

Delegation from the Finance Minister to Chief Executives - FMA Regulation 10



The Finance Minister has delegated to Chief Executives of *Financial Management and Accountability Act 1997* (FMA Act) agencies a range of his powers under the FMA Act and the *Financial Management and Accountability Regulations 1997*, including FMA Regulation 10.

The delegation instrument, known as the *Financial Management and Accountability (Finance Minister to Chief Executives) Delegation 2009*, is available from the Department of Finance and Deregulation website at <http://www.finance.gov.au/financial-framework/fma-legislation/docs/MFD-to-CE-Delegation-2009-compilation.pdf>. The delegation of the Finance Minister's powers and associated directions on the use of the delegation under FMA Regulation 10 is at pages 45 to 49 of the Delegation. These pages are reproduced at **Attachment A**. The Finance Minister has also made seven agency-specific Determinations which adjust the scope of the Delegation.

The table below provides a summary of the Finance Minister's delegation to Chief Executives in relation to FMA Regulation 10. If a spending proposal is within the scope of the Finance Minister's delegation, the Chief Executive (or their delegate) can provide FMA Regulation 10 authorisation for a spending proposal.

Delegation Subdivision	Type of Spending proposal	Summary of the Delegation
1.01	Departmental spending proposal	Chief Executive may provide FMA Regulation 10 authorisation if: <ul style="list-style-type: none"> - There are no contingent liabilities. - Costs are within the uncommitted appropriation and uncommitted forward estimates up to the third forward year (FE3). - Annual costs beyond FE3 don't cause commitments and liabilities to exceed 20% of the FE3 estimate. - Duration of spending proposal does not exceed 22 years. - Agency Minister's agreement obtained if proposal exceeds FE3.
1.02	Administered spending proposal	Chief Executive may provide FMA Regulation 10 authorisation if: <ul style="list-style-type: none"> - There are no contingent liabilities. - Costs are within the uncommitted appropriation and uncommitted forward estimates up to FE3. - Annual costs beyond FE3 don't cause commitments and liabilities to exceed 20% of the FE3 estimate. - Duration of spending proposal does not exceed 10 years. - Agency Minister's agreement obtained if proposal exceeds FE3.
1.03	Spending proposal is a contingent liability or includes a contingent liability	Chief Executive may provide FMA Regulation 10 authorisation if: <ul style="list-style-type: none"> - Contingent liabilities have been assessed as remote and immaterial. - Other than for the contingent liability, the spending proposal fits within the limits of subdivision 1.01 or 1.02 of the Delegation.
1.04	Spending proposal relates to payments made under the <i>Federal Financial Relations Act 2009</i>	Chief Executive may provide FMA Regulation 10 authorisation if: <ul style="list-style-type: none"> - The spending proposal relates to payments to be made to States/Territories under the <i>Federal Financial Relations Act 2009</i>. - This includes: <ul style="list-style-type: none"> • General revenue assistance; • Other general revenue assistance; • National Specific Purpose Payments; and • National Partnership Payments.

1.05	Spending proposal relates to purchasing or leasing a vehicle	<p>Chief Executive may provide FMA Regulation 10 authorisation if:</p> <ul style="list-style-type: none"> - The spending proposal is a departmental item. - The duration does not exceed FE3. - The spending proposal is consistent with the Fleet Management Agreement. - Contingent liabilities have been assessed as immaterial. - Costs are within the uncommitted appropriation and uncommitted forward estimates.
1.06	Spending proposal was explicitly agreed by Cabinet, or the National Security Committee Cabinet of Cabinet (NSC), or the Prime Minister, or the Strategic Priorities and Budget Committee of Cabinet (SPBC).	<p>Chief Executive may provide FMA Regulation 10 authorisation if:</p> <ul style="list-style-type: none"> - The spending proposal was explicitly agreed by Cabinet, NSC, the Prime Minister, or SPBC. - Contingent liabilities have been assessed as remote and immaterial or were capped or explicitly approved by Cabinet, NSC, the Prime Minister, or SPBC.

Schedule 2 Delegations under the Regulations**Part 1 Delegation under Regulation 10 – Approval of future spending proposals****Division 1 Delegation**

1	Provision of Regulations	Regulation 10
2	Summary of function or power	To authorise the approval of a spending proposal for which money is not appropriated
3	Delegates	Non-Finance Chief Executives

Division 2 Directions**Requirements of delegation for specific arrangements****1.01 Departmental spending proposals not extending beyond 22 years**

The delegate may authorise the approval of a spending proposal for which money is not appropriated if:

- (a) the spending proposal relates to a departmental item; and
- (b) the duration of the spending proposal does not extend beyond 22 years from the date of exercising this delegation; and
- (c) for the period of the forward estimates, the departmental item has uncommitted appropriation and uncommitted forward estimates which are sufficient to cover the expenditure under the spending proposal as it would or could become payable; and
- (d) for each year beyond the period of the forward estimates, the expenditure that would or could become payable under the spending proposal in each year, is of an amount that does not cause the total commitments and liabilities under the departmental item for each year to exceed 20% of the forward estimate recorded for the third forward year; and
- (e) for spending proposals with a duration beyond the forward estimates, the responsible Minister has agreed in writing to the exercise of this delegation.

1.02 Administered spending proposals not extending beyond 10 years

The delegate may authorise the approval of a spending proposal for which money is not appropriated if:

- (a) the spending proposal relates to an administered item; and
- (b) the duration of the spending proposal does not extend beyond 10 years from the date of exercising this delegation; and

1.06 Spending proposals in accordance with a decision of Cabinet, the National Security Committee of Cabinet, the Prime Minister and the Strategic Priorities and Budget Committee of Cabinet

- (1) Subject to paragraphs 1.06 (2) and (3), the delegate may authorise the approval of a spending proposal for which money is not appropriated if the spending proposal has been explicitly agreed in a decision of:
- (a) Cabinet; or
 - (b) the National Security Committee of Cabinet (NSC) or its successor; or
 - (c) the Prime Minister; or
 - (d) the Strategic Priorities and Budget Committee of Cabinet (SPBC) or its successor.
- (2) Despite paragraph 1.06 (1), if the spending proposal includes a contingent liability, the delegate may authorise the approval of a spending proposal for which money is not appropriated if:
- (a) the most probable expenditure that could arise would be of an amount that would not be considered to be material if the contingency were to occur and the contingency has a remote chance of occurring; or
 - (b) the contingent liability has been explicitly approved in the relevant decision of Cabinet, NSC (or its successor), the Prime Minister or SPBC (or its successor); or
 - (c) the contingent liability is capped to an amount that does not cause the total potential cost of the spending proposal to exceed the amount agreed in the relevant decision of Cabinet, NSC (or its successor), the Prime Minister or SPBC (or its successor).
- (3) Despite paragraphs 1.6 (1) and (2), the delegate may not authorise the approval of a spending proposal under this subdivision in a way inconsistent with any restriction that the Finance Minister places, in a particular case, on that power to authorise.
- (4) In this subdivision:
- (a) **material** has the following meaning:
 - (i) the meaning provided by a determination of the Finance Minister;
 - (ii) in any other case – the meaning given by the applicable accounting standards and accounting interpretations issued by the Australian Accounting Standards Board (AASB); and
 - (b) in relation to the likelihood of a contingency occurring:
 - (i) whether or not the chances of the contingency occurring is **remote** is a matter of judgment and depends on the circumstances of the particular case; and
 - (ii) as a general guide, an event with a probability of occurrence of less than 5% should be considered remote.

1.07 Spending proposals in accordance with a determination of the Finance Minister

The delegate may authorise the approval of a spending proposal for which money is not appropriated if: