

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 151

Minute No. 10 of 2006 - Minister for Finance and Administration

Subject - *Financial Management and Accountability Act 1997*

*Financial Management and Accountability Amendment
Regulations 2006 (No. 4)*

Subsection 65(1) of the *Financial Management and Accountability Act 1997* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The Act provides a framework of rules for the proper management of public money and public property that applies to Chief Executives and officials of Agencies.

Section 58 of the Act provides for modified application of the Act to a “prescribed law enforcement agency”. That term is defined as a “law enforcement agency, within the meaning of section 85ZL of the *Crimes Act 1914*, that is prescribed by the regulations for the purposes of this definition”.

The purpose of the Regulations is to prescribe the Australian Federal Police (the AFP), for the purposes of section 58 of the Act, in the *Financial Management and Accountability Regulations 1997* (the Principal Regulations), and to correct a reference to the AFP in item 111 of Schedule 1 to the Principal Regulations. Schedule 1 is the Schedule that prescribes agencies for the purposes of the general application of the Act; section 58 allows for a new Schedule 3 to list agencies afforded the modified application of the Act.

As a newly prescribed law enforcement agency, the AFP is subject to the modified application of the Act as set out in Schedule 2 to the Principal Regulations. The modified requirements:

- allow for ‘operational money’ (money that is determined by the responsible Minister as needed to do things consistent with the agency’s charter, and that is not money needed for staff and general expenditure) to be banked in non-official accounts;
- provide an exemption to the requirement for approvals of spending proposals affecting operational money to be approved under regulation 9 of the Principal Regulations; and
- allow for financial statements to be prepared other than in accordance with the Finance Minister’s Orders.

The amendment Regulations extend to the AFP the modified application of the Act afforded to intelligence or security agencies.

Further details of the Regulations are in the Attachment.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulations commenced on the day after they were registered on the Federal Register of Legislative Instruments.

Authority: Subsection 65(1) of the *Financial Management and Accountability Act 1997*.

Details of the proposed *Financial Management and Accountability Amendment Regulations 2006 (No. 4)*

Regulation 1 - Name of Regulations

This regulation provides that the title of the Regulations is the *Financial Management and Accountability Amendment Regulations 2006 (No. 4)*.

Regulation 2 - Commencement

This regulation provides for the proposed Regulations to commence on the day after they are registered on the Federal Register of Legislative Instruments.

Regulation 3 - Amendment of *Financial Management and Accountability Regulations 1997*

This regulation provides that the *Financial Management and Accountability Regulations 1997* (the Principal Regulations) would be amended as set out in Schedule 1.

Schedule 1 – Amendment

Item [1] – subregulation 9 (2)

This item amends subregulation 9 (2) to include prescribed law enforcement agencies. This subregulation currently excludes intelligence or security agencies from the operation of subregulation 9 (1), which specifies requirements relating to approval of spending proposals.

Item [2] – After regulation 27

This item inserts a new regulation 28, which provides for a body set out in new Schedule 3 (see item [4] below) to be subject to the modified application set out at (existing) Schedule 2.

This item also specifies that, where there is in fact no agreement in place between the Finance Minister and the Minister responsible for the prescribed law enforcement agency in question, which is a requirement of the modified application, the default position would be that the *Financial Management and Accountability Act 1997* and Finance Minister's Orders would apply in relation to providing annual financial statements.

Item [3] – Schedule 1, item 111

This item corrects a previously misdescribed reference to the composition of the Australian Federal Police (AFP) in Schedule 1 to the Principal Regulations.

Item [4] – Schedule 2, heading

This item amends the title of Schedule 2 to reflect the application of the Schedule to prescribed law enforcement agencies.

Item [5] – After Schedule 2

This item inserts a new Schedule 3, and prescribes the AFP by listing it in that Schedule.