

TREASURER'S INSTRUCTION
FINANCIAL MANAGEMENT ACT 2016
EX-GRATIA PAYMENTS

COMMENCED

1 July 2019

AMENDED

20 April 2021

SCOPE

This Treasurer's Instruction applies to all agencies listed in Column 1 of Schedule 1, Part 1 in the *Financial Management Act 2016* unless otherwise exempted or provided for under the provisions of the Act.

APPLICATION

At all times.

OBJECTIVE

To provide the Accountable Authority with direction in relation to the authorisation and recognition of ex-gratia payments.

INSTRUCTION**Ex-gratia payments**

- 13.1 Section 55 of the Act provides that the Treasurer may, if satisfied that it is appropriate because of special circumstances, authorise an amount to be paid to a person even though the payment would not otherwise be authorised by law or be required to meet a legal liability.
- 13.2 The Accountable Authority must seek the prior written approval of the Treasurer before making an ex-gratia payment.
- 13.3 The Accountable Authority must ensure that a request to the Treasurer for approval of an ex-gratia payment is forwarded to the Secretary of the Department of Treasury and Finance and is accompanied by sufficient supporting documentation to enable an assessment of the request.
- 13.4 Before a request to approve an ex-gratia payment is forwarded for the Treasurer's consideration, the Accountable Authority must seek advice from the Solicitor-General where:
 - 13.4.1 it is proposed that the Government intervene in a matter between two parties in the public interest;

- 13.4.2 there is a reasonable possibility that further claims for similar payments will be received; or
- 13.4.3 it is considered that advice from the Solicitor-General is required due to the complexity or uncertainty of the matter.

Recognition of ex-gratia payments

- 13.5 The Accountable Authority must ensure that the Agency maintains a register of all ex-gratia payments made by the Agency that have been approved by the Treasurer in accordance with paragraph 13.2.
- 13.6 The Accountable Authority must ensure that all ex-gratia payments made by the Agency are disclosed in the Annual Report of the Agency.
- 13.7 The Accountable Authority must ensure that any disclosure in the Annual Report of information relating to ex-gratia payments is in accordance with statutory requirements in relation to personal privacy, including the *Personal Information Protection Act 2004*.

ADDITIONAL GUIDANCE

There is no additional guidance.