

2004

**THE LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**GOVERNMENT RESPONSE TO STANDING COMMITTEE  
ON PUBLIC ACCOUNTS**

***“REPORT NUMBER 10 – FINANCIAL MANAGEMENT  
AMENDMENT BILL 2003 (NO 3)”***

**TABLING STATEMENT**

Circulated by the authority of the Treasurer  
Ted Quinlan MLA

Mr Speaker, today I am tabling the Government's Response to the PAC Report on *Financial Management Amendment Bill 2003 (No. 3)*.

The PAC made four recommendations. The Government agrees with most of these recommendations, and later today I will table the Financial Management Amendment Bill 2004 (No 2), which proposes amendments to the Treasurer's Advance provisions in the Financial Management Act (the Act). The amendments will incorporate most of the PAC recommendations. I will address these recommendations and amendments when I table the Bill later today.

I will now only address the PAC recommendations which will not be addressed in the Government's amendment Bill.

*Recommendation 2(d)* is not agreed.

The Government considers that the PAC recommendation of providing for the return of 'unspent' funds to the Territory Banking Account by 30 June each year is administratively unworkable and will result in a high risk of a breach of the FMA occurring. The Government maintains its position that this provision is inconsistent with the ACT's appropriation framework and Section 34B of the FMA, which enables unspent appropriated amounts to be carried forward in departmental bank accounts. Therefore no amendment to the Act has been proposed.

*Recommendation 3* of the PAC Report recommends that regulations be prepared regarding the use of Treasurer's Advance. The intention of this recommendation is unclear, as the recommendation is not supported in the body of the PAC's report, which suggests the preparation of "appropriate administrative guidelines for the use of Treasurer's Advance, which would serve to minimise the risk of its misinterpretation."

The Government is preparing administrative guidelines for the use of Treasurer's Advance, which is considered the appropriate mechanism for detailing procedural matters.

*Recommendation 4* is agreed in principle.

The PAC Report states, "*the Government should not circumvent the Estimates process by using Treasurer's Advance to make payments for items already included in a supplementary appropriation bill.*" The Government would not seek to intentionally "circumvent the Estimates process", however, there may be circumstances where it is virtually unavoidable to not use Treasurer's Advance for items already included in a supplementary appropriation bill.

For instance there may be situations where an issue needs to be addressed more urgently than anticipated, or where the Legislative Assembly processes and sitting pattern combine to result in a substantial delay between presentation and passage of the appropriation bill. In this case, it may necessary to use Treasurer's Advance even though the expenditure is included in a supplementary appropriation bill. Therefore, the Government agrees with this recommendation 'in principle' noting that unequivocal agreement is not appropriate.

In conclusion Mr Speaker, the Government acknowledges the complexities that have arisen with the application of the Treasurer's Advance provisions of the Act and is committed to making amendments to these provisions that will further improve Territory financial management practices. I trust the Assembly will support the Government's amendment Bill which I will table later today.

END





# **ACT GOVERNMENT**

## **RESPONSE TO**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

***"REPORT NUMBER 10 – FINANCIAL MANAGEMENT AMENDMENT  
BILL 2003 (No 3)"***

14 MAY 2004

AUTHORISED BY  
MR TED QUINLAN MLA  
TREASURER

## **Introduction**

On 12 February 2004 the Legislative Assembly referred the *Financial Management Amendment Bill 2003 (No 3)* to the Standing Committee on Public Accounts for a public inquiry for report by no later than the sitting day of 1 April 2004.

The terms of reference for the inquiry included examining the general questions of the requirements, purpose, structure, limitations, Ministerial and associated obligations relating to the Treasurer's Advance provisions of the *Financial Management Act 1996 (FMA)*, and to consider *inter alia* views from interested parties in the ACT and the operations of Treasurer's Advance provisions in other jurisdictions.

## **Overview**

The Standing Committee on Public Accounts made a total of four recommendations in the report of their Inquiry. The Government has responded to all of the recommendations.

## **Conclusion**

The Government acknowledges the complexities that have arisen with the application of the Treasurer's Advance provisions of the FMA and is committed to making amendments to these provisions that will further improve Territory financial management practices.

As a result of these complexities, the Government will be introducing the *Financial Management Amendment Bill 2004 (No 2)* that addresses the majority of the amendments proposed by the PAC.

# Response to Specific Recommendations of the Standing Committee on Public Accounts

## Committee Recommendation 1

*The Legislative Assembly should not consider the Financial Management Amendment Bill 2003 (No 3) until the Government presents its amendments to the “Financial Management Act 1996”, in relation to Treasurer’s Advance.*

## Government Response

Agreed. The Government will be tabling the Financial Management Amendment Bill 2004 (No 2) which will address this issue.

## Committee Recommendation 2

*The Government’s proposed amendments to the “Financial Management Act 1996” in relation to the Treasurer’s Advance should:*

- (a) provide for urgent and unforeseen expenditure, and where there is an error in omission or the understatement of other appropriations;*
- (b) include the Commonwealth’s definition of urgency;*
- (c) define expenditure as:
  - (i) entering into a contract to make a payment for goods or services; or*
  - (ii) entering into a contract to make a payment of a grant or subsidy; or*
  - (iii) entering into a contract to make a payment for a capital injection.**
- (d) provide for the return of ‘unspent’ funds to the Territory’s Banking Account by 30 June each year;*
- (e) provide that the Treasurer’s Advance authorisations be tabled in the Legislative Assembly within 3 sitting days of issue and that this information be presented cumulatively, with a summary of total expenditure tabled at 30 June each year.*

## Government Response

2(a) Agreed. This also has been reflected in the Financial Management Amendment Bill 2004 (No 2).

2(b) Agreed in principle. It is considered that the definition more appropriately resides in Financial Management Guidelines, and it is noted that the Commonwealth definition is contained in operational guidelines. Amendments to the Financial Management Guidelines will provide that *“There is an urgent need for expenditure if the expenditure is needed because available funding for the financial year in which the expenditure is to be authorised will be, or is*

*close to being, exhausted*". This is similar to the Commonwealth administrative guidelines regarding the definition of urgent, but is consistent with the ACT framework.

2(c) Agreed. This is reflected in the Financial Management Amendment Bill 2004 (No 2). The definition of expenditure contains the concept of entering into a contract, but has been drafted to include payments, and to align with the appropriation types provided by s8 of the FMA. The inclusion of payments in the definition ensures the definition encompasses the common usage of the word expenditure.

2(d) Not Agreed. The Government considers that this provision is administratively unworkable and will result in a high risk of a breach occurring. The Government maintains its position that this provision is inconsistent with the ACT's appropriation framework and Section 34B of the FMA, which enables unspent appropriated amounts to be carried forward in departmental bank accounts.

2(e) Agreed. The Financial Management Amendment Bill 2004 (No 2) includes an amendment to implement this. However, it should be noted that the recommendation for the summary of total expenditure to be tabled at 30 June each year is undesirable. The Government amendments will require this summary to be presented within three sitting days *after* 30 June each year. This will allow all Treasurer's Advance authorisations, including those issued on 30 June to be included in the summary.

### **Committee Recommendation 3**

***The Government develop regulations as a matter of priority, for the use of the Treasurer's Advance.***

### **Government Response**

The intention of this recommendation is unclear, as the recommendation is not supported in the body of the report, which suggests the preparation of "appropriate administrative guidelines for the use of Treasurer's Advance, which would serve to minimise the risk of its misinterpretation." The Government will be preparing administrative guidelines for the use of Treasurer's Advance as a matter of priority in line with this comment.

### **Committee Recommendation 4**

***The Government should not circumvent the Estimates process by using the Treasurer's Advance to make payments for items already included in a supplementary appropriation bill.***

### **Government Response**

Agreed in principle. The Government would not seek to intentionally "circumvent the Estimates process by using the Treasurer's Advance to make payments for items already included in a supplementary appropriation bill".



There may, however, be circumstances where the Government will be required to make a payment for purposes already included in a supplementary appropriation bill. This may occur where the issue becomes urgent more quickly than anticipated, or where the Legislative Assembly processes and sitting pattern combine to result in a substantial delay between presentation and passage of the appropriation bill. In authorising the Treasurer's Advance in this case, the Government does not intend to 'circumvent' Legislative Assembly processes, rather to deal with an unavoidable emerging urgency in an appropriate and legally permissible manner.

