—
Legislative Assembly on 26 March 1992
Legislative Council on 5 May 1992*]