Is your agency subject to the Standing Directions 2018 under the *Financial Management Act 1994*

## Updated July 2019

The Standing Directions 2018 under the *Financial Management Act 1994* (the Directions) are applicable to all ‘Agencies’, as defined within the Directions.

Each Agency should conduct an assessment of whether they are an Agency under the Directions, and therefore subject to the Directions. This fact sheet tells you how to do so.

The assessment must establish:

1. If the Agency falls within the Directions’ definition of Agency; and
2. Whether the Agency is excluded from applying the Directions or has a specific exemption.

## Defining an ‘Agency’

**In determining whether the Directions apply, Agencies should seek legal advice, consult enabling legislation, discuss with your portfolio department or DTF. This guide is designed to assist Agencies in making this assessment. It is not a substitute for legal advice.**

An **‘Agency’** is defined within the Directions as any Public Body or Department. These definitions are the same as those contained within section 3 of the *Financial Management Act 1994 (FMA), including*:

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| ‘**Department**’ means:  (a) A department within the meaning of the *Public Administration Act 2004*;  (b) An office or body specified in section s16(1) of that Act.  ‘**Public Body**’ means:  (a) public statutory authority;  (b) A State business corporation or State body within the meaning of the *State Owned Enterprises Act 1992*;  (c) Court Services Victoria;  (d) A body, office or trust body –  (i) established by or under an Act or enactment; or  (ii) established by the Governor in Council or a Minister –  and that is declared by the Minister, by notice published in the Government Gazette, to be a body or office to which Part 7 applies. |

Accordingly, an Agency may be captured by the definition of ‘public body’ by virtue of sub-sections (a), (b) or (c), or by virtue of having been declared to be subject to the Act under sub-section (d).

The term ‘public statutory authority’ under clause (a) is not defined in Victorian legislation. The legally accepted view is that in Victoria a public statutory authority is an Agency that:

1. performs one or more functions of a public nature for the benefit of the community; and
2. does so under authority granted by or under Victorian legislation to perform a public purpose; and
3. is accountable to, and subject to control[[1]](#footnote-1) by, the State of Victoria in the performance of those functions.

Should you have any feedback on the list (for example, new Agencies to be included or agencies which should be removed), please contact us at: standing.directions@dtf.vic.gov.au.

## Agencies excluded by the Directions

Direction 1.2 excludes the following Agencies from the application of the Directions:

1. any school council constituted under Part 2.3 of the *Education and Training Reform Act 2006*;
2. any incorporated committee of management, unless the committee is listed in Instruction 1.2(b);
3. any class B cemetery trust constituted under section 6 of the *Cemeteries and Crematoria Act 2003*;
4. any ‘registered unit’ as defined in the *Victoria State Emergency Services Act 2005*; and
5. any ‘volunteer brigade’ as defined in the *Country Fire Authority Act 1958*.

Direction 2.3.5(a) requires the Accountable Officers of Portfolio Departments to establish appropriate financial management requirements for their portfolio Agencies that are excluded from the Directions (i.e. Class B cemetery trusts, incorporated committees of management and school councils).

Direction 2.3.5(b) requires the Accountable Officers of VicSES and CFA to establish appropriate financial management requirements for their registered units and volunteer brigades respectively.

## Exemptions

The Assistant Treasurer may, in writing, exempt a person, Agency or class of Agencies from a specific or all requirements in these Directions and Instructions. Direction 1.5 provides details.

## Other State entities – not subject to the Directions

Other State entities, that do not fall within the definition of ‘Agency’ are not bound by the Directions, however, are encouraged to apply them where this would enhance their financial accountability and control frameworks.

For example, entities established under the Commonwealth Corporations Act, such as State Trustees Limited, may voluntarily choose to apply the Directions.

An Agency may be declared under section 53A (Annual reports of State-owned corporations and other bodies) of the FMA to be a corporate body to which section 53A of the FMA applies. An Agency declared under this section must have its annual report tabled in Parliament. While these Agencies are not required to comply with the requirements of the Directions they may voluntarily do so.

A section 53A Declaration has been made in respect to a number of Corporations Act entities, including:

* Agricultural Victoria Services Pty Ltd
* Docklands Studios Melbourne Pty Ltd
* Fed Square Pty Ltd
* Melbourne Recital Limited
* Phytogene Pty Ltd
* Victorian Institute of Sport Limited

## Agencies subject to the FMA and Directions

A list of Agencies considered to be subject to the Directions has been compiled by DTF and is provided below. The list is not definitive or exhaustive due to the large number of Agencies, the degree of variability and change in Agencies’ legal status, and the complexity of applying the legal definitions. Agencies should not assume they are not subject to the Directions because they are not on the list.

There may be Agencies that are legally subject to the Directions but have not have been included on this list, for example DTF may not be aware of them, applicability is to be established or their exemption status is yet to be determined. Also, some Agencies on the list may have exemptions from the Standing Directions.

**This list is not intended to be relied on as legal, commercial or financial advice, and should not be used as a substitute for seeking advice.**

| List of Agencies considered to be subject to the 2018 Standing Directions under the *Financial Management Act 1994* |
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| Accident Compensation and Conciliation Service |
| Adult Community and Further Education Board |
| Adult Multicultural Education Services (AMES Australia) |
| Albury Wodonga Health |
| Alexandra District Hospital |
| Alfred Health |
| Alpine Health |
| Alpine Resorts Co-ordinating Council |
| Ambulance Victoria |
| Architects' Registration Board of Victoria |
| Austin Health |
| Australian Centre for the Moving Image (ACMI) |
| Australian Grand Prix Corporation |
| Bairnsdale Regional Health Service |
| Ballarat Health Services |
| Ballarat General Cemeteries Trust |
| Barwon Health |
| Barwon Region Water Corporation |
| Barwon South West Waste and Resource Recovery Group |
| Bass Coast Health |
| Beaufort and Skipton Health Service |
| Beechworth Health Service |
| Benalla Health |
| Bendigo Cemeteries Trust |
| Bendigo Health Care Group |
| Bendigo Kangan Institute |
| Boort District Health |
| Box Hill Institute |
| Business Licensing Agency |
| Casterton Memorial Hospital |
| Castlemaine Health |
| Caulfield Racecourse Reserve Trust |
| CenITex |
| Central Gippsland Health Service |
| Central Gippsland Region Water Corporation |
| Central Highlands Region Water Corporation |
| Chisholm Institute |
| City West Water Corporation |
| Cohuna District Hospital |
| Colac Area Health |
| Coliban Region Water Corporation |
| Commercial Passenger Vehicles Victoria |
| Commission for Children and Young People |
| Corangamite Catchment Management Authority |
| Corryong Health |
| Country Fire Authority (CFA) |
| Court Services Victoria |
| Dairy Food Safety Victoria |
| Deakin University \* |
| Dental Health Services Victoria |
| Department of Education and Training |
| Department of Environment, Land, Water and Planning |
| Department of Health and Human Services |
| Department of Jobs, Precincts and Regions |
| Department of Justice and Community Safety |
| Department of Premier and Cabinet |
| Department of Transport |
| Department of Treasury and Finance |
| Development Victoria |
| Dhelkunya Dja Land Management Board |
| Director of Housing |
| Djerriwarrh Health Services |
| East Gippsland Catchment Management Authority |
| East Gippsland Region Water Corporation |
| East Grampians Health Service |
| East Wimmera Health Service |
| Eastern Health |
| Echuca Regional Health |
| Edenhope and District Memorial Hospital |
| Emerald Tourist Railway Board |
| Emergency Services Superannuation Board |
| Emergency Services Telecommunications Authority |
| Energy Safe Victoria |
| Environment Protection Authority |
| Essential Services Commission |
| Falls Creek Alpine Resort Management Board |
| Family Violence Protection Agency (Respect Victoria) |
| Federation Training |
| Federation University Australia (former University of Ballarat) \* |
| Film Victoria |
| Game Management Authority |
| Geelong Cemeteries Trust |
| Geelong Performing Arts Centre Trust |
| Gippsland and Southern Rural Water Corporation |
| Gippsland Southern Health Service |
| Gippsland Waste and Resource Recovery Group |
| Glenelg Hopkins Catchment Management Authority |
| Gordon Institute of TAFE |
| Goulburn Broken Catchment Management Authority |
| Goulburn Ovens Institute of TAFE |
| Goulburn Valley Health |
| Goulburn Valley Region Water Corporation |
| Goulburn Valley Waste and Resource Recovery Group |
| Goulburn-Murray Rural Water Corporation |
| Grampians Central Waste and Resource Recovery Group |
| Grampians Wimmera-Mallee Water Corporation |
| Greater Metropolitan Cemeteries Trust |
| Great Ocean Road Health |
| Greyhound Racing Victoria |
| Gunaikurnai Traditional Owner Land Management Board |
| Harness Racing Victoria |
| Health Purchasing Victoria |
| Heathcote Health |
| Hepburn Health Service |
| Heritage Council of Victoria |
| Hesse Rural Health Service |
| Heywood Rural Health |
| Holmesglen Institute of TAFE |
| Independent Broad-based Anti-corruption Commission |
| Infrastructure Victoria |
| Inglewood and Districts Health Service |
| Judicial College of Victoria |
| Judicial Commission of Victoria |
| Kardinia Park Stadium Trust |
| Kerang District Health |
| Kooweerup Regional Health Service |
| Kyabram and District Health Services |
| Kyneton District Health Service |
| Labour Hire Licensing Authority |
| Latrobe Regional Hospital |
| La Trobe University \* |
| Linking Melbourne Authority (shell) |
| Loddon Mallee Waste and Resource Recovery Group |
| Lower Murray Urban and Rural Water Corporation |
| Maldon Hospital |
| Major Projects Victoria (shell) |
| Mallee Catchment Management Authority |
| Mallee Track Health and Community Service |
| Mansfield District Hospital |
| Maryborough District Health Service |
| Melbourne and Olympic Parks Trust |
| Melbourne Convention and Exhibition Trust |
| Melbourne Cricket Ground Trust |
| Melbourne Health |
| Melbourne Market Authority |
| Melbourne Polytechnic |
| Melbourne Water Corporation |
| Mental Health Tribunal |
| Metropolitan Fire and Emergency Services Board (MFB) |
| Metropolitan Waste and Resource Recovery Group |
| Monash Health |
| Monash University \* |
| Mount Buller and Mount Stirling Alpine Resort Management Board |
| Mount Hotham Alpine Resort Management Board |
| Moyne Health Services |
| Murray Valley Wine Grape Industry Development Committee |
| Museum Board of Victoria |
| Nathalia, Cobram and Numurkah Health Services |
| National Gallery of Victoria, Council of Trustees |
| North Central Catchment Management Authority |
| North East Catchment Management Authority |
| North East Region Water Corporation |
| North East Waste and Resource Recovery Group |
| Northeast Health Wangaratta |
| Northern Health |
| Office of Commissioner for Environmental Sustainability |
| Office of Public Prosecutions |
| Office of the Road Safety Camera Commissioner |
| Office of the Victorian Disability Worker Commissioner |
| Office of the Victorian Information Commissioner |
| Ombudsman Victoria |
| Omeo District Health |
| Orbost Regional Health |
| Parks Victoria |
| Peninsula Health |
| Peter MacCallum Cancer Institute |
| Phillip Island Nature Park Board of Management |
| Portable Long Service Benefits Authority |
| Port of Hastings Development Authority |
| Port Phillip and Westernport Catchment Management Authority |
| Portland District Health |
| Post Sentence Authority |
| PrimeSafe |
| Professional Standards Council of Victoria |
| Public Transport Development Authority (Public Transport Victoria) |
| Queen Victoria Women's Centre Trust |
| Registrar of Housing Agencies |
| Residential Tenancies Bond Authority |
| Roads Corporation (VicRoads) |
| Robinvale District Health Services |
| Rochester and Elmore District Health Service |
| Royal Botanic Gardens Board of Victoria |
| RMIT University \* |
| Rural Assistance Commissioner |
| Rural Northwest Health |
| Sentencing Advisory Council |
| Seymour Health |
| Shrine of Remembrance Trustees |
| South East Water Corporation |
| South Gippsland Hospital |
| South Gippsland Region Water Corporation |
| South West Healthcare |
| South West Institute of TAFE |
| Southern Alpine Resort Management Board |
| Southern Metropolitan Cemeteries Trust |
| State Electricity Commission of Victoria (shell) |
| State Library of Victoria |
| State Sport Centres Trust |
| Stawell Regional Health |
| Sunraysia Institute of TAFE |
| Surveyors Registration Board of Victoria |
| Sustainability Victoria |
| Swan Hill District Health |
| Swinburne University \* |
| Tallangatta Health Service |
| Terang and Mortlake Health Service |
| The Kilmore and District Hospital |
| The Queen Elizabeth Centre |
| The Royal Children's Hospital |
| The Royal Victorian Eye and Ear Hospital |
| The Royal Women's Hospital |
| Timboon and District Healthcare Service |
| Transport Accident Commission |
| Treasury Corporation of Victoria |
| Trust for Nature (Victoria) |
| Tweddle Child and Family Health Service |
| University of Melbourne \* |
| V/Line Corporation |
| Veterinary Practitioners Registration Board of Victoria |
| VicForests |
| Victoria Legal Aid |
| Victoria Police (Office of the Chief Commissioner of Police) |
| Victoria State Emergency Service Authority |
| Victoria University\* |
| Victorian Arts Centre Trust |
| Victorian Asbestos Eradication Agency |
| Victorian Assisted Reproductive Treatment Authority |
| Victorian Auditor-General’s Office |
| Victorian Building Authority |
| Victorian Commission for Gambling and Liquor Regulation |
| Victorian Curriculum and Assessment Authority |
| Victorian Electoral Commission (incorporating the Electoral Boundaries Commission) |
| Victorian Environmental Water Holder |
| Victorian Equal Opportunity and Human Rights Commission |
| Victorian Fisheries Authority |
| Victorian Funds Management Corporation |
| Victorian Government Purchasing Board |
| Victorian Health Promotion Foundation |
| Victorian Independent Racing Tribunal |
| Victorian Inspectorate |
| Victorian Institute of Forensic Medicine |
| Victorian Institute of Forensic Mental Health |
| Victorian Institute of Teaching |
| Victorian Institute of Sports Trust |
| Victorian Interpreting and Translating Services (VITS Language-Link) |
| Victorian Law Reform Commission |
| Victorian Legal Services Board (incorporating the Office of the Victorian Legal Services Commissioner) |
| Victorian Managed Insurance Authority |
| Victorian Multicultural Commission |
| Victorian Pharmacy Authority |
| Victorian Planning Authority |
| Victorian Plantations Corporation (shell) |
| Victorian Ports Corporation (Melbourne) |
| Victorian Public Sector Commission |
| Victorian Rail Track Corporation |
| Victorian Regional Channels Authority |
| Victorian Registration and Qualifications Authority |
| Victorian Responsible Gambling Foundation |
| Victorian Strawberry Industry Development Committee |
| Victorian Veterans Council |
| Victorian WorkCover Authority (WorkSafe) |
| Wannon Region Water Corporation |
| West Gippsland Catchment Management Authority |
| West Gippsland Healthcare Group |
| West Wimmera Health Service |
| Western District Health Service |
| Western Health |
| Western Region Water Corporation |
| Westernport Region Water Corporation |
| William Angliss Institute of TAFE |
| Wimmera Catchment Management Authority |
| Wimmera Health Care Group |
| Wodonga Institute of TAFE |
| Yarra Valley Water Corporation |
| Yarram and District Health Service |
| Yarrawonga Health |
| Yea and District Memorial Hospital |
| Yorta Yorta Traditional Owner Land Management Board |
| Zoological Parks and Gardens Board |

\* The applicability of the Directions to these agencies is currently under consideration.

Should you have any feedback on the list (for example, new agencies to be included or agencies which should be removed), please contact us at: standing.directions@dtf.vic.gov.au.

1. Control is evidenced through the government of the establishment of the Agency or its constitution, and the exercise of powers or functions by the Agency in the public interest. This differs from the accounting definition of control. [↑](#footnote-ref-1)