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Deemed Appropriations and the Special Deposits Account

An appropriation is an authority to spend money from the Consolidated Fund. At present, a Minister receives an appropriation from either the *annual Appropriation Act* or as a special appropriation, authorised by statute. The GSF Bill proposes a third mechanism for permitting expenditure of money from the Consolidated Fund, the concept of a 'deemed appropriation'. Regulations made under the GSF Bill will define what constitutes 'deemed appropriation money', however it has been conceived as a way for GSF agencies to have an authority to spend money that may not be factored into the existing appropriation framework, including certain types of own source revenue and donations.

The Special Deposits Account (SDA) is separate from the Consolidated Fund and consists of accounts of money authorised by legislation to be deposited therein. There are two types of ledger accounts within the SDA, known as a statutory SDA and a working account. The GSF Bill may reform the process for obtaining and authorising a working account by regulation to ensure a more efficient and effective practice.

At a glance

1. **The Consolidated Fund** contains all public monies (including securities and all revenue, loans and other moneys whatsoever) collected, received or held by any person for or on behalf of the State (*Constitution Act 1902 (NSW)* section 39).
2. Appropriations are **an authority to spend** money from the Consolidated Fund. Once appropriated, funds do not automatically leave the Consolidated Fund. Money will still form part of the Consolidated Fund until expended or paid into an account in the **Special Deposits Account (SDA)**.
3. There are two types of accounts that an agency may hold in the SDA. These are known as statutory SDAs and working accounts¹.

Authorisation to spend public monies

Under the existing legislative framework, **an authority to spend** a certain amount from the Consolidated Fund can only be given by an Act of Parliament – currently this comes from an *annual Appropriation Act* or a special appropriation provision within another Act.

This authority to spend is given to a Minister, who can delegate that authority in accordance with Division 9.2 of the GSF Bill (currently section 12A of the *Public Finance and Audit Act 1983 (PFAA 1983)*).

A new type of appropriation

The GSF Bill proposes a new type of appropriation referred to as a 'deemed appropriation' (section 4.7). An appropriation is deemed to have been given for an amount equivalent to the 'deemed appropriation money' when the 'deemed appropriation money' is received or recoverable.

¹ Both accounts must be constituted in accordance with legislation: a provision in the agency's enabling Act to establish a statutory SDA, or in the manner prescribed by s13A of the PFAA 1983 or s4.17 of the GSF Bill for a working account.

Consolidated Fund – Types of Appropriation

Annual Appropriation

Special Appropriation

Deemed Appropriation

Regulations made under the GSF Bill will define what constitutes ‘deemed appropriation money’. However, ‘deemed appropriation money’ will not include money from taxes, certain royalties and fines. While the scope of what will be ‘deemed appropriation money’ is still evolving, it is envisaged that it could include own source receipts and donations.

Under the GSF Bill, if an appropriation made under an Appropriation Act is not applied at the end of the annual reporting period, it will lapse. An agency will no longer have that authority to spend unless or until another Appropriation Act is passed. The exception to this general rule is a ‘deemed appropriation’, which will not lapse at the conclusion of an annual reporting period unless the regulations specify otherwise.

Key Point A ‘deemed appropriation’ will not lapse at the conclusion of an annual reporting period unless the regulations specify otherwise.

Special Deposits Account

The **Special Deposits Account** consists of:

- all accounts of money that the Treasurer is, under statutory authority, required to hold otherwise than for or on behalf of the consolidated fund, and
- all accounts of money that are directed or authorised to be paid to the special deposits account by or under legislation

For clarity, funds will never simultaneously form part of the Consolidated Fund and the Special Deposits Account.

There are currently two types of accounts that may be held within the Special Deposits Account:

- a **statutory SDA**, which is established through legislation, and
- a **working account** constituted in accordance with section 4.17 of the GSF Bill (currently section 13A of the PFAA 1983)².

Special Deposits Account

Statutory SDA

Working Account

Statutory SDAs

The provision that sets up a statutory SDA will typically provide for:

- who manages the account (often the head of the agency),
- types of money that will be paid into the account,
- purposes for which money may be paid from the account (for example, to pay the expenses of running the agency, paying staff etc), and
- an authority for money in the account to be invested.

The authority to spend funds held within a statutory SDA is given by the establishing statutory provisions. A statutory SDA may contain money from a broad array of sources, provided that these are authorised in the legislation. Funds appropriated through an Appropriation Act may be paid into a statutory SDA, where an Act of Parliament permits this to be done.

² These “accounts” are ledger accounts, and not bank accounts.

Working Accounts

Currently, the process for obtaining a working account involves applying to the Treasurer. If approved, the Treasurer will constitute the working account by way of a 'Treasurer's instrument for the establishment of a section 13A working account and authorisation to make payments therefrom'. This document specifies the source of money authorised to be paid into, and the purposes for which those funds can be paid out of, the working account.

Under section 4.17 of the GSF Bill, the procedures for establishing and operating a working account (the equivalent to a section 13A account), and the circumstances in which it will be authorised, may change. This will depend on the regulations that are prescribed under the new Bill.

Need more information?

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