

Government Sector Finance Act 2018 (GSF Act) Fact Sheet

Deemed appropriations

Wednesday, 16 October 2024

Disclaimer: This is guidance material only and does not replace reading the legislation.

At a glance

- A deemed appropriation is a type of appropriation under the *Government Sector Finance Act 2018* (GSF Act).
- Deemed appropriations relate to certain types of own source receipts.

Authority to withdraw money from the Consolidated Fund

Consolidated Fund – Types of Appropriation



An **appropriation** is an authority to withdraw money from the Consolidated Fund.

Appropriations may be made by way of:

- Parliament to Ministers under the authority of an annual *Appropriation Act*
- standing appropriations under other Acts for specified purposes, in specified circumstances (e.g. a **deemed appropriation** provided for by the GSF Act).

Deemed appropriations

Deemed appropriations provide a mechanism for the legally compliant expenditure of an agency's own source receipts in certain circumstances.

'Own source' receipts refers to instances where the agency generates its own income – either by receiving payment in return for a service or a product or agency-to-agency payment for services provided.

When an agency receives **deemed appropriation money**, the "Lead Minister" for that agency is taken to be given a deemed appropriation ([section 4.7](#) of the GSF Act). The value of that deemed appropriation is equivalent to the money the agency received or recovered.

The purpose for which a deemed appropriation can be used is set out in the GSF Act (section 4.7(2) of the GSF Act). This includes:

- If the agency is a **Special Office**, the purpose is for the services of the Special Office, or
- If the agency is a **GSF agency other than a Special Office**, the purpose is for the services of the lead Department. This includes the GSF agency receiving the deemed appropriation. This is because “for the services of the lead Department” is interpreted broadly and refers to the services of all agencies for which the lead Department is their lead Department.

“Lead Minister” and “Lead Department” are defined in section 4.7(8) of the GSF Act.

- “Lead Minister” is the Minister to whom amounts are appropriated directly or indirectly under the Appropriation Act for the services of the GSF agency.
- “Lead Department” is determined with reference to the Government Sector Employment Act 2013 and current administrative orders, as well as the definition of “responsible Minister” in the GSF Act. The Treasurer can also provide a written determination as to the “Lead Department” where the GSF agency has more than one Lead Department.

Agencies are requested to advise NSW Treasury if it is not clear who the Lead Department or Lead Minister is, or if there is more than one Lead Department for your agency. NSW Treasury will work with you to confirm who the Lead Department or Lead Minister is for the purposes of the deemed appropriations provisions.

What is deemed appropriation money

The kinds of money prescribed as deemed appropriation money are listed in clause 34(1) to the GSF Regulation. In general, they are money that agencies have traditionally considered as “own source revenue”.

Deemed appropriation money does not include funding distributions under annual appropriations (previously called cluster grants).

Where a GSF agency receives money from another GSF agency that falls within the categories listed in clause 34(1) to the GSF Regulation this may be a deemed appropriation as long as the Lead Minister is not the same for both paying and receiving agencies.

- Under the deemed appropriations provisions of the GSF Act, these transactions are legally “deemed” as appropriations. This means there is a formal legal authority to spend the monies in the hands of the receiving GSF agency and a charge against the paying GSF agency’s appropriation.
- For payments between two GSF agencies where one or both the paying and receiving GSF agencies are Special Offices – these payments are deemed appropriation money, even if the Lead Minister is the same for both GSF agencies (section 4.7(3)(b) of the GSF Act).

Deemed appropriations do not lapse at the end of a financial year (section 4.8(3) GSF Act). The regulations can prescribe otherwise but do not currently do so. Deemed appropriations can be transferred to the new Minister where there is a Machinery of Government change (section 4.9A(2) GSF Act)

Need more information?

Refer to NSW Treasury website *Government Sector Finance Act 2018* page to find more Fact Sheets.

Email the Financial Management Legislation team at Legislation@treasury.nsw.gov.au

For legal advice, refer to your agency’s legal team in the first instance.