



Australian Government

Department of Finance and Administration

Guidelines for the Management of Special Accounts

October 2003

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Department of Finance and Administration

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- No.7** Guidelines for the Management of Special Accounts, October 2003.

**Guidelines for the Management
of Special Accounts**

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1. Purpose

1. These guidelines provide guidance to agencies¹ in relation to the management of their Special Accounts. The document sets out government policy with regard to Special Accounts and, among other things, describes establishment, management, reporting and banking procedures for these Accounts. Guidance when enacting machinery of government changes is also provided.
2. The guidelines describe procedures which accord with the Government's requirements in regard to Special Accounts. The intention is to guide agencies through the legal and financial requirements of Special Accounts. This document contains a mixture of legal requirements, policy and best practice procedures. To assist the reader, **sentences** which describe legal requirements as opposed to policy and best practice processes are highlighted in **bold lettering**.
3. Examples used throughout this document may be hypothetical.

¹ For the purposes of this document an agency is defined as a Department of State, a Parliamentary Department or an agency prescribed by the FMA Act. Some prescribed agencies are subject to the *Commonwealth Authorities and Companies Act 1997*, but are subject to the FMA Act for their functions of managing or spending public money.

2. Overview

4. Under section 81 of the Constitution, all moneys raised or received by the Commonwealth, form part of the Consolidated Revenue Fund (CRF). Also, under section 83 of the Constitution, no money may be drawn from the Treasury of the Commonwealth without a legal appropriation authority. The CRF in section 81 of the Constitution is synonymous with the Treasury in section 83.
5. A Special Account is a ledger account recording a right to draw money from the CRF. The *Financial Management and Accountability Act 1997* (FMA Act) provides the appropriation authority for expenditure up to the balance of a Special Account, whether for the purposes of expending those moneys from the CRF or notionally transferring them within the CRF.
6. Special Accounts provide a useful method for delivering some government activities, particularly where it is desirable to hypothecate funds within the CRF for specified purposes.

Salient Characteristics of Special Accounts

A Special Account can be established either by the Finance Minister under section 20 of the FMA Act; or by enabling legislation as recognised under section 21 of the FMA Act. (In these guidelines these types of accounts are referred to as section 20 Special Accounts and section 21 Special Accounts, respectively.)

- The Finance Minister may vary, revoke a variation, or abolish a Special Account established under section 20 of the FMA Act.
- Section 21 Special Accounts can only be varied, revoked or abolished with the amendment or repeal of the provision which establishes the Special Account in the enabling legislation.

While Special Accounts can record amounts solely from Commonwealth appropriations, they can also record amounts from other sources as allowed by the terms of the Special Account's establishing determination. These funds can include indirect taxes or other imposts (e.g. an industry levy), contributions by other governments, or discretionary contributions by members of the community.

Amounts standing to the credit of either section 20 or 21 Special Accounts may only be debited strictly in accordance with the Account's purpose.

- A standing appropriation provided by section 20(4) or section 21(1), respectively, of the FMA Act provides the legal authority for debiting the payments from the Account.

CONTINUED OVER

Special Accounts are subject to particular reporting requirements in the Portfolio Budget Statements (PBS), Consolidated Financial Statements (CFS) and financial statements included in agencies' annual reports.

Special Accounts are a separate concept to bank accounts although the balance of a Special Account may be held in a bank account.

The general policy regarding the earning of interest on amounts standing to the credit of Special Accounts is that no interest will be paid on Public Money or Special Public Money unless strict criteria are met.

3. History of Special Accounts

7. A concept similar to Special Accounts originated in the early part of the 20th century when the *Audit Act 1901* (Audit Act) established the Trust Fund. In introducing the Audit Bill on 19 June 1901 then Commonwealth Treasurer, Sir George Turner, found trust funds to be of sufficient significance as to make special mention of the provisions being included in the Audit Act to establish the Trust Fund. While the 1901 provisions were found to be adequate in respect of the type of funds that might be described as “trustee funds”, they were felt to be insufficient to cover the needs of the Commonwealth for certain other purposes, particularly in connection with working accounts operated by certain departments. Consequently, the Audit Act was amended in 1906 to empower the Treasurer to establish Trust Accounts as part of the Trust Fund.
8. On 1 January 1998 the Audit Act was repealed by the *Audit (Transitional and Miscellaneous) Amendment Act 1997* (ATMA Act) and was replaced by three Acts, one of which was the FMA Act. The replacement Acts simplified and clarified financial control provisions and supported recent reforms in public sector financial management. The new legislation included the replacement of the Trust Fund with the Reserved Money Fund (RMF) and the Commercial Activities Fund (CAF). The ATMA Act provided for the transfer of funds from the Trust Fund to components of the RMF and CAF. Like the Trust Fund, the RMF and CAF were not part of the CRF but their balances were still part of the Commonwealth Funds.
9. On 1 July 1999 the FMA Act was amended by the *Financial Management Legislation Amendment Act 1999* (FMLA Act) to facilitate the introduction of accrual budgeting and financial reporting. The FMLA Act abolished the RMF and CAF and replaced them with Special Accounts. Special Accounts are ledger accounts recording amounts in the CRF. Balances in the components of the RMF and CAF were transferred to Special Accounts.
10. Appendixes 1-3 provide diagrammatical representations of financial flows under the three regimes.
11. While the legislative and accounting regime for these accounts has changed over the years, it can be said that the concept underlying these accounts has not varied greatly.
12. One constant through the years has been a keen parliamentary interest in these accounts that continues to this day. Of particular note is the 1957 Joint Committee of Public Accounts's inquiry into the Trust Fund which examined the effects Trust Accounts had upon Parliament's control over expenditure. The Committee found that, although there were misunderstandings regarding the operation of Trust Accounts and that the Accounts had weaknesses as instruments of financial control, they were a necessary and useful financial mechanism. Today's Joint Committee of Public Accounts and Audit continues to take a particular interest in the administration of Special Accounts.

4. When are Special Accounts Appropriate?

13. When considering an appropriation and accounting regime for an activity, an agency should start from the premise that an activity should be funded through the annual budget mechanism. That is, the initial position should be that an activity can be funded through annual appropriations. Where the activity necessitates the appropriation of a significant amount of funding, an agency could consider creating a new outcome.
14. In some cases, say where an agency is seeking authority to spend funds received from the sale of goods and services, it may be possible to utilise an FMA Act section 31 agreement. **Section 31 allows the Finance Minister (or his delegate) to enter into agreements with agencies for the retention of receipts which are automatically appropriated through being recognised in the annual Appropriation Act (No. 1).**
15. Only when it is clear that other types of appropriations are not suitable should Special Accounts be considered.
16. **At a minimum the establishment of a Special Account should promote the efficient, effective and ethical use of Commonwealth resources as required by FMA Act section 44.** If, for example, the size of an activity managed through a Special Account is relatively small then it could well be that the Account's set up and ongoing management, accounting and reporting responsibilities will not be an efficient and effective use of Commonwealth funds. Therefore, alternative administrative and accounting arrangements should be explored to ensure that the appropriate financial arrangements are in place.
17. The following is a set of specific criteria that should be critically evaluated when the establishment of a Special Account is being considered.
 - Will the management of an activity be enhanced by the establishment of a Special Account?
 - Is there a requirement for increased transparency (e.g. through a Cabinet Decision)?
 - Is the use of a Special Account essential to the effective implementation of an activity?
 - Is the non-lapsing nature of a Special Account appropriation necessary?
 - Can the purpose of the Special Account be sufficiently bound within a written determination?
18. While it is difficult to make an *a priori* judgement of whether a Special Account is appropriate in a particular circumstance, as a broad rule of thumb it can be said that a successful proposal for a Special Account would satisfy one or a number of the above criteria while also being able to demonstrate that none of the other budget accounting mechanisms are satisfactory.

4a. Categories of Special Accounts

19. Broadly classifying Special Accounts into several groups can also assist in identifying whether a Special Account is appropriate for a particular policy or activity. The existing set of Special Accounts can be broadly segregated into the following categories:

- **Australian Government Funded Expenditure Commitments.** These types of accounts are used when the Government wishes to enhance the transparency and visibility of certain medium to long term Government programmes. They often entail a medium to long term funding commitment.

Example 1: The Federation Fund Account is for expenditure on substantial capital projects throughout Australia which will mark the Centenary of Federation and make a significant and lasting contribution to the Australian community.

Example 2: The Natural Heritage Trust of Australia Account is primarily concerned with expending grants of financial assistance for a number of initiatives such as the Murray-Darling 2001 Project and the National Vegetation Initiative.

- **Joint Programmes with the States and/or Industry.** The Australian Government may enter into agreements with State, Territory, international governments and/or industry to jointly fund specific policies. A Special Account can provide some comfort to the other parties that the funds are being directed toward the agreed activities.

Example 1: The Australian and New Zealand Minerals and Energy Council Energy Sector Account is for expenditure relating to the conduct of energy sector activities commissioned by the Australian and New Zealand Minerals and Energy Council.

Example 2: The Commonwealth/State Disability Agreement Account is for expenditure on projects which relate to the Commonwealth/State Disability research and development agenda.

- **Business Operations and Activities.** These types of accounts may be used as working accounts for certain significant cost recovered regulatory and business type operations.

Example 1: The Australian Quarantine Inspection Service Account is for, *inter alia*, expenditure relating to the provision of quarantine and inspection services and incidental matters thereto.

Example 2: The Australian Protective Service Account is for expenditure relating to the provision of protective, guarding security and related services by the Australian Protective Service to the Commonwealth or to an Australian Government body or to a company over which the Australian Government or one of its bodies is able to exercise control.

- **Special Public Moneys².** These accounts may be established to record amounts of Special Public Money that are being held.

Example: The Other Trust Moneys Account is for “expenditure of moneys temporarily held on trust or otherwise for the benefit of a person other than the Commonwealth”.

Finance expects to publish guidance on the management of Special Public Moneys, including moneys subject to trust law, in the middle of the 2003-04 fiscal year.

² **Public Money** is defined in section 5 of the FMA Act as meaning:

- i. money in the custody or under the control of the Commonwealth; or
- ii. money in the custody or under the control of any person acting for or on behalf of the Commonwealth in respect of the custody or control of the money; including such money that is held on *trust* for, or otherwise for the benefit of, a person other than the Commonwealth.

Special Public Money is defined in section 16 of the FMA Act as meaning Public Money that is not held on account of the Commonwealth, or for the use or benefit of the Commonwealth. Money held by the Commonwealth on trust for another person is an example of Special Public Money.

5. Establishing a Special Account

20. **Special Accounts are established in either of two ways:**

- **through a written determination of the Finance Minister under section 20 of the FMA Act; or**
- **by an Act of Parliament as recognised in section 21 of the FMA Act.**

5a. Section 20 Special Accounts

21. Agencies should factor in sufficient lead time into the establishment of an FMA Act section 20 Special Account. The process commonly entails a series of discussions between the agency and Finance followed by ministerial correspondence and adherence to parliamentary procedures. Accordingly, agencies should plan for a timeline of several months from the first contact with Finance to the end of the disallowance period. The timeline will be influenced by factors such as the complexity of the purpose (as several drafting iterations may be required) and the parliamentary sitting timetable.

22. **The FMA Act stipulates that the Finance Minister may make a written determination that does all or any of the following:**

- **establishes a Special Account;**
- **allows or requires amounts to be credited to the Special Account; and**
 - That is, the type of receipts that are allowed or required to be credited to the Special Account.
- **specifies the purposes of the Special Account.**
 - A purpose is generally expressed in specific terms that distinguish the Special Account from other purposes for which money may be appropriated by Parliament.

These are the minimum legal requirements. However, best practice would dictate that a determination includes *all* of the above.

23. **Section 20 determinations must be tabled in Parliament for five sitting days and are subject to disallowance by both Houses of Parliament.**

24. An example of a section 20 establishing determination is given at Appendix 4.

25. The following is a step-by-step guide to establishing an FMA Act section 20 Special Account.

The Process for Establishing a Section 20 Special Account

Prior to approaching Finance for the establishment of a Special Account agencies should consider:

- whether a Special Account is the most appropriate financial mechanism to provide the required appropriation of the CRF (*see the section When Are Special Accounts Appropriate?*);
- which agency would be the most appropriate to administer the Special Account; and
- whether there is likely to be Ministerial support for the establishment of a Special Account.

Once an agency considers that a proposed Special Account satisfies the above, it should liaise with the relevant Agency Advice Unit (AAU) in Finance regarding the proposal for establishing the Special Account.

- Finance will analyse the information provided to ensure it meets with current guidelines and criteria.

After the agency has consulted with Finance, it should recommend to its portfolio Minister that s/he write to the Finance Minister requesting the establishment of the Special Account.

- To assist the Finance Minister in making the decision, the letter should clearly set out the portfolio Minister's support for the establishment of the Special Account and why a Special Account is the most effective mechanism for achieving the purposes.

If supported at Ministerial level, Finance will then liaise as necessary with the Australian Government Solicitor (AGS)/Office of Legislative Drafting (OLD) to have the determination drafted.

Finance will provide the agency with the opportunity to clear a draft of the determination.

If any amendments are required, Finance will request AGS/OLD to redraft the determination and put it in a final form.

Finance will then prepare all necessary documentation for the Finance Minister, including an Explanatory Statement. The Explanatory Statement explains to Members of Parliament the determination's intention in plain English. The agency will be required to clear – and may be called upon to assist in – the drafting of the Explanatory Statement.

The Finance Minister will then consider signing the establishing determination. **The signed determination and the Explanatory Statement must then be tabled in both Houses of Parliament for five sitting days.** Tabling will be organised by Finance. **The determination comes into effect on the next calendar day after the fifth sitting day unless either House, following a motion or notice, has passed a resolution disallowing the determination. That is:**

Day 1	Determination tabled in both Houses of Parliament
Days 2-6	Disallowance period (five sitting days)
Next calendar day	Determination takes effect

Finance will provide a copy of the signed determination to the agency involved. It will be the responsibility of the agency to inform the portfolio Minister that the Special Account has been established.

5b. Section 21 Special Accounts

26. **Section 21 of the FMA Act recognises Special Accounts established by legislation. Section 21 provides a standing appropriation for expenditures of the Account for the purposes designated in the legislation.**

27. Establishment of a Special Account through legislation requires agencies to carefully consider the drafting of the legislation. Particular attention should be paid to defining, in the legislation, the scope of the purposes of the Special Account and the types of credits to and debits from the Account which can be made. **Once the legislation has commenced further legislation is necessary to amend the provisions. Achieving even the most minor of alterations to the purposes is not possible through administrative action.**

28. As Special Accounts recognised under section 21 are established through legislative process, agencies will need to follow practices relating to the development of legislation when seeking to establish these types of Special Accounts. However, because all proposed provisions relating to the allocation, use or control of Commonwealth moneys should be determined in consultation with Finance, agencies are encouraged to consult with their AAU in the first instance. The AAU will then consult internally with Financial Management Group.

6. Varying, Revoking and Abolishing Special Accounts

29. **The Finance Minister may vary, revoke a variation, or abolish a Special Account established under section 20 of the FMA Act. Section 21 Special Accounts can only be varied, revoked or abolished with the amendment or repeal of the provision which establishes the Special Account in the enabling legislation.**
30. Variation or revocation may occur when it has become necessary to alter the purposes of a Special Account. Abolition of a Special Account is necessary when there is no longer a need for the Special Account as its purpose has been fulfilled.

6a. Variations and Revocations Under a Section 20 Determination

31. **A determination which established a Special Account may be varied in accordance with subsection 20(2) of the FMA Act. Variations to Special Account determinations may be revoked by a determination in accordance with subsection 20(2).**
- **Determinations which vary or revoke a previous determination are subject to the same tabling and disallowance process as determinations establishing Special Accounts - ie. five sitting days must pass before they take effect.**
32. An example of a section 20 amending determination is at Appendix 5.

Steps to Vary or Revoke an FMA Act section 20 Special Account Determination

Prior to approaching Finance for the variation or revocation of a variation of a Special Account an agency should consider whether there is portfolio Minister support for such a step.

If it is considered that there is ministerial support the agency should approach their Finance AAU to discuss the variation/revocation.

After Finance has been consulted, the agency should recommend to its portfolio Minister that s/he write to the Finance Minister requesting variation/revocation.

Finance will have AGS/OLD draft the determination and Explanatory Statement.

These will be cleared by Finance in consultation with the relevant agency.

Variation/revocation takes effect after the Finance Minister has signed the determination and the disallowance period has been completed.

The determination and the Explanatory Statement will be tabled in both Houses of Parliament by Finance for the requisite five sitting days.

A copy of the signed determination will be provided to the agency by Finance. It will be the responsibility of the agency to inform the portfolio Minister that the Special Account has been varied/revoked.

6b. Abolitions Under Section 20

33. **The Finance Minister can make a determination to abolish a section 20 Special Account under subsection 20(3) of the FMA Act. This then extinguishes the right to spend amounts that stood to the credit of that Account.**
34. **Determinations which abolish Special Accounts are not subject to disallowance and do not require tabling. Instead, a Special Account's operation is terminated upon signature and dating of the determination by the Finance Minister.**
35. An example of a section 20 abolishing determination is at Appendix 6.

Steps to Abolish a Section 20 Special Account

When considering the abolition of a Special Account the agency is to consult with its Finance AAU.

In agreeing that an Account should be abolished, consideration also has to be given as to what action is to be taken with regard to any existing balance of the Special Account prior to abolition. That is, should the balance be:

- debited according to the purposes designated in the establishing determination (*see the section Management of Special Accounts*) or
- abolished without any further action.
 - This action signifies that the balance of the Account is no longer legally hypothecated within the CRF.
 - The financial reporting protocol in this instance would be to show the Special Account as having been debited to create a nil balance. (*Further information is contained in the section Reporting.*)

After the agency has consulted with relevant parties, it should recommend to the portfolio Minister that s/he write to the Finance Minister requesting abolition and outlining why the account is no longer required.

If the Finance Minister agrees to the request, Finance will then prepare a draft determination.

Abolition takes effect once the Finance Minister has signed and dated the determination.

- A copy of the signed determination will be provided to the agency by Finance. Again, it will be a matter for the agency to inform the portfolio Minister that the Special Account has been abolished.

6c. Variations, Revocations and Abolitions of Section 21 Special Accounts

36. **As with an FMA Act section 20 Special Account, abolition of a Special Account recognised under FMA Act section 21 extinguishes the right to spend amounts that stood to the credit of that Special Account.**
37. **However, in the absence of specific provisions in the legislation, section 21 Special Accounts cannot be varied, revoked or abolished until the legislative provisions which created them are amended or repealed.** Therefore, agencies need to raise issues relating to variation, revocation and abolition with their portfolio Minister and seek approval to go through the legislative amendment process. As stated earlier, because all proposed provisions relating to the allocation, use or control of Commonwealth moneys should be determined in consultation with Finance, agencies are encouraged to contact their Finance AAU which will then consult internally with Financial Management Group.
38. As with section 20 Special Accounts, the agency and Finance will need to consider what is to be done with the balance of the Special Account prior to abolition:
- debited according to the purposes designated in the establishing determination; or
 - abolished without any further action.

7. Management of Special Accounts

39. **Special Accounts represent a claim against the CRF in accordance with the particular purpose specified in the determination or legislation establishing the Special Account. Consequently, amounts standing to the credit of either FMA Act sections 20 or 21 Special Accounts are only for use strictly in accordance with the Account's purpose.**
40. **Special Accounts do not have an overdraft facility. This means that under absolutely no circumstances can the balance of a Special Account become negative. A negative balance would indicate that expenditure has been recorded against the Special Account without sufficient appropriation being available under either section 20 or section 21 of the FMA Act. In the absence of another available appropriation to support this expenditure, this would breach section 83 of the Constitution which stipulates that "No money shall be drawn from the Treasury of the Commonwealth except under appropriation made by law."**
41. **It is an agency's responsibility to maintain proper records of the management of their Special Accounts in accordance with the Finance Minister's Orders (FMOs) and Chief Executive's responsibilities for the management of Public Money pursuant to FMA Act sections 44 and 48. (The section Reporting provides further details.)**
42. **In all cases, agencies need to ensure that all amounts to be credited to and debited from Special Accounts are within the terms of the determination of the Special Account and obtain legal advice where necessary.**

7a. Periodic Review

43. Agencies should periodically review the need for maintaining their Special Accounts. Consideration should be given to the abolition of a Special Account where either:
- the purpose has been fulfilled; and/or
 - no further amounts stand to the credit of the Account and there is no likelihood of further credits.
44. As part of the review process, agencies should consult the section *When are Special Accounts Appropriate?* to determine whether the initial rationale for a Special Account still exists.

7b. Credits

45. **Special Accounts may only be credited with amounts where the Finance Minister's determination or relevant legislation authorises it. Subject to the amounts that may be specified in these documents, amounts credited to a Special Account may be either appropriations or come from external sources.**

46. That is, depending on the establishing determination/legislation, Special Accounts may be credited with amounts raised from:

- the annual Appropriation Acts;
 - Where the purposes of the Special Account are covered by an outcome in the annual Appropriation Acts, amounts can be transferred from that annual appropriation to the Special Account.

Example: The Australian Population, Multicultural and Immigration Research Program Account receives partial funding through the annual Appropriation Acts under the Department of Immigration and Multicultural and Indigenous Affairs's Outcome 1 "Contributing to Australia's society and its economic advancement through the lawful and orderly entry and stay of people".

- special appropriations;

Example: The enabling legislation for the ATSIC Land Account Special Account is the *Aboriginal and Torres Strait Islander Commission Act 1989*. The legislation provides a standing appropriation for the ATSIC Land Account.

- legislation which credits a Special Account with amounts (sometimes upon the occurrence of specified events);
 - In these circumstances no appropriation is required for the Special Account to be credited.
- notional payments (under section 6 of the FMA Act) from other Special Accounts or other appropriations (including notional interest payments);

Example: The Royal Australian Mint (which is a Special Account that has been determined as a Business Operation) can be credited for commemorative coins purchased by another Special Account, such as the Artbank Special Account, whose purpose allows such an expenditure.

- external sources (e.g. industry levies, state contributions and gifts); and

Example: The National Action Plan for Salinity and Water Quality (National Activities) Special Account is used to hypothecate funds for expenditures relating to salinity and water quality. These activities are jointly funded by the State, Territory and Australian Governments. Therefore, amounts in the Special Account partially represent contributions from the States and Territories.

- the realisation of investments.

Example: The Defence Services Homes Insurance Account has investment powers by virtue of a delegation from the Finance Minister under section 39 of the FMA Act. Amounts hypothecated to this Account can be invested in authorised investments listed in section 39(10) of the FMA Act with the investment proceeds subsequently credited to the Special Account.

7c. Debits

47. Amounts may be debited from a Special Account, provided they are consistent with the purpose of the account, for:

- making payments out of the CRF (that is to non-Commonwealth parties);

Example: Payments to a contractor for the provision of goods or services.

- making notional payments (i.e. payments that remain within the CRF).³ Such notional payments must be in the nature of compensation/recompense for goods or services or the discharge of an obligation;

Example 1: This includes payments of dividends, Superannuation, Comcover, tax, and Competitive Neutrality payments. Also included is the reimbursement of expenses incurred by the agency administering the Account that are a legitimate charge to the Account.

Example 2: The purpose of the Artbank Special Account allows for expenditure on coins. These coins can be purchased from the Mint. Therefore, since the Mint is also a Special Account which has been determined as a Business Operation, there is a notional payment from the Artbank Special Account to the Mint. (This example is the counterpart of the Royal Australian Mint example provided in section 7b.)

- making investments under section 39 of the FMA Act where a delegation from the Finance Minister exists. (See the section *Banking and Investment*.)

³ Notional payments are defined in section 6 of the FMA Act.

48. Where agencies are debiting a Special Account for expenses associated with administering the Account such as overhead expenses, they should ensure the purposes properly cover debits.

49. There is no provision in the FMA Act or the annual Appropriation Acts which authorises amounts to be debited from a Special Account and credited to another appropriation, apart from the following *exceptional* circumstances:

- it is a notional payment and a section 31 agreement (or another Special Account) that provides for the receipt is in place and the payment is consistent with the purposes of the Special Account; or
- there has been a clerical error and an amount has been debited from an annual appropriation rather than a Special Account. (Before this step is taken legal advice should be sought).

8. Reporting

50. All Special Accounts are subject to particular reporting requirements in the PBS, CFS and financial statements contained in agencies' annual reports (which are tabled in Parliament). Examples of reporting templates are contained in Appendixes 7 and 8.

51. From 2003-04 Special Account disclosure requirements for PBSs were enhanced to allow readers to more readily identify the impact Special Accounts have on an outcome's estimates. Accordingly, Appendix 3 of an agency's PBS is to disclose opening balances, receipts, payments, adjustments and closing balances for each individual Special Account.⁴ Agencies are strongly encouraged to follow similar practice for Special Accounts with nil balances or those that have not been used during the financial year.

52. Special Accounts are also separately disclosed in an agency's financial statements. The FMOs for reporting periods ending on or after 30 June 2003 which provide for the minimum level of disclosure, require Australian Government agencies to separately disclose in their financial statements the total receipts, payments and balances for each Special Account within their portfolio. Additionally, receipts must be separated into those from appropriations and those from other sources.

53. An abbreviated disclosure is acceptable for those Special Accounts which have not been used during the financial year, regardless of whether they have a nil or positive balance. The abbreviated disclosure would consist of:

- the Special Account's title;
- the Account's classification (departmental/administered);
- a statement noting the Account has not been used during the financial year;
- the opening and closing balance; and
- purpose.

This treatment will be made explicit in the 2004 FMOs.⁵

54. Agencies should report moneys subject to trust law that stand to the credit of a Special Account in the notes to the financial statements dealing with Special Accounts. However, a footnote in the Assets Held in Trust note should also cross reference to the entry in the note dealing with Special Accounts.

55. Beginning with the 2002-03 Consolidated Financial Statements, the CFS will disclose the opening balances, receipts, payments and closing balances of Special Accounts held by agencies.

⁴ It is an agency's responsibility to be aware of any changes to PBS reporting requirements which affect Special Account reporting requirements.

⁵ As above, it is an agency's responsibility to be aware of any changes to Finance Minister's Orders which affect Special Account reporting requirements.

56. In the interest of parliamentary transparency, whenever a Special Account is reported in the PBS, CFS, financial statements or other Australian Government documents, its full official title as set out in the determination or legislation should be referenced. The Account's common name, if one exists, may be a secondary reference after the official title has been identified.
57. In relation to financial reporting, the Account's legal authority (ie. FMA Act section 20 or the relevant legislation) should be identified and a summary of its purpose included. Where a Special Account has been either established/varied/revoked/abolished during a reporting year, the date of effect of these events should be stated in the report. In cases where a Special Account is abolished and a new one created with the same name, then both Special Accounts must be separately identified.
58. Where the purposes of a Special Account have been changed during the year, best practice treatment would be similar to that where a Special Account has been abolished and a new one created. That is, the Special Account's transactions should be reported separately under each purpose. The date of effect should also be recorded. In this way, the expenditure against each purpose is fully transparent.
59. Special Accounts that have been determined as Business Operations pursuant to the *Financial Management and Accountability Orders 6.2.1* (e.g. the Royal Australian Mint) are required to produce full financial statements in accordance with Clause 1.B.1(c) of the FMOs applicable for reporting periods on or after 30 June 2003.
60. The primary objective of the reporting requirements is that an agency should leave a transparent, easily followed information trail that discloses the main financial aspects of a Special Account. Adhering to the PBS guidelines, FMOs and these guidelines will generally achieve this objective. However, where a unique situation has arisen such that not all appropriate financial information will be disclosed from following these documents, further information should be disclosed or guidance should be sought in the first instance from the relevant AAU in Finance, which may then consult internally with Financial Management Group.

9. Banking and Investment

9a. Banking

61. As noted previously, Special Accounts do not physically hold cash. They are ledger accounts of the CRF that through the operation of section 20(4) or 21(1) of the FMA Act record the right to draw money from the CRF. This means Special Accounts are a mechanism for recording amounts of money in agency Financial Management Information Systems (FMIS), which represent a claim against the CRF according to particular purposes specified in the determination establishing the Special Account.
62. The banking arrangements transact the flow of cash that is accounted for through Special Accounts. That is, when a relevant amount is received by an agency the amount should be credited to the Special Account (FMIS ledger) and the money should be banked in the appropriate official bank account in accordance with the requirements of the financial framework, and as detailed in the Agency Banking Guidance Manual.
63. In accordance with the banking arrangements, agencies are required to classify their bank accounts according to the following:
- Official Departmental Receipts and Payments;
 - Official Administered Payments;
 - Official Administered Receipts;
 - Official Exempt SPM; and
 - Official SPM.
64. The purpose of the Special Account would in most cases guide the decision on whether the Account should be classified as departmental, administered or Special Public Money. All classifications of Special Accounts should be cleared through the agency's AAU contact in Finance.

9b. General Banking Operations

65. Consistent with the "on an as needs basis" drawdown arrangements implemented from 1 July 2003, generally moneys received will be centrally managed in the Official Public Account (OPA) by Finance. In order to achieve this, Special Account receipts may need to be returned to the OPA after taking into account allocated working cash levels.⁶ Agencies are to make arrangements to allow for the transfer of Special Account receipts to the OPA (one potential mechanism is to use the "Administered Receipts Account", where the agency has one). The specific processes for these funds are as follows.

⁶ Working cash levels for Administered Accounts and SPM Accounts are zero.

Banking of Special Accounts' Receipts

Where a Special Account is credited with an amount that is departmental in nature then these moneys up to working cash levels should be deposited into the Official Departmental Receipts and Payments Account. Moneys surplus to allocated working cash levels should be returned to the OPA by depositing moneys to the agency's Official Administered Receipts account in line with the banking arrangements. These receipts will be transferred to the OPA at the close of that day's business.

- Agencies will need to enter receipt details into CAMM in order to tag those receipts to the relevant Special Account.
- When the agency wishes to make debits from the Special Account, the agency will request (through CAMM) for the funds in excess of working cash levels to be drawn down from the OPA to the agency's Official Departmental Receipts and Payments bank account.
- If the Special Account was created for a Business Operation, that Business Operation may opt to have a separate departmental bank account from the main departmental bank account to improve the transparency of these cash flows.
- If an agency does not have an Official Administered Receipts Account, moneys can be returned directly to the OPA by Electronic Funds Transfer. Agencies will still need to record the transfer to the OPA in CAMM.

Where a Special Account is credited with an amount that is administered in nature, the moneys will be deposited straight to the agency's Official Administered Receipts account in line with the banking arrangements. These receipts will be transferred to the OPA at the close of business on that day.

- Agencies will need to enter receipt details into CAMM in order to tag those receipts to the relevant Special Account.
- When the agency wishes to make debits from the Special Account, the agency will request (through CAMM) for the funds to be drawn down from the OPA to the agency's Official Administered Payments bank account.

Where a Special Account is credited with an amount that is Special Public Money, for banking purposes, the agency will need to determine if the money meets the definition of an Official SPM Account or an Official Exempt SPM Account as described in the current Financial Management & Accountability (Finance Minister to Chief Executives) Delegation.

- If the money meets the definition of an Official SPM Account then the money will be deposited to the agency's Official Administered Receipts account in line with the banking arrangements. These receipts will be transferred to the OPA at the close of business on that day.
- Agencies will need to enter receipt details into CAMM in order to tag those receipts to the relevant Special Account.

- When the agency wishes to make debits from the Special Account, the agency will request (through CAMM) for the funds to be drawn down from the OPA to the agency's Official Administered Payments Account from where the agency makes the payment or, if preferred, transfers it to a specific SPM Account for payment.

If the money meets the definition of an Official Exempt SPM Account then the money will be deposited into a bank account the agency establishes with their transactional banker, which physically holds the funds. This account is exempt from the sweeping arrangements detailed in Schedule 4 of the current Financial Management & Accountability (Finance Minister to Chief Executives) Delegation.

- Receipts and payments will be transacted directly through this account, as money is not swept back to the OPA.

Where Special Public Money is also subject to trust law and the trust deed mandates the physical separation of these moneys from other moneys (trust or public money) then a separate exempt trust account must be opened and maintained for this purpose.

NOTE: Where agencies do not possess an Official Administered Receipts Account then funds can be transferred directly to the Official Public Account (092-009 110003) via Electronic Funds Transfer.

66. For further information on the Agency Banking Framework, the reader is referred to the Finance website at <http://www.finance.gov.au/finframework/banking.html>

9c. Investment and Interest

67. The policy regarding the earning of returns (interest or investment) on amounts standing to the credit of Special Accounts is that no return will be paid on Public Money (administered or departmental funds) or Special Public Money unless they meet the criteria listed below.
68. In the first instance, Special Accounts that meet the eligibility criteria will be provided with an interest equivalency payment funded via a direct appropriation. Eligible Special Accounts will only qualify to have investment powers delegated by the Finance Minister under section 39 of the FMA Act where absolutely necessary.

Eligibility Criteria

69. A direct appropriation for interest will only be available for Special Accounts that have a legal entitlement or approval from Government. Eligibility will be determined subject to any of the following criteria:
- legislation mandates the earning of interest;
 - the Government approves the earning of interest;

- the Commonwealth is a Trustee and the Trust Deed mandates that the funds subject to the trust must earn interest; or
 - the Commonwealth has a contractual obligation to pay interest on money it holds (for example, through an inter-governmental agreement with State, Territory or foreign Governments).
70. This policy applies to both FMA section 20 and section 21 Special Accounts. However, it is subordinate to any relevant legislation. That is, a section 21 Special Account may have legislation which overrides this policy through its own prescribed interest earning/investment mechanism.

How Can Interest be Earned

71. Special Accounts that meet the eligibility criteria, mentioned above, will receive a direct appropriation.
72. Each agency will be appropriated an interest equivalent amount from the Budget according to estimates agreed with Finance. However, until eligibility can be assessed, interim arrangements have been put in place, which are detailed in Estimates Memorandum 2003/23.

How the Equivalency Payment will be Calculated and Drawn

73. The interest estimate will be calculated by multiplying the estimated average quarterly Special Account balance by the OPA rate (cash rate less 10 basis points) advised by Finance.
74. Agencies will be required to build interest equivalency estimates into AIMS as part of the usual Budget process. Agencies will also be required to ensure that the outcomes from which the appropriation is funded covers the purpose of the Special Account concerned and that the relevant table in the agency's PBS includes a statement that the appropriation can only be credited to the eligible Special Account.
75. Once appropriated, agencies will draw down the cash in accordance with the "as needed" drawdown procedures detailed in Estimates Memorandum 2003/22. Agencies will not be able to access more than the appropriated amount. The direct appropriation for interest will only be available for the purposes of the eligible Special Account(s) and will not be transferred or available as an offset.
76. Where insufficient unspent appropriation exists in the agency's appropriation, no additional interest drawdowns will be made and the agency should seek additional funding through Additional Estimates or an Advance to the Finance Minister. Special Accounts will only be credited with the amount of interest owing when the additional appropriation becomes available.

Certification

77. At the end of the financial year, agencies are to certify to Finance in writing the extent to which interest based on actual quarterly Special Account balances compares against the estimate. Where variances between the actual and the estimated interest are significant, adjustments to the estimates

model for future direct appropriations may be required in consultation with the relevant Finance AAU contacts.

Investment Powers under section 39 of the FMA Act

78. Eligible agencies will be directly appropriated for interest unless authorising documentation mandates that the funds must be invested externally to the OPA. **Where external investment is mandated, agencies must seek a delegation of section 39 investment powers from the Finance Minister, if this is not already in place.**
79. As funds physically leave the CRF when they are invested under FMA Act section 39 the Special Account ledger must be debited for the full amount of the investment and credited upon its realisation. The return on any investment under section 39 of the FMA Act should be credited to the relevant Special Account. Over the course of the year, debits and credits (reflecting principal) may cancel out leaving only unrealised investments debited from the Special Account balance at year's end. The balance of the Special Account together with the value of unrealised investments, comprise the total value that will be available for expenditure in accordance with the purpose of the Special Account (once the investment has been realised).
- As invested amounts leave the CRF, it is essential that the balance of the Special Account be immediately adjusted in order to ensure any subsequent debiting of the Special Account does not result in a negative balance - and therefore a breach of the agency's appropriation authority.
80. **Once delegated by the Finance Minister, investment powers allow Chief Executives to invest funds outside the CRF in the authorised investments prescribed by section 39(10)(a) of the FMA Act.** The effective management of section 39 investments requires a certain level of financial expertise, which agencies may not possess and consequently may need to source externally.

10. “Other Trust Moneys” and “Services for Other Government and Non-Agency Bodies” Special Accounts

81. The “Other Trust Moneys” (OTM) and “Services for Other Government and Non-Agency Bodies” (SOG) Special Accounts were created for each agency that existed at the date of the original determination (31 December 1997) which established components of the RMF. These components were transformed into Special Accounts by section 5 of the *Financial Management Legislation Amendment Act 1999*. (see the section *History of Special Accounts*)
82. The purpose of the OTM Account is for “expenditure of moneys temporarily held on trust or otherwise for the benefit of a person other than the Commonwealth”. There is no requirement to keep moneys subject to trust law in the OTM Special Account. There are, however, considerable advantages with crediting these moneys to such accounts.

Example 1: The OTM Account is used by some Australian Government agencies to repatriate the overseas funds of Australian staff. That is, where a country has currency controls such that individuals – but not foreign governments – are prevented from transferring funds out of the country, an agency can credit its employees’ moneys to the OTM Account and then re-imburse employees once they have arrived back in Australia.

Example 2: The OTM Account may be used to provide an appropriation to allow moneys found by Commonwealth officials to be paid to their rightful owner once the owner has been identified.

83. **The existence of money within a bank account does not amount to an appropriation.** Special Accounts offer a convenient means of hypothecating amounts for particular purposes and the standing appropriation in sections 20 and 21 of the FMA Act ensure that they are available for expenditure. The Account may also be used to record Special Public Moneys held by the agency.
84. The purpose of the SOG Account is for “expenditure in connection with services performed on behalf of other Governments and bodies that are not FMA Agencies”. SOG Accounts can be used to receive payments from other Governments and bodies that are not FMA agencies.

Example: The SOG Account may be used to hold contributions from a Commonwealth Authorities and Companies Act body or State Government for the purpose of a jointly funded conference.

85. Similar to OTM Accounts, the advantage of using SOG Accounts is that the amounts are earmarked for the purpose of the Account and there is already a standing appropriation (section 20(4) of the FMA Act) available up to the balance of the account.

86. The OTM and SOG Special Accounts generally accommodate small amounts of miscellaneous Public Moneys. It is possible to use the accounts to record a large amount of funds that are associated with a single, identifiable purpose. This might, however, hinder the transparency of these moneys. Therefore, in such circumstances agencies need to consider whether it would instead be better to establish a separate Special Account with a narrower purpose or whether enhanced reporting in the PBS and agency Financial Statements may be sufficient. This is a matter of judgement and agencies should consult their Finance AAU as to whether a separate Special Account is preferable.

11. Transferring Special Accounts Following Machinery of Government (MOG) Changes

87. MOG changes can involve the abolition/creation of agencies, and/or the transfer of functions between agencies. While these changes can occur at any time, they are most likely to take place after a federal election. **Depending on the nature of the changes, they may be put into effect through a new Administrative Arrangements Order (AAO).**

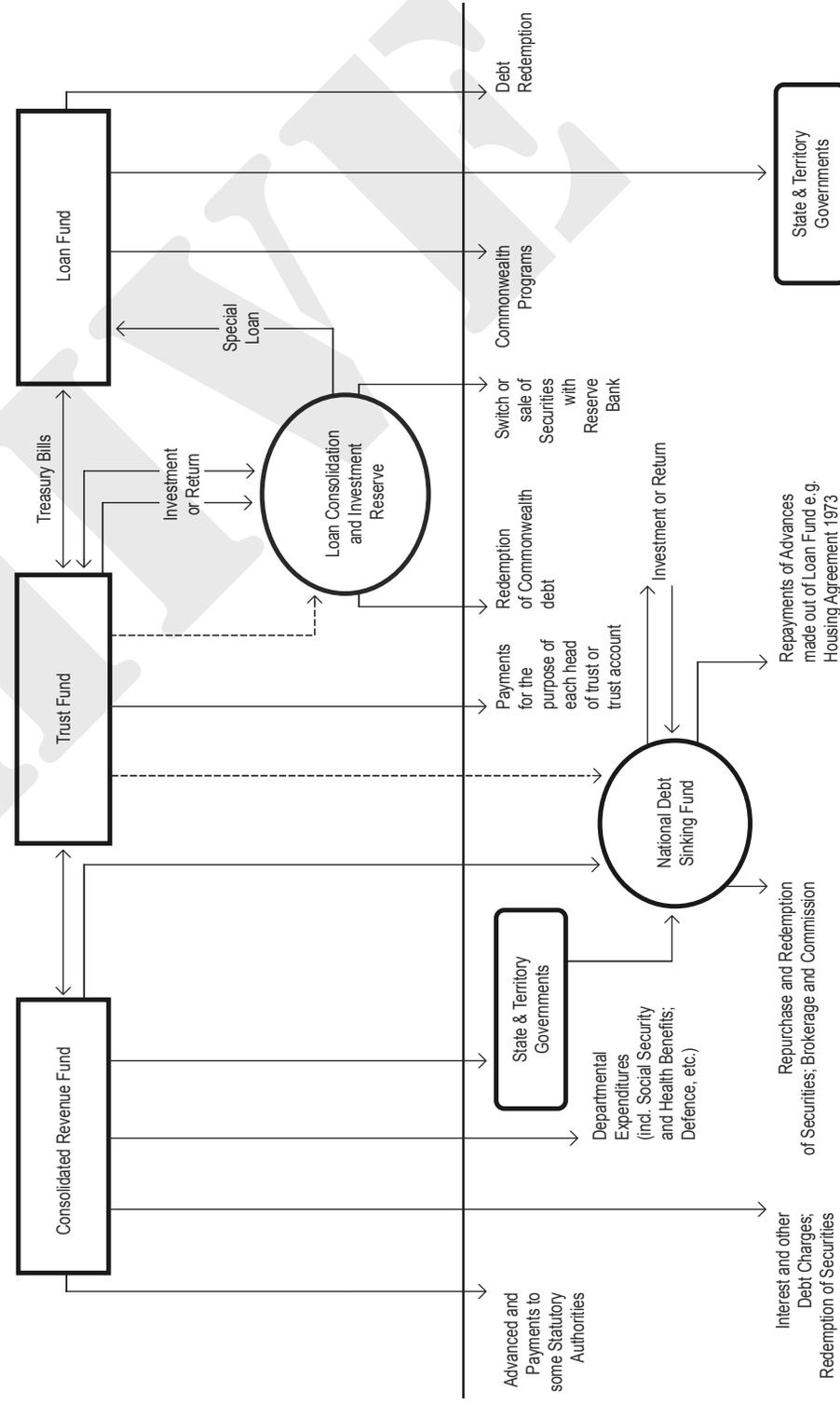
88. Where a Special Account has been established in accordance with subsection 20(1) of the FMA Act and where, as a result of a MOG change, it has become necessary to transfer administrative responsibility of the Special Account to another agency, agencies should consult with their Finance AAU in the first instance as to whether:

- the matter can be handled administratively by the Finance Minister;
- an amendment to the determination is necessary; or
- the losing agency's Special Account should be abolished and a Special Account established for the gaining agency (in accordance with subsections 20(3) and 20(1), respectively, of the FMA Act).

89. **Apart from a determination which abolishes a Special Account, all determinations must be tabled in both Houses of Parliament and are subject to a disallowance period of five sitting days.**

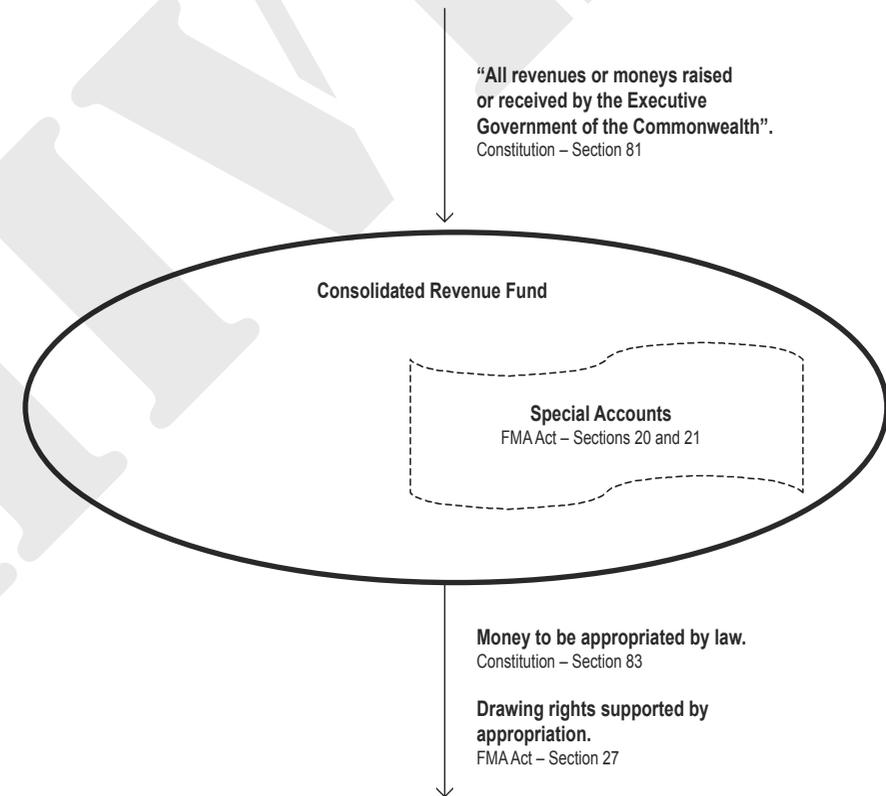
90. **FMA section 21 Special Accounts are established by legislation. Responsibility for section 21 Special Accounts is determined either in the legislation itself or in the AAOs which set out the legislation administered by Ministers.**

Appendix 1: The Consolidated Revenue Fund Under the Audit Act 1901



Appendix 3: Financial Responsibilities Under the FMLA Act 1999 (From 1 July 1999)

The Consolidated Revenue Fund from 1 July 1999



The Consolidated Revenue Fund under the *Financial Management and Accountability Act 1997* (FMA Act) as amended by the *Financial Management Legislation Amendment Act 1999*.

Source: Department of Finance and Administration, 2003.

Appendix 4: Example of an Establishing Determination



Financial Management and Accountability (XYZ Special Account) Determination 2003/01

I, NICHOLAS HUGH MINCHIN, Minister for Finance and Administration, make this Determination under section 20 of the *Financial Management and Accountability Act 1997*.

Dated 2003

[DRAFT ONLY - NOT FOR SIGNATURE]
Minister for Finance and Administration

1 Name of Determination

This Determination is the *Financial Management and Accountability (XYZ Special Account) Determination 2003/01*.

Note: This Determination commences in accordance with section 22 of the *Financial Management and Accountability Act 1997*.

2 Creation of Special Account

- (1) A Special Account is established with the name of *XYZ Special Account*.

3 Amounts to be credited to the XYZ Special Account

The following amounts may be credited to the XYZ Special Account:

- (a) amounts appropriated by the Parliament for the purposes of the XYZ Special Account; and
- (b) amounts received by the Commonwealth for the purposes of the XYZ Special Account (including an amount received by the Commonwealth in consideration for any service, benefit, activity, transaction or other matter that is done or provided for the purposes).

4 Purpose of the XYZ Special Account

- (1) The purpose of the XYZ Special Account, is to provide for:
- (a) expenditure related to the purchase of office equipment for the use on a loan basis by XYZ classified persons (as determined under the XYZ Entitlements Act 1990); and
- (b) expenditure in relation to the operation and administration of the XYZ Special Account.
- (2) Amounts may be debited to the XYZ Special Account in relation to the purposes specified in subclause (1).

Appendix 5: Example of an Amending Determination



Financial Management and Accountability (XYZ Special Account) Amendment Determination 2003/02

I, NICHOLAS HUGH MINCHIN, Minister for Finance and Administration, make this Determination under section 20 of the *Financial Management and Accountability Act 1997*.

Dated 2003

[DRAFT ONLY - NOT FOR SIGNATURE]
Minister for Finance and Administration

1 Name of Determination

This Determination is the *Financial Management and Accountability (XYZ Special Account) Amendment Determination 2003/02*.

Note: This Determination commences in accordance with section 22 of the *Financial Management and Accountability Act 1997*.

2 **Amendment of XYZ Special Account**

Schedule 1 amends the *Financial Management and Accountability (XYZ Special Account) Determination 2003/01*.

3 **Schedule 1 Amendments**

[1] **Subparagraph (4)(1)(a)**

omit

office equipment

insert

motor vehicles

Appendix 6: Example of an Abolishing Determination



**Financial Management and Accountability
(XYZ Special Account) Abolition Determination 2003/03**

I, NICHOLAS HUGH MINCHIN, Minister for Finance and Administration, make this Determination under subsection 20 (3) of the *Financial Management and Accountability Act 1997*.

Dated 2003

[DRAFT ONLY - NOT FOR SIGNATURE]

Minister for Finance and Administration

1 **Name of Determination**

This Determination is the *Financial Management and Accountability (XYZ Special Account) Abolition Determination 2003/03*.

Note: This Determination commences in accordance with section 22 of the *Financial Management and Accountability Act 1997*.

Abolition of Special Accounts

The XYZ Special Account established by the *Financial Management and Accountability (XYZ Special Account) Determination 2003/01* is abolished.

Appendix 7: Example of PBS Reporting of Special Accounts

Estimated Special Account Flows and Balances

Estimate - 2003-04, Heavy Figures
Actual - 2002-03, Light Figures

	Opening Balance	Receipts	Payments	Adjustments ⁽²⁾	Closing Balance
	2003-04 ⁽¹⁾	2003-04	2003-04	2003-04	2003-04
	2002-03 ^(1a)	2002-03	2002-03	2002-03	2002-03
	\$'000	\$'000	\$'000	\$'000	\$'000
Special Account Name 1 - XXX Act 199x (A)	0	0	0	0	0
Special Account Name 2 - YYY Act 199x (A)	0	0	0	0	0
Special Account Name 3 - ZZZ Act 199x (A)	0	0	0	0	0
Special Account Name 4 - XXX Act 199x (A)	0	0	0	0	0
Special Account Name 5 - XXX Act 199x (A)	0	0	0	0	0
Special Account Name 6 - AAA Act 199x (A)	0	0	0	0	0
Special Account Name 7 - s20 FMA Act (D)	0	0	0	0	0
Special Account Name 8 - BBB Act 199x (D)	0	0	0	0	0
Total Special Accounts	-	-	-	-	-
	-	-	-	-	-

D = Departmental

A = Administered

Acts Glossary:

FMA Act = Financial Management and Accountability Act, 1999

XXX Act 199x = XXXXXX XXXX XXXX Act, 199x

YYY Act 199x = YYYYYY(YYYYY YYYYY) Act, 199x

ZZZ Act 199x = ZZZZZZ ZZZZ ZZZ Act, 199x

AAA Act 199x = AAAA(AAAAA AAAA AAAA) Act, 199x

BBB Act 199x = BBBB BBBBB Bbbb Bbbb Act, 199x

Note 1 The Opening Balance for 2003-04 is the same as the Closing Balance for 2002-03

Note 2 Receipts from appropriations and other sources are further specified in the Total Resources for Outcome tables
[include cross-references to table numbers and page references as appropriate]

Note 3 Estimated adjustments include xxxxx [specify what adjustments are applicable. Note also that this column is optional and can be deleted if not required]

Note: The reader is referred to the most recent PBS guidance to ensure the current format will be used.

Total Resources for Outcome 1

	Estimated actual 2002-03 \$'000	Budget estimate 2003-04 \$'000
Administered appropriations		
to Special Account Name 1 ⁽¹⁾		
XXXX Act 1999x - to Special Account Name 2		
YYYY Act 1999x - to Special Account Name 3		
Total administered appropriations		
from Special Accounts (estimated payments from Special Account balances)⁽²⁾		
Special Account Name 1 - s20 FMA Act ⁽³⁾		
Special Account Name 2 (XXXX Act 1999x) ⁽⁴⁾		
Special Account Name 3 (YYYY Act 1999x)		
Special Account Name 4 (ZZZZ Act 1999x)		
Special Account Name 5 (AAAA Act 1999x)		
Special Account Name 6 (BBBBB Act 1999x)		
Total Special Account Outflows		
Departmental appropriations		
Output Group 1.1 -		
Output 1.1.1 -		
Output 1.2.2 - (to Special Account Name 7) ⁽¹⁾		
Output 1.1.2 -		
Subtotal Output Group 1.1		
Departmental appropriations		
Output Group 1.2 -		
Output 1.2.1 -		
Output 1.2.2 -		
Output 1.1.1 - (to Special Account Name 8) ⁽¹⁾		
Subtotal Output Group 1.2		
Total revenue from government (appropriations)		(C1) ⁽¹⁾
Contributing to price of departmental outputs		
Revenue from other sources		
[Itemise revenue from other sources]		
Output 1.1.1 - (to Special Account Name 7) ⁽¹⁾		
Output 1.2.2 - (to Special Account Name 8) ⁽¹⁾		
Total revenue from other sources		
Total price from departmental outputs		
(Total revenue from government and from other sources)		(E1) ⁽¹⁾

from Special Accounts (estimated payments from Special Account balances)⁽²⁾		
Special Account Name 7		
Special Account Name 8		
Total Departmental Special Account outflows		
Total estimated resourcing for Outcome 1		
(Total price of outputs and administered appropriations)		
	2002-03	2003-04
Average staffing level (number)		

Note 1. Flows into Special Accounts are also shown in the receipts column of the Special Accounts table in Table 1.5

Note 2. Special Account outflows are shown in the payments column of the Special Account table in Table 1.5

Note 3. Where names of Acts have been abbreviated, the full name of the Act can be found in the Acts Glossary at the end of Table 1.5

Note 4. [possible text explaining forward year special account trends] (repeat as necessary)

Source: Department of Finance and Administration, Estimates Memorandum 2003/13 Portfolio Budget Statements Guidelines Tables 1.5 and 2.1.1.

Appendix 8: Required Financial Statements Reporting of Special Accounts

Cash Basis Acquittal Special Accounts¹

Account Name	2003	2002
Balance carried from previous period		
Appropriation for reporting period ²		
Costs Recovered		
Other receipts (<i>Show each major class</i>) ³		
Available for payments		
Payments made		
(<i>Show each major class</i>) ³		
Balance carried to the next period		
Represented by:		
(<i>Show each major class</i>) ³		
Total⁴		

¹ Prepare a separate table for each Special Account. In the heading information, indicate whether the account is administered or departmental in nature.

² Each current year Appropriation Act should be reported on a separate line and the total amount transferred should agree with the Special Accounts disclosures in Tables A and B.

³ Major classes are as per Appendix A of this Schedule.

⁴ The total in the lower section in the table should balance to the balance carried to the next report.

Source: Department of Finance and Administration, *Finance Minister's Orders (FMOs) for Reporting Periods Ending On or After June 2003*, p. 30.

Appendix 9: Selected Sections of the FMA Act

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 5 Definitions

In this Act, unless the contrary intention appears:

...

Public Money means:

- (a) money in the custody or under the control of the Commonwealth; or
- (b) money in the custody or under the control of any person acting for or on behalf of the Commonwealth in respect of the custody or control of the money;

including such money that is held on trust for, or otherwise for the benefit of, a person other than the Commonwealth.

...

Special Account means:

- (a) a Special Account that is established by the Finance Minister under section 20; or
- (b) a Special Account that is established by an Act other than this Act.

Note: See also the *Financial Management Legislation Amendment Act 1999*, which converted components of previously existing funds into Special Accounts.

Special Instruction means an instruction by the Finance Minister under section 16.

Special Public Money has the meaning given by section 16.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 6 Notional payments and receipts by Agencies

- (1) This Act applies to a notional payment by an Agency (or part of an Agency) as if it were a real payment by the Commonwealth.
- (2) This Act applies to a notional receipt by an Agency (or part of an Agency) of such a notional payment as if it were a real receipt by the Commonwealth.

Note: This section applies to transactions that do not actually involve payments or receipts, because the parties to the transaction are merely parts of the Commonwealth, or acting as agents for the Commonwealth. For example, Agency 1 “pays” Agency 2 for services provided by Agency 2. One of the effects of this section is that a drawing right under section 27 will be required for the transaction.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 16
Special Instructions by Finance Minister about handling etc. of Special Public Money

- (1) The Finance Minister may issue Special Instructions^a in writing about Special Public Money, including instructions about:
 - (a) the custody of special public money;
 - (b) the investment of special public money;
 - (c) the application of interest or other amounts derived from the investment of special public money;
 - (d) the application of special public money in paying the expenses involved in dealing with special public money.
- (2) In case of inconsistency, Special Instructions override this Act, the regulations and the Finance Minister's Orders. However, Special Instructions cannot be inconsistent with the terms of any trust that applies to the money concerned.
- (3) An official or Minister must not contravene any Special Instruction. Maximum penalty: Imprisonment for 2 years. Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.
- (4) In this section:

'special public money' means Public Money that is not held on account of the Commonwealth or for the use or benefit of the Commonwealth. Note: Money held by the Commonwealth on trust for another person is an example of Special Public Money.

^a Note: Money held by the Commonwealth on trust for another person is an example of Special Public Money.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 20
Establishment of Special Accounts by Finance Minister

- (1) The Finance Minister may make a written determination that does all or any of the following:
 - (a) establishes a Special Account;
 - (b) allows or requires amounts to be credited to the Special Account;
 - (c) specifies the purposes of the Special Account.
- (2) The Finance Minister may make a determination that revokes or varies a determination made under subsection (1).

- (3) The Finance Minister may make a determination that abolishes a Special Account established under subsection (1).
- (4) The CRF is hereby appropriated for expenditure for the purposes of a Special Account established under subsection (1), up to the balance for the time being of the Special Account.
- (5) Whenever an amount is debited against the appropriation in subsection (4), the amount is taken to be also debited from the Special Account.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 21
Special Accounts established by other Acts

- (1) If another Act establishes a Special Account and identifies the purposes of the Special Account, then the CRF is hereby appropriated for expenditure for those purposes, up to the balance for the time being of the Special Account.

Note: An Act that establishes a Special Account will identify the amounts that are to be credited to the Special Account.
- (2) Whenever an amount is debited against the appropriation in subsection (1), the amount is taken to be also debited from the Special Account.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 22
Disallowance of determinations relating to Special Accounts

- (1) This section applies to a determination made by the Finance Minister under subsection 20(1) or (2).
- (2) The Finance Minister must cause a copy of the determination to be tabled in each House of the Parliament.
- (3) Either House may, following a motion upon notice, pass a resolution disallowing the determination. To be effective, the resolution must be passed within 5 sitting days of the House after the copy of the determination was tabled in the House.
- (4) If neither House passes such a resolution, the determination takes effect on the day immediately after the last day upon which such a resolution could have been passed.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 31

Agreements for “net appropriations”

- (1) The Finance Minister may enter into agreements^b for the purposes of items in Appropriation Acts that are marked “net appropriation”.
- (2) In the case of items for which the Finance Minister is responsible, the agreement is to be made with the Chief Executive of the Agency for which the appropriation is made. In all other cases, the agreement is to be made with the Minister who is responsible for the item.
- (3) An agreement need not relate to a particular Appropriation Act or Acts and may be made for any period, including a period longer than a financial year.
- (4) The Finance Minister may at any time cancel or vary an agreement, without the consent of the other party.
- (5) In this section:
Appropriation Act includes a Supply Act.

^b The Finance Minister has delegated this power/function to the Finance Chief Executive.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 39

Investment of Public Money

- (1) The Finance Minister may invest Public Money^c in any authorised investment.
- (2) For the purpose of managing the public debt of the Commonwealth, the Treasurer may invest Public Money in any authorised investment.
- (3) An investment of Public Money under this section must not be inconsistent with the terms of any trust that applies to the money concerned.
- (4) If an amount invested under this section was debited from a Special Account, then expenses of the investment may be debited from that Special Account.
- (5) Upon realisation of an investment of an amount debited from a Special Account, the proceeds of the investment must be credited to that Special Account.
- (6) At any time before an investment matures, the Finance Minister^c or Treasurer, as the case requires, may authorise the re-investment of the proceeds upon maturity in an authorised investment with the same entity.

Note: The proceeds of investment of the original investment will not become Public Money when the investment matures because the proceeds will not be received by or on behalf of the Commonwealth.

- (7) The corporation established by section 62B of the *Audit Act 1901* is continued in existence for the purposes of this section with the name “The Minister for Finance of the Commonwealth”. Investments by the Finance Minister under this section must be made in that corporate name.
- (8) The corporation established by section 8 of the *Loan Consolidation and Investment Reserve Act 1955* is continued in existence for the purposes of this section with the name “The Treasurer of the Commonwealth”. Investments by the Treasurer under this section must be made in that corporate name.
- (9) The CRF is appropriated as necessary for the purposes of this section.
- (10) In this section:
authorised investment means:
 - (a) in relation to the Finance Minister—any of the following investments:
 - a. securities of the Commonwealth or of a State or Territory;
 - b. securities guaranteed by the Commonwealth, a State or a Territory;
 - c. a deposit with a bank, including a deposit evidenced by a certificate of deposit;
 - d. any other form of investment prescribed by the regulations; and
 - (b) in relation to the Treasurer—any of the following investments:
 - a. securities of the Commonwealth or of a State or Territory;
 - b. securities guaranteed by the Commonwealth, a State or a Territory;
 - c. a deposit with a bank, including a deposit evidenced by a certificate of deposit;
 - d. debt instruments issued or guaranteed by:
 - i. the government of a foreign country; or
 - ii. a financial institution whose members consist of foreign countries, or of Australia and foreign countries;
 - iii. being debt instruments with a credit rating that is consistent with the sound management of public debt;
 - iv. any other form of investment prescribed by the regulations.

^c The Finance Minister has delegated this power/function to all Chief Executives.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 44
Promoting efficient, effective and ethical use of Commonwealth resources

- (1) A Chief Executive must manage the affairs of the Agency in a way that promotes proper use of the Commonwealth resources for which the Chief Executive is responsible.
- (2) If compliance with the requirements of the regulations, Finance Minister's Orders, Special Instructions or any other law would hinder or prevent the proper use of those resources, the Chief Executive must manage so as to promote proper use of those resources to the greatest extent practicable while complying with those requirements.

(3) In this section:

'proper use' means efficient, effective and ethical use.

FINANCIAL MANAGEMENT AND ACCOUNTABILITY ACT 1997 - SECTION 48
Accounts and Records

- (1) A Chief Executive must ensure that accounts and records of the Agency are kept as required by the Finance Minister's Orders.
- (2) The Finance Minister is entitled to full and free access to the accounts and records kept under subsection (1). However, the Finance Minister's access is subject to any law that prohibits disclosure of particular information.

Appendix 10: Glossary of Terms

Administered Items

Revenues, expenses, assets and liabilities that the Government controls, but which an agency manages on the Government's behalf. They include:

- Grants, subsidies, benefit payments and transfers to other levels of government;
- Taxes, fees, fines and excise;
- Public debt and related interest; and
- Loans to other governments and related interest.

Such resources may be used to produce outputs by third party organisations. Administered items need to be specified and costed as part of budgeting, accounting and reporting processes.

Administered payments

Means payments made from administered appropriations by an agency on behalf of the Commonwealth.

Administered receipts

Receipts that are collected by an agency on behalf of the Commonwealth.

Agency

For the purposes of this document an agency is defined as a Department of State, a Parliamentary Department or an agency prescribed by the FMA Act. Some prescribed agencies are subject to the *Commonwealth Authorities and Companies Act 1997*, but are subject to the FMA Act for their functions of managing or spending public money.

Appropriation

An authorisation by Parliament to spend moneys from the Consolidated Revenue Fund.

Appropriation Act

An appropriation bill that has been passed by Parliament and received Royal Assent. The Act authorises the drawing of Public Money from the Consolidated Revenue Fund for spending according to restricted purposes outlined by the Act.

Consolidated Revenue Fund (CRF) Section 81 of the Constitution requires that all revenue raised or money received by the Executive Government has to form one consolidated revenue fund to be appropriated for Commonwealth purposes. The CRF is thus the principal operating fund where the transactions associated with the general activities of the government are recorded. The withdrawal of Public Money from the CRF requires an appropriation made by law (as required by section 83 of the Constitution).

Departmental Items Resources (assets, liabilities, revenues and expenses) that agencies (or subsidiaries) control directly and use to produce outputs on behalf of government - including outsourced activities funded and controlled by the agency. Examples include computers and plant and equipment used in producing goods and services; accruing liabilities for employee entitlements; revenues from user charges and profits; and employee salaries and other administrative expenses incurred in providing goods and services.

Official Exempt SPM Account An official bank account that is established for the receipt, custody, payment or transmission of Public Money held by the Commonwealth as Special Public Money. The Account requires the Commonwealth to:

- (i) invest and retain the balance of the account outside the Commonwealth's Central Official Accounts; and
- (ii) operate a separate bank account from other Public Money held by the agency's transactional banker.

Official Public Account (OPA) The Government's central bank account. The OPA replaced the Commonwealth Public Account (from the Audit Act 1901) as the Government's central bank account.

Official SPM Account An official bank account designated as a Special Public Money account by the agency that is:

- (a) established for the receipt, custody, payment or transmission of Public Money held by the Commonwealth as Special Public Money; and
- (b) not designated as an Exempt SPM Account by the agency.

Public Money Defined in the section 5 of the FMA Act as meaning:
(i) money in the custody or under the control of the Commonwealth; or

(ii) money in the custody or under the control of any person acting for or on behalf of the Commonwealth in respect of the custody or control of the money;

including such money that is held on *trust* for, or otherwise for the benefit of, a person other than the Commonwealth.

Special Appropriations

Moneys appropriated by Parliament in an Act separate to an annual Appropriation Act. Special appropriations are not subject to Parliament's annual budget control, unlike the annual appropriations.

Special Public Money

Defined in section 16 of the FMA Act as meaning Public Money that is not held on account of the Commonwealth, or for the use or benefit of the Commonwealth. Money held by the Commonwealth on trust for another person is an example of Special Public Money.

Appendix 11: Abbreviations

AAO	Administrative Arrangements Order
AAU	Agency Advice Unit in the Department of Finance and Administration
AGS	Australian Government Solicitor
AIMS	Accrual Information Management System
ATMA Act	<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>
Audit Act	<i>Audit Act 1901</i>
CAC Act	<i>Commonwealth Authorities and Companies Act 1997</i>
CAF	Commercial Activities Fund
CAMM	Cash Appropriation Management Module
CFS	Consolidated Financial Statements of the Commonwealth
CRF	Consolidated Revenue Fund
Finance	Department of Finance and Administration
Finance Minister	Minister for Finance and Administration
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FMIS	Financial Management Information Systems
FMLA Act	<i>Financial Management Legislation Amendment Act 1999</i>
FMOs	Finance Minister's Orders
MOG	Machinery of Government
OLD	Office of Legislative Drafting
OPA	Official Public Account
PBS	Portfolio Budget Statement
RMF	Reserved Money Fund

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