

Disclaimer: This is a guide only. The use of Regulation making powers under the GSF Act is subject to legal advice and the views of Parliamentary Counsel.

Prescribing GSF agencies for the purposes of the GSF Act

At a glance

- The *Government Sector Finance Act 2018 (GSF Act)* applies to all Government Sector Finance agencies (GSF agencies).
- This guidance provides information as to when you may consider applying to have an entity prescribed by regulation as a GSF agency.

What is a GSF agency?

Entities that are considered GSF agencies for the purposes of the GSF Act are identified in section 2.4 of the GSF Act. The Act also provides for an entity to be prescribed by regulation as a GSF agency (section 2.4(1)(l)). The concept of a 'GSF agency' is defined to include, but is not limited to, separate GSF agencies, public service agencies, state owned corporations, NSW Health entities and controlled entities of GSF agencies or Ministers.

Entities that may be prescribed by regulation as GSF agencies

An entity of the kind listed in section 2.1 of the GSF Act *may* be capable of being prescribed by regulation as a GSF agency. However, generally-speaking, an entity will need to be either a legal person or an organisation of legal persons in order for it to be prescribed.

Whether it is *appropriate* for an entity be prescribed as a GSF agency will depend on a case-by-case evaluation of the entity's circumstances. Entities that *may* be prescribed as GSF agencies, and the policy factors that will be taken into account when determining whether they *should* be prescribed, include:

- Joint ventures - these are specifically excluded from the definition of GSF agency in the GSF Act (unless they are prescribed by regulation);
- Specific individuals - where it is considered that the work they perform should be covered by the financial management framework;
- For the purposes of Part 6 of the GSF Act, entities or 'parts' of entities may be declared to be treated or not treated as a GSF agency that is distinct from another specified GSF agency¹.

Considerations for deciding whether an entity should be prescribed by regulation as a GSF agency

- ***Where it is unclear whether the entity is a GSF agency for the purposes of the GSF Act***
- ***Where there are compelling policy reasons for an entity to be a GSF agency for the purposes of the GSF Act (or part of)***

This includes where there are reasons for a specified entity (or a specified part of an entity) to be treated, or not treated, as a GSF agency that is distinct from another GSF agency, for the purposes of Part 6 of the Act.

¹ Section 2.4(5) of the *GSF Act*.

- **Requirements placed on the entity under the GSF Act**

It is noted that most Government agencies have always been expected to comply with requirements under the four Acts which have been replaced by the *GSF Act*.²

The GSF Act presents many opportunities for a GSF agency to streamline and innovate operations with appropriate planning and preparation, including:

- Creating and applying delegations for the entity;
- Preparing and keeping performance information to inform resource allocation decisions.

The ability to take advantage of these opportunities may be a key reason why an entity seeks prescription as a GSF agency for the purposes of the GSF Act.

Further, there may be the potential for small entities to be exempted from reporting requirements, using the prescribed reporting exemption criteria, which is to be adopted under the GSF Act in the near future.

What it means to be prescribed as a GSF agency

An entity will be subject to the GSF Act framework to the extent to which it is prescribed as a GSF agency by regulation. For more information regarding GSF agencies, please see the “Government Sector Finance Agencies” fact sheet

How is an entity prescribed as a GSF agency?

To apply for an entity to be prescribed by regulation as a GSF agency, please email legislation@treasury.nsw.gov.au.

The following information should accompany an application:

- The name of the entity;
- An outline of the operations of the entity that is being requested to be prescribed and reason(s) why it should be prescribed;
- Any other factor(s) that should be considered for prescribing the entity as being subject to the *GSF Act*.

Treasury will be in contact if any additional information is required to decide whether the entity should be prescribed by regulation as a GSF agency.

Need more information?

For more information regarding GSF agencies, please see:

- In the *GSF Act*
 - Sections 2.4 (GSF agencies) and 2.5 (Separate GSF agency)
- “Government Sector Finance Agencies” factsheet

Email the Legislation team at legislation@treasury.nsw.gov.au.

² *Public Finance and Audit Act 1983, Public Authorities (Financial Arrangements) Act 1987, Annual Reports (Statutory Bodies) Act 1984, Annual Reports (Departments) Act 1985.*