

## EXPLANATORY STATEMENT

ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

Subject - Audit Act 1901  
Finance Regulations  
Finance (Overseas) Regulations  
1989 No. 220

Subsection 71(1) of the Audit Act 1901 (the Act) provides that the Governor-General may make regulations (not inconsistent with the provisions of the Act) for carrying out the provisions of the Act.

Section 63 of the Act provides that the regulations may make provision for and in relation to financial administration by Departments outside Australia.

The attached Statutory Rules amend the Finance Regulations and the Finance (Overseas) Regulations made pursuant to subsection 71(1) and section 63.

In summary, the Statutory Rules change a number of fundamental financial provisions concerning the procurement of supplies and the entering into of financial commitments. The changes are based upon recommendations of an Interdepartmental Committee (comprising officers from the Departments of Finance, Administrative Services, Defence, Transport and Communications, Prime Minister and Cabinet, Primary Industries and Energy, and Community Services and Health) which undertook a Commonwealth-wide review of procurement practices. The key recommendations concerning the regulatory framework for Commonwealth financial arrangements that were accepted by the Government were that:

- . the prime objective of Commonwealth purchasing should be to support Government programs by achieving value for money in the acquisition of supplies;
- . open and effective competition should be adopted as the central operating principle of Commonwealth purchasing, permitting a range of methods and techniques to be employed as appropriate, with tendering being important but no longer the only prescribed method above a dollar threshold;

- . the Minister for Administrative Services should have authority under the Finance Regulations and the Finance (Overseas) Regulations to issue guidelines about the procurement of supplies.

Accordingly, the Statutory Rules amend the Finance Regulations and Finance (Overseas) Regulations:

- a) to provide for Commonwealth procurement to be based upon the operating principle of open and effective competition, including greater emphasis on gazettal of purchasing information;
- b) to make provision for the Minister for Administrative Services to issue guidelines about the procurement of supplies and require persons performing duties in relation to the procurement of supplies to have regard to the guidelines;
- c) to streamline the financial provisions regulating the authority of persons to enter into commitments requiring the expenditure of public moneys; and,
- d) to repeal the existing provisions on tenders and quotations since these matters are now covered by the new provisions of (a) and (b); and
- e) to repeal the process-orientated provisions requiring the use of prescribed requisition forms and purchase order forms.

Details of the amendments are shown in Attachment A (Amendments to the Finance Regulations) and Attachment B (Amendments to the Finance (Overseas) Regulations).

AMENDMENTS TO THE FINANCE (OVERSEAS) REGULATIONS

REGULATION 1

Regulation 1 of these Statutory Rules sets 1 November 1989 as the date on which regulations 3 and 4 of these Statutory Rules will come into operation.

REGULATION 2

Regulation 2 of these Statutory Rules introduces a new Finance (Overseas) Regulation 2A which extends the application of proposed Finance Regulation 42 to procurement action involving supplies outside of Australia. That is, the Minister for Administrative Services now has authority, under Finance Regulation 42, to issue guidelines to procurement personnel on matters relating to overseas purchasing.

The new Finance (Overseas) Regulation comes into operation upon gazettal.

REGULATION 3

Regulation 3 of these Statutory Rules repeals and replaces Finance (Overseas) Regulation 2A for the purposes of extending, as from 1 November 1989, the application of:

- . Finance Regulations 42 and 43 to all purchases made overseas - overseas subregulation 2A (1) refers;
- . Finance Regulation 43B to purchases of overseas supplies that are to be used in Australia - overseas subregulation 2A (2) refers;
- . The new Part IIA to all Commonwealth financial commitments entered into outside Australia - overseas subregulation 2A (3) refers.

#### REGULATION 4

Regulation 4 of these Statutory Rules repeals Finance (Overseas) Regulations 21, 22, 23, 24, 25, 26 and 27. These Finance (Overseas) Regulations deal with different aspects of overseas commitment control, including matters relating to the existing purchasing processes; for example:

- . the arrangements for making purchases via an overseas office of the Commonwealth - (Previous Finance (Overseas) Regulation 21, but see the new Finance Regulation 42);
- . the approval of Requisitions for supplies and approval of expenditure in cases of an emergency - (Previous Finance (Overseas) Regulations 22 and 23, but see the new Finance Regulations 44A and 44C); and
- . the calling of quotations and tenders, the circumstances under which these may be dispensed with and the establishing of overseas Tender Boards - (Previous Finance (Overseas) Regulations 24, 25, 26 and 27, but see the new Finance Regulations 42 and 43).

The repeal of these regulations has been necessary to give effect to the new arrangements for purchasing and entering into commitments, and to meet necessary drafting needs.