



Financial Management and Accountability Amendment Regulations 2010 (No. 6)¹

Select Legislative Instrument 2010 No. 323

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Financial Management and Accountability Act 1997*.

Dated 8 December 2010

QUENTIN BRYCE
Governor-General

By Her Excellency's Command

PENELOPE YING YEN WONG
Minister for Finance and Deregulation

1 Name of Regulations

These Regulations are the *Financial Management and Accountability Amendment Regulations 2010 (No. 6)*.

2 Commencement

These Regulations commence as follows:

- (a) on 1 January 2011 — regulations 1 to 3 and Schedule 1;
- (b) on the commencement of Schedule 8 to the *Financial Framework Legislation Amendment Act 2010* — regulation 4 and Schedule 2.

3 Amendment of *Financial Management and Accountability Regulations 1997*

Schedule 1 amends the *Financial Management and Accountability Regulations 1997*.

4 Amendment of *Financial Management and Accountability Regulations 1997*

Schedule 2 amends the *Financial Management and Accountability Regulations 1997*.

5 Transitional

A determination of a program or scheme that was:

- (a) made under paragraph 15 (5) (e) of the *Financial Management and Accountability Regulations 1997* before 1 January 2011; and
- (b) in effect on 1 January 2011;

is taken to be a determination made for item 3 of the table in subregulation 15 (3) of those regulations, as amended by Schedule 1, but is taken not to be a legislative instrument.

Schedule 1 Amendments commencing on 1 January 2011

(regulation 3)

[1] Regulation 3, after definition of *grant*

insert

specified cash means cash in its physical form which is obtained:

- (a) on credit; or
- (b) from a cash float provided by a person other than the Agency that receives the specified cash.

[2] Paragraph 11 (1) (a)

before

guarantee

insert

loan

[3] Paragraph 11 (1) (c)

before

guarantee

insert

loan

[4] Regulations 15 and 16

substitute

15 Relevant Agency receipts (Act s 31)

- (1) This regulation sets out kinds of amounts for subsection 31 (1) of the Act.

Note If an Agency receives an amount mentioned in this regulation, subsection 31 (2) of the Act provides that the amount specified in the most recent departmental item for the Agency is taken to be increased by an amount equal to the amount received by the Agency.

- (2) Subject to subregulations (4) to (6), amounts in the following table are kinds of amounts for subsection 31(1) of the Act if an amount of that kind is received by an Agency in relation to the Agency's departmental activities.

Item	Amount
1	An amount that offsets costs in relation to an activity of the Agency that receives it
2	An amount that is a sponsorship, subsidy, gift, bequest or a similar contribution
3	An amount that relates to a trust or a similar arrangement
4	An amount that is a monetary incentive or rebate in relation to a procurement arrangement
5	An amount that is an insurance recovery
6	An amount that is in satisfaction of a claim for damages or other compensation
7	An amount that relates to an employee's leave (including paid parental leave)
8	An amount that is specified cash
9	An amount that relates to the sale of minor departmental assets of the Agency that receives the amount
10	An amount received in relation to an application to the Agency under the <i>Freedom of Information Act 1982</i>

- (3) Subject to subregulations (4) to (6), amounts in the following table are kinds of amounts for subsection 31(1) of the Act.

Item	Amount
1	An amount that relates to GST
2	An amount that is debited from a Special Account in accordance with the purposes of the Special Account
3	An amount that relates to the operation of a scheme determined in writing by the Minister for this item

-
- (4) Despite subregulations (2) and (3) and any other provision of these Regulations or another legislative instrument, an amount that is a tax, levy, fine or penalty is not an amount of a kind prescribed for subsection 31 (1) of the Act.
- (5) If:
- (a) an amount of the kind mentioned in an item of the table in subregulation (2) is received by an Agency; and
 - (b) the amount has been debited from an administered item appropriated for the Agency;
- the amount is not an amount of a kind prescribed for subsection 31(1) of the Act.
- (6) An amount received by an Agency is not amount of a kind prescribed for subsection 31 (1) of the Act if a departmental item has been appropriated for the Agency in relation to the amount received by the Agency.
- (7) For item 9 of the table in subregulation (2), if the total of the amounts of the kind mentioned in the item received by the Agency in the financial year, after offsetting costs in relation to the sale of the minor departmental assets, reaches 5% of the Agency's cumulative annual departmental appropriation for the financial year, any further amount of that kind received by the Agency in the financial year is not an amount of a kind prescribed for subsection 31 (1) of the Act.
- (8) A determination for item 3 of the table in subregulation (3) is a legislative instrument.
- (9) In this regulation:
- administered item*** means an administered item in an Appropriation Act.
- minor departmental asset*** means an asset for which the original purchase price was \$10 000 000 or less.

[5] Subregulation 17 (2), after note 2

insert

Note 3 Chief Executives may approve other banking days for particular kinds of money (for example, specified cash). The days may be determined in the Chief Executive Instructions.

[6] Regulation 19

substitute

19 Withdrawals involving internal transfers (Act s 13)

- (1) For section 13 of the Act, an official may withdraw an amount from an official account for the purpose of depositing the amount into another official account if no appropriation and drawing right is relied on in relation to the transfer.
- (2) For section 13 of the Act, an official may withdraw an amount from an official account for the purpose of establishing or reimbursing a cash advance established for a purpose, and maintained in a manner, approved by the Chief Executive.
- (3) In subregulation (2):

cash advance means public money, in the custody or control of an official, and held outside an official account, for a purpose of making payments of public money in cash.

Note 1 Subregulations (1) and (2) authorise officials to make internal transfers (including within an Agency) of public money, in circumstances in which no real or notional payment is being made and no appropriation is required, for example, where an Agency transfers money from one of its own official accounts to another (or to the custody of an official), or money is transferred from the Official Public Account to an Agency's account.

Note 2 Section 13 of the Act provides that a withdrawal of money from an official account that is not authorised by these Regulations carries a penalty.

19A Withdrawals for payments or notional payments involving drawing rights (Act s 13)

For section 13 of the Act, an official may withdraw an amount from an official account for the purpose of spending the amount under an appropriation if the official has been issued with a relevant drawing right under paragraph 27 (1) (a) of the Act.

[7] Schedule 1, after item 116

insert

- | | | |
|------|--|--------------------------------|
| 116A | <p>Australian National Preventive Health Agency (<i>ANPHA</i>), comprising:</p> <ul style="list-style-type: none"> (a) the Chief Executive Officer of ANPHA appointed under section 14 of the <i>Australian National Preventive Health Agency Act 2010</i>; and (b) the staff mentioned in section 25 of that Act; and (c) persons made available to the Chief Executive Officer under section 26 of that Act; and (d) consultants engaged under section 27 of that Act; and (e) members of the Advisory Council mentioned in section 29 of that Act; and (f) persons who constitute a committee mentioned in section 42 of that Act | <p>Chief Executive Officer</p> |
|------|--|--------------------------------|

See Note B

Schedule 2 **Amendment commencing on
commencement of Schedule 8
to the *Financial Framework
Legislation Amendment Act
2010***

(regulation 4)

[1] Regulation 9, note 1

substitute

Note 1 Subsection 44 (3) of the Act defines *proper use* to mean efficient, effective, economical and ethical use that is not inconsistent with the policies of the Commonwealth.

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.