

Premier's Circular

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TITLE

GUARANTEES, INDEMNITIES AND SURETIES

POLICY

The Royal Commission into Commercial Activities of Government and Other Matters Report (1992) and Government policy since 1994 has supported the notion that only the Treasurer should issue sureties subject to Cabinet's prior approval in order to minimise the financial risks to government and for Executive Government to be involved before the event.

BACKGROUND

It has been practice in Western Australia to use the terms 'guarantees' and 'indemnities' for undertakings given under explicit powers conferred by legislation and to use the term 'sureties' for undertakings which have been given without recourse to specific powers in legislation, in other words for undertakings given under the Crown's prerogative.

Circular to Ministers No 44/94 on Guarantees, Indemnities and Sureties was issued in response to Recommendation 6, (c) and (d) of the Royal Commission into Commercial Activities of Government and Other Matters 1992 that:

- (c) The Treasurer should be responsible for the giving of all guarantees, indemnities and "sureties" responsibility for which, by law, is not vested in another public official.
- (d) Guarantees, indemnities and "sureties" in respect of matters of significance should require Cabinet approval.

In September 1994 Government adopted the policy that:

- (i) the issue of sureties, other than indemnities issued incidental to another function, be limited to the Treasurer after having been first approved by Cabinet; and
- (ii) a copy of each surety issued be tabled in Parliament within 10 sitting days and a copy be provided to the Auditor General within 10 days.

Notwithstanding paragraph (i) above, guarantees, indemnities and sureties should not be issued in respect of moneys to be received from the Commonwealth without the prior approval of the Treasurer.

Treasurer's Instruction (TI) 821 'Register of Guarantees and Indemnities' first issued in November 1994 requires each accountable officer or authority to maintain registers for all guarantees and indemnities, and to duly advise the Under Treasurer at the time such a guarantee or indemnity is given including its status.

TI 821 prohibits an accountable officer or other officer from issuing a surety except where the giving of the guarantee or indemnity is not the principal purpose of the transaction.

Applications for the issue of a guarantee or indemnity by the Treasurer should be submitted through the Under Treasurer and be supported by all relevant information.

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PREMIER

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Other relevant Circulars:	n/a
Circular replaced by this Circular:	1994/44;2004/06