

PUBLIC FINANCE AND AUDIT ACT, 1983, No. 152

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 152, 1983.

An Act to make provision with respect to the administration and audit of public finances and for other purposes. [Assented to, 29th December, 1983.]

See also Miscellaneous Acts (Public Finance and Audit) Repeal and Amendment Act, 1983.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Public Finance and Audit Act, 1983".

Commencement.

2. (1) Part I, Divisions 1 and 4 of Part II, section 34 and Division 5 of Part III shall be deemed to have commenced on 1st July, 1983.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the *Gazette*.

Arrangement.

3. This Act is divided as follows:—

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SCHEDULE 1.—THE AUDITOR-GENERAL.

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Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“accounting manual”, in relation to an authority, means the accounting manual of the authority referred to in section 11 (3);

“accounting officer” means—

- (a) a person who by any law, regulation or appointment is charged with the duty of collecting or receiving, or who actually collects or receives, or who is charged with the duty of disbursing, or who actually disburses, any public money;
- (b) a person who by any law, regulation or appointment is authorised to commit or incur the expenditure of public money;
- (c) a person who by any law, regulation or appointment is charged with a duty relating to the keeping of accounts with respect to public money; or
- (d) a person who by any law, regulation or appointment is charged with a duty relating to the purchase, receipt, issue, sale, custody, control, management or disposal of, or the accounting for, public property or who actually purchases, receives, issues, sells, keeps in custody, controls, manages, disposes of, or accounts for, public property;

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“auditor” means a person appointed to be an auditor pursuant to section 35;

“authority” means—

- (a) a Department within the meaning of section 4 (1) of the Public Service Act, 1979;
- (b) a Teaching Service within the meaning of section 4 (1) of the Education Commission Act, 1980;
- (c) a statutory authority; or
- (d) a person, group of persons or body prescribed for the purposes of this definition;

“bank” means a bank within the meaning of the Banking Act 1959 of the Parliament of the Commonwealth as amended and in force for the time being or a bank constituted by a law of a State or of the Commonwealth;

“Consolidated Fund” means the fund formed as referred to in section 39 of the Constitution Act, 1902;

“Financial Agreement” means the Financial Agreement set forth in the Schedule to the Financial Agreement Ratification Act, 1928, as varied from time to time;

“financial year”, in relation to—

- (a) the Public Accounts, means the period from 1st July to the next following 30th June; or
- (b) a statutory authority, means the period specified as the financial year of the statutory authority in or pursuant to the Act by or under which the statutory authority is appointed, constituted or regulated;

“Head of an authority” means—

- (a) in relation to a Department within the meaning of section 4 (1) of the Public Service Act, 1979—the appropriate Department Head within the meaning of that subsection;
- (b) in relation to a Teaching Service within the meaning of section 4 (1) of the Education Commission Act, 1980—the appropriate Director-General within the meaning of that subsection;

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- (c) in relation to a statutory authority—
 - (i) where the statutory authority is an individual or a corporation sole—the individual or corporation sole; or
 - (ii) in any other case—the chief executive officer of the statutory authority or the person who exercises the functions of a chief executive officer in relation to the statutory authority; or
- (d) in relation to a person, group of persons or body prescribed for the purposes of the definition of “authority” in this section—such person as is prescribed for the purposes of this definition in relation to the person, group of persons or body;

“loan Act” includes the Financial Agreement, but does not include a prescribed enactment;

“money” includes any instrument ordering or authorising the payment of money, being an instrument of a kind which may be lodged with a bank for the purpose of enabling the bank to collect money so payable and credit that money to an account with that bank, and any bill of exchange, postal order, money order and promissory note;

“officer of an authority” means—

- (a) in relation to a Department within the meaning of section 4 (1) of the Public Service Act, 1979—an officer within the meaning of that subsection or a temporary employee within the meaning of that subsection;
- (b) in relation to a Teaching Service within the meaning of section 4 (1) of the Education Commission Act, 1980—an officer within the meaning of that subsection or a temporary employee within the meaning of that subsection;
- (c) in relation to a statutory authority—a member of the statutory authority or a person appointed to or by or employed within the statutory authority; or
- (d) in relation to a person, group of persons or body prescribed for the purposes of the definition of “authority” in this section—such person as is prescribed for the purposes of this definition in relation to the person, group of persons or body;

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“other money” means money or securities of any kind for the payment of money, collected, received or held by the Treasurer or an officer of an authority in the course of the official duties of the Treasurer or officer, not being public money;

“other property” means property, other than money, held by the Treasurer or an officer of an authority in the course of the official duties of the Treasurer or officer, not being public property;

“prescribed requirements”, in relation to an authority, means requirements prescribed by or under this Act or any other law applying to the authority, Treasurer’s directions applying to the authority or the accounting manual of the authority;

“public money” includes—

(a) securities and all revenue, loans and other money whatever, collected, received or held by, for, or on account of the State; and

(b) without limiting the generality of paragraph (a)—

(i) money which, pursuant to any Act, is directed to be paid to or expressed to form part of the Consolidated Fund or the Special Deposits Account; and

(ii) such money, or money of such class or description of money, as is prescribed for the purposes of this definition;

“public property” means all property, other than public money, held by any person for or on behalf of the State;

“regulation” means a regulation made under this Act;

“Special Deposits Account” means—

(a) an account of funds which the Treasurer is, by statutory or other authority, required to hold otherwise than for or on account of the Consolidated Fund;

(b) an account of money directed to be paid to the Special Deposits Account by or under this or any other Act; or

(c) an account of such other money, not directed by or under this or any other Act to be placed to the credit of another account, which the Treasurer directs to be carried to the Special Deposits Account;

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“statutory authority” means—

- (a) a statutory body representing the Crown; or
- (b) a person, group of persons or body (whether or not being a statutory body representing the Crown) specified in Schedule 2;

“the Public Accounts” means the statements prepared by the Treasurer under section 6 (1);

“Treasurer’s direction” means a direction issued under section 9;

“Treasurer’s expenditure control authority” means a Treasurer’s expenditure control authority issued under section 10.

(2) In this Act, a reference to the Crown is a reference to the Crown in right of the State.

(3) In this Act, a reference to—

- (a) a function includes a reference to a power, authority and duty; and
- (b) the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

PART II.

PUBLIC FINANCE ADMINISTRATION.

DIVISION 1.—Public accounts.

Treasurer’s accounts.

5. The Treasurer shall keep in the Treasury accounts relating to the Consolidated Fund, the Special Deposits Account and such other money as the Treasurer may determine under such separate heads as the Treasurer may direct.

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Preparation by Treasurer of the Public Accounts for each financial year.

- 6. (1)** The Treasurer shall, as soon as practicable after the end of each financial year, prepare statements of—
- (a) Treasury balances as at 30th June for that year, summarised and distributed into cash and securities;
 - (b) Consolidated Fund receipts and payments for that year;
 - (c) Consolidated Fund receipts in detail for that year;
 - (d) Consolidated Fund payments in detail for that year;
 - (e) variations during that year of the loan liability and annual interest liability to the Commonwealth;
 - (f) the loan liability and annual interest liability as at 30th June for that year to the Commonwealth according to maturity dates or otherwise;
 - (g) the loan liability as at 30th June for that year to the Commonwealth according to the currency in which the loan liability is redeemable;
 - (h) receipts and payments on account of the State to the National Debt Sinking Fund for that year, including an indication of the amount of the Commonwealth's contribution under the Financial Agreement;
 - (i) the net loan liability as at 30th June for that year and debt charges paid in that year distributed between departmental services and authorities within the meaning of the Capital Debt Charges Act, 1957;
 - (j) indebtedness as at 30th June for that year to the Commonwealth outside the Financial Agreement;
 - (k) advances made from the Consolidated Fund (or, prior to 6th September, 1982, made from the Consolidated Revenue Fund or the general loan account) or the Special Deposits Account and

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which are repayable as at 30th June for that year by bodies whose funds do not form part of the Treasurer's accounts under section 5;

- (1) receipts and payments in detail for that year of the Special Deposits Account; and
- (m) such other matters, if any, as may be prescribed.

(2) A statement under subsection (1) may include amounts rounded to the nearest dollar or, where the Treasurer so determines, rounded to the nearest one thousand dollars.

(3) The Treasurer may attach to the Public Accounts such other statements as the Treasurer may determine.

(4) The Treasurer shall, within 6 weeks after the close of each financial year, transmit the Public Accounts prepared in relation to the financial year to the Auditor-General.

Certain receipts and payments outside Australia to be included in Public Accounts.

7. The Public Accounts shall include receipts and payments of the account or fund to which they relate, made outside Australia, as at a date not earlier than 31st May in the financial year to which the Public Accounts relate.

Monthly statements.

8. The Treasurer—

(a) shall publish—

- (i) a monthly statement during each financial year of operations on the Consolidated Fund; and
- (ii) a monthly statement of the balance of cash and securities held by the Treasurer,

as soon as practicable after the month to which the statement relates; and

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- (b) shall publish in the Gazette—
- (i) a detailed statement of the receipts and payments of the Consolidated Fund and the Special Deposits Account for the quarters ending 30th September, 31st December and 31st March, respectively, in each financial year;
 - (ii) Treasury balances, summarised and distributed into cash and securities, as at the end of those quarters; and
 - (iii) such other matters, if any, as may be prescribed,
- as soon as practicable after the quarter to which the statement and balances relate.

DIVISION 2.—Accounting arrangements.

Treasurer's directions.

9. (1) The Treasurer may, from time to time, issue directions to accounting officers and officers of an authority with respect to the principles, practices and procedures to be observed in the administration of the financial affairs of the State and may, at any time, amend, vary or cancel a direction so issued.

(2) Without limiting the generality of subsection (1), the Treasurer may issue directions relating to—

- (a) the accounting for receipts and payments of money;
- (b) money recoverable by the State;
- (c) the recording, issue and control of public property and other property;
- (d) the sale and disposition of public property and other property;
- (e) banking arrangements;
- (f) the writing off of debts;
- (g) the preparation of the Public Accounts and other accounts;
- (h) the preparation of estimates;
- (i) the commitment of expenditure;
- (j) the control and management of budget allocations;
- (k) program budgeting and accounting;
- (l) the insurance and protection of public property and other property; and
- (m) controls for computer-based accounting systems.

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(3) A provision of a direction issued under this section may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person, group of persons or body,

or may do any combination of those things.

(4) A direction issued under this section shall not apply to or in respect of—

- (a) the State Bank of New South Wales;
- (b) a university; or
- (c) a person, group of persons or body prescribed for the purposes of this section.

Treasurer's expenditure control authority.

10. (1) The Treasurer may, from time to time, issue a Treasurer's expenditure control authority regulating the expenditure of money from the Consolidated Fund.

(2) A Treasurer's expenditure control authority may—

- (a) be a standing authority regulating the expenditure of money in general terms;
- (b) be limited as to the period during which it may operate to regulate the expenditure of money;
- (c) be limited as to the nature of the transactions in respect of which money may be expended;
- (d) be limited to a particular transaction or series of transactions; or
- (e) be contained in the Treasurer's directions or in a separate instrument.

(3) A reference in this section to the regulation of the expenditure of money includes a reference to the commitment of money for expenditure.

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Internal control and audit.

11. (1) The Head of an authority shall ensure that there is an effective system of internal control over the financial and related operations of the authority, including—

- (a) management policies and requirements made by the provisions of this Act and the prescribed requirements;
- (b) sound practices for the efficient, effective and economical management of functions by each organisational branch or section within the authority;
- (c) a system of authorisation and recording and procedures adequate to provide accounting control in relation to assets, liabilities, receipts and expenses;
- (d) proper segregation of functional responsibilities; and
- (e) procedures to review the adequacy of and compliance with the system of internal control.

(2) Wherever practicable, the Head of an authority shall establish and maintain an effective internal audit organisation which shall be responsible to the Head of an authority for—

- (a) the regular appraisal of the adequacy of and compliance with the system of internal control;
- (b) the review of operations or programs to ascertain whether results are consistent with established objectives and goals and whether the operations or programs are being carried out as planned; and
- (c) the reporting directly at regular intervals to the Head of the authority as to the result of any appraisal, inspection, investigation, examination or review made by the internal audit organisation.

(3) The Head of an authority shall supervise the preparation and maintenance of an accounting manual for use within the authority.

(4) To the extent of any inconsistency between the provisions of the regulations or the Treasurer's directions and the provisions of an accounting manual, the provisions of the regulations or the Treasurer's directions, as the case may require, shall, to the extent of the inconsistency, prevail.

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Commitment, etc., of expenditure.

12. (1) Expenditure shall be committed or incurred by an officer of an authority only within the limits of an authorisation in writing conferred on the officer by a person entitled to confer that authority.

(2) An officer of an authority who commits or incurs expenditure shall be responsible for the exercise of due economy.

(3) An officer of an authority shall not, without the authorisation of the Treasurer, incur any expenditure in relation to a work or service in excess of the amount provided therefor in any item, subdivision, division or vote shown on the Estimates of the Consolidated Fund adopted by an Appropriation Act.

Payment of accounts.

13. An officer of an authority shall not pay an account—

- (a) unless the account has been approved for payment by a person on whom an authorisation under section 12 (1) has been conferred; or
- (b) otherwise than in accordance with the Treasurer's directions.

Unclaimed money.

14. (1) This section does not apply to or in respect of an authority—

- (a) to which the Unclaimed Money Act, 1982, applies; or
- (b) in respect of which, by or under any Act by which the authority is appointed, constituted or regulated, provision is made for the regulation, payment or appropriation of unclaimed money.

(2) Except in so far as the regulations may otherwise provide, money which, by virtue of the office or employment of an officer of an authority, has come into the possession or under the control of the officer for or on account of or for the use or benefit of a person other than the authority and—

- (a) which has been unclaimed for a period of 3 months; or

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- (b) in respect of which a claim has been made but is not, on the expiration of a period of 2 years after the money came into the possession of or under the control of the officer being proceeded with,

shall be paid into the Special Deposits Account.

(3) Money paid into the Special Deposits Account pursuant to subsection (2)—

- (a) which is unclaimed for a period of 2 years after it is so paid; or
(b) in respect of which a claim has been made but is not, on the expiration of a period of 2 years after the money is so paid, being proceeded with,

shall be paid into the Consolidated Fund.

(4) Where the Treasurer is satisfied that a person is entitled to money which has been paid into the Consolidated Fund pursuant to subsection (3), the money is, by virtue of this subsection, appropriated from the Consolidated Fund for the purpose of enabling its payment to the person and the Treasurer may withdraw the money from the Consolidated Fund and pay the money to the person accordingly.

DIVISION 3.—Public banking and investment arrangements.

Agreement with bank.

15. (1) The Treasurer may agree with any bank upon such terms and conditions as the Treasurer may think fit for—

- (a) the receipt, custody, payment and transmission of public money;
(b) the inscription, management and payment of interest on the public debt within or without New South Wales;
(c) the making of advances, the charges relating to advances and the interest payable by or to the bank upon balances or advances; and
(d) the conduct of the banking business of the State generally.

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(2) An agreement referred to in subsection (1) shall not be made to have effect within New South Wales for more than 1 year unless it contains a provision that it may be terminated at any time on the giving of 6 months' notice.

Accounts to be kept in bank.

16. A Public Funds Account, for the banking of the Consolidated Fund, money required or directed to be carried to the Special Deposits Account and such other money as the Treasurer may determine and such other accounts as the Treasurer may open shall be kept in such bank or banks as the Treasurer may in writing direct.

Official account not to be opened without authority.

17. (1) An accounting officer shall not, without the authorisation in writing of the Treasurer, open an account with a bank for the payment or receipt of public money.

(2) A bank shall not, without the authorisation in writing of the Treasurer, permit an accounting officer to open an account referred to in subsection (1), or to have an overdraft on such an account.

Banking of public money.

18. An accounting officer collecting or receiving public money shall bank the money collected or received in accordance with the prescribed requirements.

Interest on accounts.

19. The several accounts of the Treasurer in any bank shall, for interest purposes, be considered as one account.

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Investment of funds.

20. Without limiting any authority granted by or under any other Act to invest money in the Consolidated Fund or other money to which section 16 applies, any such money may be invested—

- (a) on deposit with a bank;
- (b) in the purchase of a bill of exchange that is drawn or accepted by a bank;
- (c) in a loan to a person who is a dealer in the short term money market and in relation to whom, at the time the loan is made, the Reserve Bank of Australia stands as lender of last resort; or
- (d) in the purchase of securities, the repayment of which is guaranteed by the Government of New South Wales or of the Commonwealth and being securities which are repayable not more than 2 years after the date of purchase.

*DIVISION 4.—Appropriation provisions.***Money not to be paid out unless authorised.**

21. Money shall not be drawn from—

- (a) the Consolidated Fund, except under the authority of an Act of Parliament; or
- (b) an account within the Special Deposits Account, except for the purposes of the account and under such authority as may be applicable to the constitution of the account.

Expenditure for certain services or works.

22. (1) Notwithstanding section 21, where, after an Act is passed in respect of a financial year appropriating money out of the Consolidated Fund to meet the requirements of that financial year, the exigencies of Government so require, the Treasurer may, with the approval of the Governor, determine

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that there shall be paid from the Consolidated Fund, in anticipation of appropriation by Parliament, such additional sums as may be necessary in the public interest to provide for expenditure of a recurrent nature or for capital works and services.

(2) Details of the sums paid from the Consolidated Fund pursuant to a determination under subsection (1) shall be included in any Bill introduced with the object of appropriating sums of money for the ordinary annual services of the Government or capital works and services of the Government during the financial year next succeeding the financial year in which the sums were paid from the Consolidated Fund pursuant to the determination.

Lapsing of appropriation of revenue.

23. (1) Except as provided by subsection (2), every appropriation out of the Consolidated Fund for any financial year shall lapse and cease to have any effect for any purpose at the close of that year.

(2) Where, in relation to any appropriation for salaries or wages or payments in the nature of salaries or wages, an amount, not exceeding—

- (a) the total of the sums required to meet so much of those salaries, wages or payments as is chargeable in respect of that part of the pay period current at 30th June in any year which terminates on that day; and
- (b) the total of the sums required to meet so much of those salaries, wages or payments as is, pursuant to a lawful determination made on or before 30th June in any such year, required to meet salaries, wages or payments for that pay period or any pay period occurring before that pay period, or both,

is transferred to the credit of a suspense account within the Special Deposits Account, and the amount so transferred is thereafter applied in or towards meeting those salaries, wages or payments for that pay period or those pay periods, as the case may require, the amount so transferred shall, for the purposes of this section, be deemed to have been applied during the financial year in relation to which the appropriation was made.

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Transfer of functions between Departments, etc.

24. (1) Notwithstanding the provisions of any Appropriation Act, where, after the passing of an Appropriation Act for any financial year the responsibility for a service or function for which an appropriation is made in the Appropriation Act for that year is transferred, the appropriation shall not lapse and may be issued and applied, in accordance with such determination as may be made by the Treasurer, for or towards the service or function the responsibility for which is transferred.

(2) The Treasurer shall lay or cause to be laid before the Legislative Assembly, within 6 sitting days after a determination is made under subsection (1), details of the appropriation the subject of the determination and the part of any item, subdivision, division or vote relating to the service or function the responsibility for which is transferred.

(3) If the Legislative Assembly passes a resolution, of which notice has been given within 6 sitting days of the Legislative Assembly after the details of an appropriation the subject of a determination under subsection (1) have been laid before it, disallowing the appropriation or any part thereof, the appropriation or part thereof ceases to have effect.

(4) For the purposes of this section, sitting days shall be counted whether or not they occur in the same session.

(5) Where the Treasurer has made a determination under subsection (1) in relation to an appropriation, the Treasurer shall prepare the Public Accounts for the financial year in relation to which the determination is made as if the whole of the appropriation in respect of which the determination is made had been applied in accordance with the determination as from the beginning of that financial year.

Payments authorised on lapse of appropriation.

25. If, before the close of any financial year, no Act is passed appropriating money out of the Consolidated Fund to meet the requirements of the next succeeding financial year, the Treasurer may pay such sums as may be necessary to meet those requirements, subject to the following provisions:—

- (a) the authority of the Treasurer under this section shall cease upon the passing of the Appropriation Act for the next succeeding financial year, and shall not extend beyond the period of the first 3 months of that succeeding financial year;

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- (b) upon the passing of the Appropriation Act, all payments made under the authority of this section shall be regarded and treated for all purposes as payments made out of the money appropriated by that Act under the item, subdivision, division or vote appropriate thereto;
- (c) the payments made under the authority of this section in respect of any item, subdivision, division or vote shall not exceed, in total, such amount as would be equivalent to one quarter of the amount appropriated under the Appropriation Act for the immediately preceding financial year in respect of the item, subdivision, division or vote, adjusted by two-thirds of the percentage change in—
- (i) except as provided by subparagraph (ii)—the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician; or
 - (ii) where some other group of numbers or of amounts relating to the price of goods and services, which is issued by the Australian Statistician, is prescribed for the purposes of this subparagraph—the group of numbers or of amounts so prescribed.
- for the quarter of that year commencing on and including 1st January and ending on and including the next succeeding 31st March from the corresponding quarter of the previous year;
- (d) when the estimates of expenditure for that succeeding financial year have been presented to Parliament, and the rate of expenditure in those estimates is, in any case, lower for any item, subdivision, division or vote than the rate of expenditure authorised in the Appropriation Act for the last preceding financial year, the payments made under the authority of this section shall not exceed those lower rates.

Power to vary the annual appropriation.**26. (1) Where the Commonwealth, in any financial year—**

- (a) provides for the making of a specific purpose payment not included in the receipts estimates of the State for the financial year; or

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- (b) provides for an increase in the amount of a specific purpose payment in excess of the amount shown in the revenue estimates of the State for the financial year,

the Treasurer may amend the appropriate receipts and payments estimates of the State for that year as if the Treasurer had received advice from the Commonwealth, at the time those estimates were presented to Parliament, that the specific purpose payment or the increase in the amount of the specific purpose payment, as the case may require, would have been provided to the State by the Commonwealth in that year.

(2) Where, under subsection (1), the Treasurer amends the appropriate revenue and expenditure estimates of the State for a financial year to provide for the making of a specific purpose payment or an increase in the amount of a specific purpose payment, appropriations for that year for the purpose of the specific purpose payment may, as the case may require, be made or increased accordingly.

(3) The Treasurer shall lay or cause to be laid before the Legislative Assembly, within 6 sitting days of the day on which the estimates are amended under subsection (1), a copy of the estimates as so amended.

(4) For the purposes of this section, sitting days shall be counted, whether or not they occur in the same session.

Loan money to be carried to Consolidated Fund.

27. (1) All money borrowed under the authority of any loan Act, except money borrowed by way of overdraft under the authority of clause 5 of Part I of the Financial Agreement solely for temporary purposes, shall be carried to the Consolidated Fund.

(2) Money borrowed by way of overdraft under the authority of clause 5 of Part I of the Financial Agreement solely for temporary purposes shall not be expended except in accordance with the provisions of this or any other Act.

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PART III.

AUDIT.

DIVISION 1.—*The Auditor-General.*

Appointment, etc.

28. (1) The Auditor-General shall be appointed by the Governor.

(2) Part 1 of Schedule 1 has effect.

Declaration of office.

29. (1) The Auditor-General, on being appointed under this Act, shall, before exercising the powers or performing the duties conferred or imposed on the Auditor-General by this Act, make and subscribe, before one of the Judges of the Supreme Court, a declaration in the form of Part 2 of Schedule 1.

(2) The declaration made and subscribed pursuant to subsection (1) shall be kept among the records of the Supreme Court.

Deputy Auditor-General.

30. (1) A Deputy Auditor-General may be appointed by the Governor to act in the office of the Auditor-General at any time while the Auditor-General is absent from office through illness or any other cause or while there is a vacancy in the office of the Auditor-General.

(2) An appointment under subsection (1) may be made whether or not, at the time at which the appointment is made, the Auditor-General is absent from office as referred to in that subsection or there is a vacancy in the office of Auditor-General as so referred to.

(3) Section 29 applies to and in respect of the Deputy Auditor-General in the same way as it applies to and in respect of the Auditor-General.

(4) The Deputy Auditor-General, while acting as referred to in subsection (1), shall be deemed to be the Auditor-General and shall have and may exercise the functions of the Auditor-General.

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(5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of the Auditor-General, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the Auditor-General.

Auditor-General shall communicate with Treasurer.

31. (1) The Auditor-General shall communicate with the Treasurer upon all matters arising under this Act or the prescribed requirements and which, in the opinion of the Auditor-General, are sufficiently significant to be brought to the Treasurer's attention.

(2) The Auditor-General shall transmit to the Treasurer the name of any person failing to comply with any of the provisions of this Act or the prescribed requirements.

(3) Upon the name of a person being transmitted to the Treasurer under subsection (2) and until the failure of that person is made good to the satisfaction of the Auditor-General, the payment of any salary or money due or to become due to that person may, subject to and in accordance with the regulations, be withheld.

Search in public books.

32. The Auditor-General may cause a search to be made in and any extracts to be taken from any book, document or record, in any public office, without paying any fee therefor.

Auditor-General may obtain opinion of law officer.

33. The Auditor-General shall be entitled to lay before the Attorney General or Crown Solicitor a case in writing as to any question regarding the interpretation of this Act, the Constitution Act, 1902, or any other Act, or the prescribed requirements concerning the functions of the Auditor-General and the Attorney General or Crown Solicitor, as the case may be, shall give a written opinion on the case.

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DIVISION 2.—*Audit—Generally.***Duty of Auditor-General.**

34. The Auditor-General shall audit the Public Accounts and such other accounts as the Auditor-General is authorised or required to audit in such manner as the Auditor-General thinks fit having regard to the character and effectiveness of the relevant internal control and recognised professional standards and practices.

Inspection and audit of accounts of accounting officers.

35. (1) The Auditor-General may appoint, in writing, a person, whether or not that person is an officer of an authority, to be an auditor for the purposes of this Act.

(2) The Auditor-General—

(a) may, whenever the Auditor-General thinks fit; and

(b) shall, whenever required by the Treasurer so to do,

inspect, examine and audit, or cause an auditor to inspect, examine and audit, the books and accounts of any accounting officer and of any other person who is subject to the provisions of this Act or the prescribed requirements or whose accounts the Auditor-General is authorised or required to audit and into whose possession or under whose control any public money, other money, public property or other property has come.

(3) An auditor who has made an inspection, examination and audit under subsection (2) shall, as soon as practicable after the inspection, examination and audit, make and sign a report and forward it to the Auditor-General.

(4) The Auditor-General shall, as soon as practicable after any inspection, examination and audit under this section, forward a report of the results of the inspection, examination and audit to the Treasurer.

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Access to records, information, etc.

36. (1) The Auditor-General, an auditor or a person authorised by the Auditor-General—

- (a) for the purposes of any inspection or audit authorised or required to be carried out by the Auditor-General pursuant to this Act or any other law in relation to any person, group of persons, body, fund or account; or
- (b) for the purpose of exercising any other function conferred or imposed on the Auditor-General pursuant to this Act or any other law,

is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of or relating to the person, group of persons, body, fund or account or relating to public money, other money, public property or other property and may make copies thereof or take extracts therefrom.

(2) The Auditor-General, an auditor or a person authorised by the Auditor-General may require an officer of an authority to furnish to the Auditor-General, auditor or authorised person within 14 days after the date on which the requirement is made such information in the possession of the officer or to which the officer has access as the Auditor-General, auditor or authorised person considers necessary for any of the purposes referred to in subsection (1) (a) or (b).

(3) The Auditor-General may, by notice in writing signed by the Auditor-General, require a person named in the notice to appear personally before the Auditor-General at a time and place specified in the notice and to produce to the Auditor-General such books, accounts, records or documents in the possession or under the control of that person as appear to the Auditor-General to be necessary for the purposes of an audit authorised or required to be made by the Auditor-General by or under this Act or any other Act or law.

(4) A person of whom a requirement under subsection (2) or (3) is made shall not fail to comply with the requirement.

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Access to bank records.

37. Where an account for the banking of money (whether public money or other money) of an authority is kept with a bank, the bank or a person in charge of the account shall, whenever requested to do so by the Auditor-General, an auditor or a person authorised by the Auditor-General—

- (a) furnish to the Auditor-General, auditor or authorised person, in accordance with the request, a statement of the account or a certificate as to the balance of the account; and
- (b) produce to the Auditor-General, auditor or authorised person any book, account, record or document relating to the authority and under the custody or control of the bank or person in charge.

Secrecy.

38. (1) The Auditor-General, an auditor and an authorised person shall preserve and aid in preserving secrecy with respect to all matters and things that come to the knowledge of the Auditor-General, auditor or authorised person in the exercise of the functions of the Auditor-General, auditor or authorised person under this Act and the prescribed requirements and shall not communicate to any person any such matter or thing.

(2) Nothing in subsection (1) applies to or in respect of—

- (a) the conduct of any matter necessary for the proper administration of this Act or the prescribed requirements;
- (b) proceedings for an offence relating to public money, other money, public property or other property or for the recovery of public money, other money, public property or other property;
- (c) disciplinary proceedings brought against an officer of an authority;
or
- (d) a report or communication authorised or required to be made by or under this Act or the prescribed requirements.

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DIVISION 3.—*General audit of statutory bodies.***Application and interpretation.**

39. (1) A reference in this Division to a statutory body is a reference to a person, group of persons or body specified in Schedule 2.

(2) A reference in this Division to a Minister, in relation to a statutory body, is a reference to the Minister having the administration of the Act by or under which the statutory body is appointed, constituted or regulated.

(3) The provisions of this Division are in addition to any other statutory provisions relating to the accounts or audit of a statutory body but, in the event of any inconsistency between the provisions of this Division and any other such statutory provisions, the provisions of this Division shall, to the extent of the inconsistency, prevail.

(4) Nothing in this Division limits or derogates from the provisions of Division 2.

Amendment of Schedule 2.

40. (1) The Governor may, by proclamation published in the Gazette, amend Schedule 2—

- (a) by inserting therein the name of a person, group of persons or body appointed, constituted or regulated by or under an Act;
- (b) where, pursuant to an Act, the name of any such person, group of persons or body is altered or other matter relating to any such person, group of persons or body is altered, by altering that name or that other matter; or
- (c) where, pursuant to an Act, any such person, group of persons or body ceases to be appointed, constituted or regulated by or under an Act or, in the case of a body, is abolished or dissolved, by omitting therefrom the name of the person, group of persons or body.

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(2) Notwithstanding subsection (1), the Governor may, by regulation, amend Schedule 2 by omitting therefrom the name of a person, group of persons or body.

Keeping of accounts and preparation of statement of accounts.

41. (1) A statutory body shall cause to be kept proper accounts and records in relation to all of its operations

(2) Without limiting the generality of subsection (1), a statutory body, being the Senate or Council of a university, shall cause to be kept proper books of account in relation to the funds of the university.

(3) A statutory body shall, as soon as practicable, but within 4 months, after the end of each financial year of the body, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

(4) The statement of accounts caused to be kept by a statutory body—

- (a) shall be in a form approved by the Auditor-General (having regard to current accounting standards and industry practices relating to the statutory body);
- (b) shall include such information as is requested by the Auditor-General; and
- (c) shall exhibit a true and fair view of the financial position and transactions of the statutory body and, in the case of a statutory body being the Senate or Council of a university, of the university.

(5) The statutory body shall, as soon as practicable, but within 6 weeks, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(6) The Auditor-General's certificate—

- (a) shall state that the Auditor-General has audited the accounts of, or caused to be kept by, the statutory body relating to the relevant financial year;

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- (b) shall indicate whether the statement of accounts complies with subsection (4); and
- (c) shall set forth any qualifications subject to which the certificate is given.

(7) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by the Auditor-General and before its submission to the Minister.

(8) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by the Minister of the statement.

Application for extension.

42. (1) A statutory body may, at any time within the period of 6 weeks after the end of the financial year of the body, apply to the Treasurer for an extension of the period within which it is required to comply with section 41 (3) or (5).

(2) An application under subsection (1) shall include detailed reasons and other relevant information in support of the application.

(3) The Treasurer may, after consultation with the appropriate Minister and the Auditor-General, extend a period within which a statutory body is required to comply with section 41 (3) or (5).

(4) Where, in relation to a statutory body, the Treasurer extends a period within which a statutory body is required to comply with section 41 (3) or (5), the body shall comply with section 41 (3) or (5), as the case may require, within the extended period.

Inspection and audit of accounts of statutory bodies.

43. (1) The accounts and records of financial transactions of or relating to a statutory body, and the records of or relating to assets of or in the custody of the body or the liabilities of the body, shall be inspected and audited by the Auditor-General.

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(2) The Auditor-General shall report to the statutory body, the Minister and the Treasurer as to the result of any such inspection and audit and as to such irregularities or other matters as in the judgment of the Auditor-General call for special notice.

(3) Towards defraying the costs and expenses of any such inspection and audit, the statutory body shall pay to the Consolidated Fund such amounts, at such times, as the Treasurer decides.

DIVISION 4.—Particular audit of statutory bodies, funds and accounts.

Application and interpretation.

44. (1) A reference in this Division to a statutory body is a reference to—

- (a) a person, group of persons or body prescribed for the purposes of this Division; or
- (b) a person, group of persons or body having the control or management of a fund or account, being a fund or account which is prescribed for the purposes of this Division.

(2) A reference in this Division to a Minister, in relation to a statutory body, is a reference to the Minister having the administration of the Act by or under which the statutory body is appointed, constituted or regulated.

(3) Nothing in this Division limits or derogates from the provisions of Division 2.

Particular audit.

45. (1) The Auditor-General shall, in accordance with the request of the Treasurer, a Minister or a person prescribed for the purposes of this section in relation to a statutory body, inspect and audit the accounts and records of financial transactions of or relating to—

- (a) in the case of a statutory body to which section 44 (1) (a) applies—the statutory body and the records of or relating to assets of or in the custody of the body; and

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(b) in the case of a statutory body to which section 44 (1) (b) applies —the fund or account under the control or management of the statutory body.

(2) The Auditor-General shall report to the statutory body, the Minister, the Treasurer and any person prescribed for the purposes of this section in relation to the statutory body as to the result of any such inspection and audit and as to such irregularities or other matters as in the judgment of the Auditor-General call for special notice.

(3) Towards defraying the costs and expenses of any such inspection and audit, the statutory body shall pay to the Consolidated Fund such amounts, at such times, as the Treasurer decides.

DIVISION 5.—*Audit of the Auditor-General's Office.*

Interpretation.

46. In this Division, "auditor" means the auditor appointed for the time being by the Governor under section 47 (1).

Appointment and functions of auditor.

47. (1) The Governor may, in relation to a financial year, appoint a registered company auditor within the meaning of the Companies (New South Wales) Code to inspect and audit the books and accounts relating to the administration, during the financial year, of the Auditor-General's Office.

(2) For the purposes of subsection (1), the auditor shall have and may exercise, in relation to the Auditor-General's Office, the same functions as the Auditor-General has under this Act in relation to an audit of public money.

Auditing of accounts.

48. (1) The auditor shall inspect and audit the books and accounts relating to the administration, during the financial year in respect of which the auditor is appointed, of the Auditor-General's Office.

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(2) On completion of the audit, the auditor shall furnish a certificate in respect of the audit to the Auditor-General and shall furnish a copy of the certificate to the Treasurer.

(3) The Auditor-General shall include a copy of the certificate furnished to the Auditor-General under subsection (2) in the report prepared under section 49 (1) for the financial year to which the certificate relates.

*DIVISION 6.—Auditor-General's annual report.***Examination by Auditor-General of Public Accounts.**

49. (1) The Auditor-General shall examine the Public Accounts transmitted to the Auditor-General by the Treasurer in accordance with section 6 (4) and shall prepare and sign a full report stating whether in the opinion of the Auditor-General the accounts are properly drawn up in accordance with this Act and accord with the accounts and records of the Treasurer.

(2) The report prepared in accordance with subsection (1) shall include full particulars in every case in which the provisions of this or any other Act or the prescribed requirements have not been carried out or adopted or have in any manner been varied or departed from and which, in the opinion of the Auditor-General, are sufficiently material to the financial position disclosed in the accounts as to be brought to the attention of the Legislative Assembly.

Annexures to report of Auditor-General.

50. The Auditor-General shall annex or append to the report prepared in accordance with section 49 (1) a copy of every case laid by the Auditor-General before the Attorney General for an opinion under section 33, together with a copy of the opinion given on the case.

Public Accounts and reports to be transmitted to the Legislative Assembly.

51. (1) The Auditor-General shall, as soon as practicable after receiving from the Treasurer the Public Accounts, but not later than 30th September in the year following that to which the Public Accounts relate, transmit the

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Public Accounts to the Legislative Assembly, if the Legislative Assembly is then sitting, accompanied by the report of the Auditor-General and copies of such opinions, if any, as are directed to be annexed or appended to the Auditor-General's report under section 50.

(2) If, at the time at which the Auditor-General seeks to transmit the Public Accounts to the Legislative Assembly in accordance with subsection (1), the Legislative Assembly is not sitting, the Auditor-General shall transmit the Public Accounts to the Clerk of the Legislative Assembly.

(3) Where the Auditor-General has, in accordance with subsection (2), transmitted the Public Accounts to the Clerk of the Legislative Assembly, the Public Accounts, the report of the Auditor-General accompanying the Public Accounts and copies of such opinions, if any, as are directed to be annexed or appended to the Auditor-General's report under section 50 shall—

- (a) be deemed to have been transmitted to the Legislative Assembly and to have been laid before the Legislative Assembly;
- (b) be printed by authority of the Clerk of the Legislative Assembly;
- (c) be deemed to be a document published by order or under the authority of the Legislative Assembly; and
- (d) be recorded in the Votes and Proceedings of the Legislative Assembly on the first sitting day of the Legislative Assembly after receipt of the Public Accounts by the Clerk of the Legislative Assembly.

Suggestions by Auditor-General.

52. The Auditor-General may, in the annual report of the Auditor-General or in any special report which the Auditor-General may at any time think fit to make, recommend any plans and make any suggestions for the better collection and payment of public money, and for more effectually and economically auditing and examining the Public Accounts and the accounts of statutory bodies to which Division 3 or 4 applies, and may generally report on any matter arising from audit which in the opinion of the Auditor-General should be brought to the attention of Parliament.

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PART IV.

THE PUBLIC ACCOUNTS COMMITTEE.

Interpretation.

53. In this Part—

“authority of the State” means—

- (a) a statutory body representing the Crown; or
- (b) a person, group of persons or body appointed, constituted or regulated by or under an Act the accounts of which are, pursuant to this Act or any other law, required or authorised to be audited by the Auditor-General or an auditor appointed under section 47 (1) or to be laid before the Legislative Assembly;

“Chairman” means the Chairman of the Committee;

“Committee” means the Public Accounts Committee for the time being constituted under this Part;

“Vice-Chairman” means the Vice-Chairman of the Committee.

Constitution of Public Accounts Committee.

54. (1) As soon as practicable after the commencement of the first session of each Parliament, a committee of members of the Legislative Assembly, to be known as the Public Accounts Committee, shall be appointed.

(2) The Committee shall consist of 5 members.

(3) The appointment of members of the Committee shall be in accordance with the practice of the Legislative Assembly with respect to the appointment of members to serve on select committees of the Legislative Assembly.

(4) A member of the Legislative Assembly is not eligible for appointment as a member of the Committee if the member is a Minister of the Crown or a Parliamentary Secretary.

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(5) A member of the Committee ceases to hold office—

- (a) when the Legislative Assembly is dissolved or expires by the effluxion of time;
- (b) if the member becomes a Minister of the Crown or a Parliamentary Secretary;
- (c) if the member ceases to be a member of the Legislative Assembly;
- (d) if the member resigns the office by instrument in writing addressed to the Speaker of the Legislative Assembly; or
- (e) if the member is discharged from office by the Legislative Assembly.

(6) The Legislative Assembly may appoint one of its members (not being a Minister of the Crown or a Parliamentary Secretary) to fill a vacancy in the office of a member of the Committee.

(7) Any act or proceeding of the Committee is, notwithstanding that at the time when the act or proceeding was done, taken or commenced there was—

- (a) a vacancy in the office of a member of the Committee; or
- (b) any defect in the appointment, or any disqualification, of a member of the Committee,

as valid as if the vacancy, defect or disqualification did not exist and the Committee were fully and properly constituted.

Chairman and Vice-Chairman of Committee.

55. (1) There shall be a Chairman and a Vice-Chairman of the Committee who shall be elected by and from the members of the Committee.

(2) A member of the Committee ceases to hold office as Chairman or Vice-Chairman if—

- (a) the member ceases to be a member of the Committee;
- (b) the member resigns the office by instrument in writing presented to a meeting of the Committee; or
- (c) the member is discharged from the office by the Committee.

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(3) At any time when the Chairman is absent from New South Wales or is, for any reason, unable to perform the duties of the office of Chairman or there is a vacancy in that office, the Vice-Chairman may exercise the functions of the Chairman under this Act or under the Parliamentary Evidence Act, 1901.

Procedure of Committee.

56. (1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Part, be as determined by the Committee.

(2) The Clerk of the Legislative Assembly shall call the first meeting of the Committee in each Parliament in such manner as the Clerk thinks fit.

(3) At a meeting of the Committee, 3 members constitute a quorum.

(4) The Chairman or, in the absence of the Chairman, the Vice-Chairman or, in the absence of both the Chairman and Vice-Chairman, a member of the Committee elected as chairman for the meeting by the members present shall preside at a meeting of the Committee.

(5) The Vice-Chairman or other member presiding at a meeting of the Committee shall, in relation to the meeting, have all the functions and powers of the Chairman.

(6) The Chairman, Vice-Chairman or other member presiding at a meeting of the Committee shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(7) A question arising at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting.

(8) The Committee may sit and transact business notwithstanding any prorogation or adjournment of the Legislative Assembly.

(9) The Committee shall not sit or transact business on a sitting day of the Legislative Assembly during the time of the sitting, except by leave of the Legislative Assembly.

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Functions of Committee.

57. (1) The functions of the Committee are—
- (a) to examine the Public Accounts transmitted to the Legislative Assembly by the Auditor-General;
 - (b) to examine the accounts of authorities of the State, being accounts that have been—
 - (i) audited by the Auditor-General or an auditor appointed under section 47 (1); or
 - (ii) laid before the Legislative Assembly by a Minister of the **Crown**;
 - (c) to examine the reports of the Auditor-General transmitted with the Public Accounts or laid before the Legislative Assembly with the accounts of an authority of the State (including any documents annexed or appended to those reports);
 - (d) to report to the Legislative Assembly from time to time upon any item in, or any circumstances connected with, those accounts, reports or documents which the Committee considers ought to be brought to the notice of the Legislative Assembly;
 - (e) to report to the Legislative Assembly from time to time any alteration which the Committee thinks desirable in the form of those accounts or in the method of keeping them or in the method of receipt, expenditure or control of money relating to those accounts;
 - (f) to inquire into, and report to the Legislative Assembly upon, any question in connection with those accounts which is referred to it by the Legislative Assembly, a Minister of the Crown or the Auditor-General; and
 - (g) to inquire into expenditure by a Minister of the Crown made without Parliamentary sanction or appropriation or otherwise than in accordance with the provisions of this Act or any other Act and report to the Legislative Assembly from time to time upon any matter connected with that expenditure which the Committee considers ought to be brought to the notice of the Legislative Assembly.

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(2) The functions of the Committee extend to an examination of, inquiry into or report upon a matter of Government policy if and only if the matter has been specifically referred to the Committee under subsection (1) (f) by the Legislative Assembly or a Minister of the Crown.

(3) The functions of the Committee do not extend to an examination of, inquiry into or report upon the estimates of any proposed expenditure by the State or by an authority of the State.

(4) If, at the time at which the Committee seeks to report to the Legislative Assembly in accordance with subsection (1), the Legislative Assembly is not sitting, the Committee shall transmit its report to the Clerk of the Legislative Assembly.

(5) Where the Committee has, in accordance with subsection (4), transmitted a report to the Clerk of the Legislative Assembly, the report shall—

- (a) be deemed to have been transmitted to the Legislative Assembly and to have been laid before the Legislative Assembly;
- (b) be printed by authority of the Clerk of the Legislative Assembly;
- (c) be deemed to be a document published by order or under the authority of the Legislative Assembly; and
- (d) be recorded in the Votes and Proceedings of the Legislative Assembly on the first sitting day of the Legislative Assembly after receipt of the report by the Clerk of the Legislative Assembly.

Evidence.

58. (1) Subject to this section, the Committee shall take all evidence in public.

(2) Where, in the opinion of the Committee, any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Committee relates to a secret or confidential matter, the Committee may, and at the request of the witness giving the evidence or producing the document shall—

- (a) take the evidence in private; or

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- (b) direct that the document, or the part of the document, be treated as confidential.

(3) Where a direction under subsection (2) is applicable in respect of a document, or a part of a document, produced in evidence to the Committee, the contents of the document or part shall, for the purposes of this section, be deemed to be evidence given by the person producing the document and taken by the Committee in private.

(4) Where, at the request of a witness, evidence is taken by the Committee in private—

- (a) the Committee shall not, without the consent in writing of the witness; and
- (b) a person (including a member of the Committee) shall not, without the consent in writing of the witness and the authority of the Committee under subsection (6),

disclose or publish the whole or a part of that evidence.

Penalty: \$2,000 or imprisonment for a term not exceeding 3 months.

(5) Where evidence is taken by the Committee in private otherwise than at the request of a witness, a person (including a member of the Committee) shall not, without the authority of the Committee under subsection (6), disclose or publish the whole or a part of that evidence.

Penalty: \$2,000 or imprisonment for a term not exceeding 3 months.

(6) The Committee may, in its discretion, disclose or publish or, by writing under the hand of the Chairman, authorise the disclosure or publication of evidence taken in private by the Committee, but this subsection does not operate so as to affect the necessity for the consent of a witness under subsection (4).

(7) Nothing in this section prohibits—

- (a) the disclosure or publication of evidence that has already been lawfully published; or
- (b) the disclosure or publication by a person of a matter of which the person has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Committee.

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(8) This section has effect notwithstanding section 4 of the Parliamentary Papers (Supplementary Provisions) Act, 1975.

(9) Where evidence taken by the Committee in private is disclosed or published in accordance with this section—

- (a) sections 6 and 7 of the Parliamentary Papers (Supplementary Provisions) Act, 1975, apply to and in relation to the disclosure or publication as if it were a publication of that evidence under the authority of section 4 of that Act; and
- (b) Division 5 of Part III of, and Schedule 2 to, the Defamation Act, 1974, apply to and in relation to that evidence as if it were taken by the Committee in public.

(10) Where the Committee as constituted at any time has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken that evidence.

(11) The production of documents to the Committee shall be in accordance with the practice of the Legislative Assembly with respect to the production of documents to select committees of the Legislative Assembly.

PART V.

MISCELLANEOUS.

Form of accounts, etc.

59. (1) A book, account or record that is required by this Act or the prescribed requirements to be kept or prepared may be kept or prepared—

- (a) by making entries in a bound or looseleaf book;

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(b) by recording or storing the matters concerned by means of a mechanical, electronic or other device; or

(c) in any other manner approved by the Treasurer.

(2) Subsection (1) does not authorise a book, account or record to be kept or prepared by a mechanical, electronic or other device unless—

(a) the matters recorded or stored will be capable, at any time, of being reproduced in a written form or another form approved by the Treasurer; or

(b) a reproduction of those matters is kept in a written form approved by the Treasurer.

(3) An authority shall take all reasonable precautions, including such precautions (if any) as are specified in the prescribed requirements, for guarding against damage to, destruction of or falsification of or in, and for discovery of falsification of or in, any book, account or record or part of a book, account or record required by this Act or the prescribed requirements to be kept or prepared by the authority.

(4) Where an authority records or stores any matters by means of a mechanical, electronic or other device, any duty imposed by this Act or the prescribed requirements to make a book, account or record containing those matters available for inspection or to provide copies of the whole or part of a book, account or record containing those matters shall be construed as a duty to make the matters available for inspection in written form or to provide a document containing a clear reproduction in writing of the whole or part of them, as the case may be.

(5) A writing that purports to reproduce matters recorded or stored by means of a mechanical, electronic or other device shall, unless the contrary is established, be deemed to be a reproduction of those matters.

Recovery of money and value of property.

60. (1) Where there occurs a loss of or deficiency in—

(a) public money or other money that has been advanced to an officer of an authority; or

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- (b) public money or other money while that money is under the control of an officer of an authority,

that loss or deficiency shall be a debt due to the Crown or the authority, as the case may require, and may be recovered from the officer in a court of competent jurisdiction.

(2) Where an officer of an authority defends an action brought under subsection (1), the plaintiff is entitled to judgment if, in the absence of proof to the contrary, the plaintiff proves—

- (a) that the defendant was an officer of the authority;
- (b) that the money the subject of the action was under the control of the defendant; and
- (c) that the defendant converted the money to the defendant's own use or was guilty, by act or omission, of culpable negligence or misconduct in relation to the control the defendant exercised over the money.

(3) Where loss or destruction of or damage to public property or other property occurs while the property is in the care of an authority, the value of the property lost or destroyed or, as the case may be, the cost of replacing or repairing the damage to that property shall be a debt due to the Crown or the authority, as the case may require, and may be recovered in a court of competent jurisdiction by action brought against—

- (a) the officer of the authority in whose care the property was at the material time; or
- (b) another officer of the authority who by culpable negligence or misconduct caused or contributed to the loss or destruction of or damage to the property.

(4) Where an officer of an authority defends an action brought under subsection (3), the plaintiff is entitled to judgment if, in the absence of proof to the contrary, the plaintiff proves—

- (a) that the defendant was an officer of the authority; and
- (b) that the defendant converted the property the subject of the action to the defendant's own use or by culpable negligence or misconduct caused or contributed to the loss or destruction of or damage to the property.

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(5) Where the negligence or misconduct of an officer of an authority was not the sole cause of the loss or destruction of or damage to the property the subject of an action under subsection (3), the Crown or the authority, as the case may require, may recover from the officer so much only of the cost of, or the cost of replacing or repairing, the loss, destruction or damage as is just and equitable having regard to the contribution made by the officer to that loss, destruction or damage as determined by the court.

(6) In this section a reference to an officer of an authority includes a reference to a person who has been such an officer.

(7) For the purposes of this section—

- (a) public money or other money shall be taken to be under the control of an officer of an authority if the money has been collected or received by or has come into the custody of the officer but has not been paid to another person or to the credit of a bank account as required by the provisions of this Act or the prescribed requirements; and
- (b) public property or other property shall be taken to be in the care of an officer of an authority if the property—
 - (i) has been delivered to the officer; and
 - (ii) has not been returned to a person or delivered to another person entitled to receive it on behalf of the Crown or the authority, as the case may require.

(8) The provisions of this section do not affect a right of the Crown or an authority to recover an amount from an officer of an authority otherwise than under this section but the Crown or the authority, as the case may require, shall not recover amounts from the one officer both under this section and otherwise than under this section, in respect of the same loss, deficiency, destruction or damage.

Misappropriation of money or property.

61. (1) An officer of an authority shall not—

- (a) misapply, improperly dispose of or improperly use, any public money, other money, public property or other property; or
- (b) pay any public money or other money into an account other than the account into which the money is required to be paid.

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(2) An officer of an authority shall not wilfully and unlawfully damage or destroy any public property or other property.

(3) In a prosecution for an offence against subsection (1) (a), it is not necessary to prove the misapplication, improper disposal or improper use of any specific sum of money or property if there is proof of a general deficiency on the examination of the books of account or entries kept or made by the defendant or otherwise and the court or jury is satisfied that the defendant misapplied, improperly disposed of or improperly used all or any of the deficient money or all or any of the deficient property.

Offences—generally.

62. A person who contravenes or fails to comply with any provision of this Act or the prescribed requirements is guilty of an offence and liable, where a penalty is not otherwise expressly provided, to a penalty not exceeding \$2,000.

Proceedings for offences.

63. (1) Proceedings for an offence against a provision of this Act or the prescribed requirements shall be disposed of in a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) A penalty incurred under this Act or the prescribed requirements, when paid or recovered, shall be paid into the Consolidated Fund.

Regulations.

64. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) A provision of a regulation may—

(a) apply generally or be limited in its application by reference to specified exceptions or factors;

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- (b) apply differently according to different factors of a specified kind;
or
- (c) authorise any matter or thing to be from time to time determined,
applied or regulated by any specified person, group of persons or
body,

or may do any combination of those things.

SCHEDULE 1.

(Sec. 28 (2).)

THE AUDITOR-GENERAL.

PART 1.

APPOINTMENT AND TERMS OF OFFICE.

Ineligibility by reason of age.

1. A person who is of or above the age of 65 years is not eligible to be appointed as the Auditor-General.

Disabilities.

2. The Auditor-General shall not, during continuance in office as Auditor-General, be capable of being a member of the Executive Council or of the Parliament of the Commonwealth or of a State of the Commonwealth.

Term of office.

3. The Auditor-General shall hold office during good behaviour until attaining the age of 65 years.

Public Service Act, 1979, not to apply.

4. The provisions of the Public Service Act, 1979, do not apply to or in respect of the appointment of the Auditor-General and the Auditor-General is not, as the Auditor-General, subject to the provisions of that Act.

Removal from office.

5. The Governor may remove the Auditor-General from office upon the address of both Houses of the Legislature.

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SCHEDULE 1—*continued.*THE AUDITOR-GENERAL—*continued.***Suspension from office.**

6. (1) The Governor may suspend the Auditor-General from office—
- (a) for misbehaviour;
 - (b) for incapacity;
 - (c) if the Auditor-General directly or indirectly engages in any paid employment outside the duties of the office of Auditor-General, or in any trade or business;
 - (d) if the Auditor-General becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or
 - (e) if, except on leave granted by the Governor, the Auditor-General absents himself or herself from duty for 14 consecutive days, or for 28 days in any period of 12 consecutive months.

(2) The Minister shall lay or cause to be laid before each House of Parliament, within 7 sitting days of that House after the Auditor-General has been suspended from office, a full statement of the grounds for the suspension.

(3) The suspension shall be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the Auditor-General ought to be removed from office.

(4) If each House does so declare within that period, the Auditor-General shall be removed from office by the Governor.

(5) For the purposes of this section, sitting days shall be counted whether or not they occur in the same session.

Preservation of rights of Auditor-General previously public servant, etc.

7. (1) In this clause—

“statutory body” means any body declared under subclause (6) to be a statutory body for the purposes of this clause;

“superannuation scheme” means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under any Act.

(2) Subject to subclause (3) and to the terms of appointment, where the Auditor-General was, immediately before being appointed as Auditor-General—

- (a) an officer of the Public Service or a Teaching Service;
- (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or

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SCHEDULE 1—*continued.*THE AUDITOR-GENERAL—*continued.*

(d) a person in respect of whom provision was made by any Act for the retention of any rights accrued or accruing to the person as an officer or employee, he or she—

- (e) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being appointed as Auditor-General; and
- (g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he or she had continued to be such an officer, contributor or person during his or her service as Auditor-General, and—

- (h) his or her service as Auditor-General shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he or she continues to contribute or by which that entitlement is conferred; and
- (i) he or she shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be the employer, for the purpose of the superannuation scheme to which he or she is entitled to contribute under this section.

(3) If the Auditor-General would, but for this subclause, be entitled under subclause (2) to contribute to a superannuation scheme or to receive any payment, pension or gratuity under that scheme, he or she shall not be so entitled upon becoming (whether upon appointment as Auditor-General or at any later time while holding office as Auditor-General) a contributor to any other superannuation scheme, and the provisions of subclause (2) (i) cease to apply to or in respect of him or her and the Government of New South Wales in any case where he or she becomes a contributor to such another superannuation scheme.

(4) Subclause (3) does not prevent the payment to the Auditor-General upon his or her ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him or her if he or she had ceased, by reason of resignation, to be an officer or employee for the purposes of that scheme.

(5) The Auditor-General shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(6) The Governor may, by proclamation published in the Gazette, declare any body constituted by or under any Act to be a statutory body for the purposes of this section.

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SCHEDULE 1—*continued.*

THE AUDITOR-GENERAL—*continued.*

PART 2.

(Sec. 29 (1).)

AUDITOR-GENERAL'S DECLARATION.

I, _____, do solemnly and sincerely promise and declare that, according to the best of my skill and ability, I will faithfully, impartially and truly execute the office and perform the duties of Auditor-General according to law.

(Signature)

SCHEDULE 2.

(Sec. 39 (1).)

STATUTORY BODIES.

Administrator of the Fish River Water Supply.
Administrator of the South-west Tablelands Water Supply.
Albury-Wodonga (New South Wales) Corporation.
Archives Authority of New South Wales.
Art Gallery of New South Wales Trust.
Australian Museum Trust.

Banana Marketing Control Committee.
Barristers Admission Board formed under section 4 of the Legal Practitioners Act, 1898.
Board of Architects of New South Wales.
Board of Governors of the New South Wales State Conservatorium of Music.
Board of Optometrical Registration.
Board of Surveyors of New South Wales.
Board of Veterinary Surgeons of New South Wales.
Broken Hill Water Board.
Builders Licensing Board.
Building and Construction Industry Long Service Payments Corporation.
Bursary Endowment Board.

Chiropodists Registration Board.
Chiropractors Registration Board.
Chipping Norton Lake Authority.
Coastal Council of New South Wales.
Cobar Water Board.

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SCHEDULE 2—*continued.*STATUTORY BODIES—*continued.*

A college of advanced education constituted under section 5 of the Colleges of Advanced Education Act, 1975.

Commissioner for Main Roads, being the corporation sole constituted under section 4A (1) of the Main Roads Act, 1924.

Corporate Affairs Commission.

A corporation constituted under the Growth Centres (Development Corporations) Act, 1974.

Council of Auctioneers and Agents.

Council of Law Reporting.

Council of the Macquarie University.

Council of the University of New England.

Council of the University of New South Wales.

Council of the University of Newcastle.

Council of the University of Wollongong.

Dairy Industry Marketing Authority.

Dams Safety Committee.

Dental Board.

Dental Technicians Registration Board.

Drug and Alcohol Authority of New South Wales.

Dumaresq-Barwon Border Rivers Commission.

Education Commission of New South Wales.

Election Funding Authority of New South Wales.

Electricity Commission of New South Wales.

Energy Authority of New South Wales.

Fish Marketing Authority.

Forestry Commission of New South Wales.

Government Insurance Office of New South Wales.

Grain Handling Authority of New South Wales.

Heritage Council of New South Wales.

Historic Houses Trust of New South Wales.

Homebush Abattoir Corporation.

Housing Commission of New South Wales.

Hunter District Water Board.

Hunter Valley Conservation Trust.

Insurance Premiums Committee constituted under the Workers' Compensation Act, 1926.

Joint Committee established under paragraph 30 of the Schedule to the Workmen's Compensation (Broken Hill) Act, 1920.

Land Commission of New South Wales.

Legal Services Commission of New South Wales.

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SCHEDULE 2—*continued.*STATUTORY BODIES—*continued.*

Library Council of New South Wales.
Liquor Administration Board.
Local Government Superannuation Board.
Lord Howe Island Board.

Main Roads Board of New South Wales.
Maritime Services Board of New South Wales.
A marketing board constituted under the Marketing of Primary Products Act, 1927.
Metropolitan Waste Disposal Authority.
Metropolitan Water Sewerage and Drainage Board.
Mine Subsidence Board.
Mines Rescue Board.
Minister administering the Environmental Planning and Assessment Act, 1979, being the corporation sole constituted under section 8 (1) of the Environmental Planning and Assessment Act, 1979.
Motor Vehicle Repair Industry Council.

New South Wales Aboriginal Land Council.
New South Wales Dried Fruits Board.
New South Wales Egg Corporation.
New South Wales Film Corporation.
New South Wales Institute of Psychiatry.
New South Wales Meat Industry Authority.
New South Wales Medical Board.
New South Wales Retirement Board.
New South Wales Science and Technology Council.
New South Wales State Cancer Council.
New South Wales Treasury Corporation.
Nominal defendant.
Nurses Registration Board.

Officer in charge of the State Brickworks.
Officer in charge of the State Tileworks.
Optical Dispensers Licensing Board.

Pathology Laboratories Accreditation Board.
Pharmacy Board of New South Wales.
Physiotherapists Registration Board.
Plumbers, Gasfitters and Drainers Board.
Police Superannuation Board.
Poultry Farmer Licensing Committee.
Public Accountants Registration Board.
Public Servant Housing Authority of New South Wales.
Public Trustee.

Railway Service Superannuation Board, being the Board constituted under Part IX of the Government Railways Act, 1912.

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SCHEDULE 2—*continued.*STATUTORY BODIES—*continued.*

- Real Estate Valuers Registration Board.
 Reclamation Trust.
 A Regional Aboriginal Land Council constituted under the Aboriginal Land Rights Act, 1983.
 Rental Bond Board.
 Royal Botanic Gardens and Domain Trust.
 Senate of the University of Sydney.
 Soil Conservation Commission of New South Wales.
 Solicitors Admission Board formed under section 12A of the Legal Practitioners Act, 1898.
 Sporting Injuries Committee.
 State Bank of New South Wales.
 State Mines Control Authority.
 State Dockyard Board of New South Wales.
 State Pollution Control Commission.
 State Rail Authority of New South Wales.
 State Superannuation Board.
 Superannuation Tribunal constituted under the Coal and Oil Shale Mine Workers (Superannuation) Act, 1941.
 Sydney County Council.
 Sydney Cove Redevelopment Authority.
 Sydney Cricket and Sports Ground Trust.
 Sydney Farm Produce Market Authority.
 Sydney Opera House Trust.
- Teacher Housing Authority of New South Wales.
 The Minister, Aboriginal Land Rights Act, 1983, being the corporation sole constituted by section 50 (1) of the Aboriginal Land Rights Act, 1983.
 Totalizator Agency Board.
 Traffic Authority of New South Wales.
 Travel Agents Registration Board.
 Trotting Authority of New South Wales.
 Trustees of a Fund or Funds specified in an order published in the *Gazette* for the purposes of section 3 or 6 of the *Technical Education Trust Funds Act, 1967*.
 Trustees of the Anzac Memorial Building.
 Trustees of the Farrer Memorial Research Scholarship Fund.
 Trustees of the Museum of Applied Arts and Sciences.
 Trustees of the Parliamentary Contributory Superannuation Fund.
- Under Secretary of the Department of the Attorney-General and of Justice, being the corporation sole constituted under section 4 (1) of the *Suitors' Fund Act, 1951*.
 Urban Transit Authority of New South Wales.
- Water Resources Commission.
 West Scholarships Trustees.

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SCHEDULE 2—*continued.*

STATUTORY BODIES—*continued.*

Wild Dog Destruction Board.
Workers' Compensation (Dust Diseases) Board.
Workers' Compensation Commission of New South Wales.
Zoological Parks Board of New South Wales.
