

TREASURY CORPORATION ACT, 1983, No. 75

New South Wales



ANNO TRICESIMO SECUNDO

ELIZABETHÆ II REGINÆ

Act No. 75, 1983.

An Act to constitute the New South Wales Treasury Corporation and to confer upon it functions as a central borrowing authority providing financial accommodation and other financial services for public authorities and other persons. [Assented to, 4th May, 1983.]

See also Public Authorities (Financial Accommodation) 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:—

Short title.

1. This Act may be cited as the "Treasury Corporation Act, 1983".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

- (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*.

Interpretation.

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

“appointed day” means the day appointed and notified under section 2 (2);

“Corporation” means the New South Wales Treasury Corporation constituted by section 4;

“financial accommodation” has the same meaning as it has in the funding Act;

“function” includes power and duty;

“funding Act” means the Public Authorities (Financial Accommodation) Act, 1981;

“Manager” means the person who, by the operation of section 4 (2), manages the Corporation;

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“public authority” means a corporation, other than the New South Wales Treasury Corporation, specified in Schedule 4, 5, 6 or 7 of the funding Act.

(2) In this Act, a reference to the performance of a function includes, where the function is a power or duty, a reference to the exercise of the power or performance of the duty.

(3) Clause 1 of Schedule 3 to the funding Act does not, except to the extent (if any) that the Treasurer otherwise directs, apply to or in respect of the Corporation.

New South Wales Treasury Corporation.

4. (1) There is hereby constituted a corporation with the corporate name “New South Wales Treasury Corporation”.

(2) The person for the time being holding or acting in the office of Secretary and Comptroller of Accounts in the Treasury shall, as part of the duties of that office, manage the Corporation.

(3) The Corporation shall have a seal which may be affixed by the Manager, or by an officer referred to in subsection (8) who is authorised by the Manager to affix the seal either generally or in a particular case or class of cases, and the Manager or officer so authorised shall attest by his signature the fact and date of the seal being so affixed.

(4) Section 38 (I) (b) and (II) of the Interpretation Act, 1897, does not apply to or in respect of the Corporation.

(5) The Corporation may authorise the Manager, any person approved by the Governor or any person referred to in subsection (8) to sign any specified instrument or class of instruments in his own name on behalf of the Corporation and any instrument signed pursuant to such an authority shall be as effective as it would have been if the seal of the Corporation had been duly affixed thereto in accordance with subsection (3).

(6) A decision made by the Manager as to the performance of a function of the Corporation is a decision of the Corporation.

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(7) In the performance of his functions as Manager of the Corporation, the Manager is subject to the direction and control of the Treasurer.

(8) For the purpose of enabling the Corporation to perform its functions, the Manager may—

- (a) make use of the services of any officer or temporary employee of the Public Service appointed or employed in connection with the conduct of the business of the Treasury; or
- (b) with the approval of the Treasurer and of the Minister or statutory body concerned, and on such terms and conditions as may be approved by the Public Service Board—make use of the services of any of the officers, employees or servants of a Government Department or statutory body.

Functions of Corporation.

5. (1) The Corporation may—

- (a) provide any public authority with financial accommodation on such terms and conditions as the Corporation considers appropriate;
- (b) in order to enable the Corporation to perform its functions—impose conditions relating to—
 - (i) the provision by it of financial accommodation to a public authority;
 - (ii) the management by it of any such financial accommodation; or
 - (iii) the repayment by the public authority of any such financial accommodation,whether the financial accommodation was provided by it before, or is provided by it after, the imposition of the condition;
- (c) require a public authority to pay to the Corporation such fees as the Corporation considers appropriate for the performance of its functions;
- (d) as prescribed, assume the responsibility of a public authority for the administration of any matter relating to financial accommodation obtained by the public authority before, on or after the appointed day;

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- (e) invest any money held by it—
 - (i) in any manner authorised by section 21A of the Audit Act, 1902;
 - (ii) in any manner in which repayment of the money invested is guaranteed by the Government of the Commonwealth, or of this or any other State, or of a Territory of the Commonwealth;
 - (iii) on deposit with the Treasurer; or
 - (iv) as may be prescribed;
- (f) aggregate or divide, in such manner as it considers appropriate, any funds obtained by it for the purpose of providing financial accommodation for public authorities;
- (g) upon such terms and conditions as are determined by the Treasurer, replace securities and other like instruments evidencing financial accommodation that have been issued by a public authority with securities or other like instruments issued by the Corporation except where the holder of the securities or other like instruments objects as prescribed to the exchange;
- (h) manage the liabilities and assets of the Corporation having regard to current situations and possible eventualities;
- (i) on such terms and conditions as are approved by the Treasurer, enter into a contract of guarantee; and
- (j) do any other act or thing that may be necessary or convenient to be done by the Corporation in order properly to perform its functions or that is incidental to the performance of those functions.

(2) Where, but for this subsection, the Corporation would, in the performance of its functions, be liable to pay stamp duty under the Stamp Duties Act, 1920, it is not so liable.

Agency arrangements.

6. (1) The Corporation may act as agent for a public authority in obtaining financial accommodation under the funding Act otherwise than from the Corporation.

(2) The Corporation may, with the approval of the Treasurer, appoint and employ a public authority as agent for the purpose of exercising the powers of the Corporation under the funding Act.

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Obligations of public authorities.

7. (1) Where the Corporation exercises in relation to financial accommodation obtained by a public authority the powers conferred by section 5 (1) (d), any payment required to be made under the terms and conditions on which the financial accommodation was provided shall be made by the Corporation to the person entitled thereto and such a payment by the Corporation operates as a discharge of the obligation of the public authority to make the payment to that person.

(2) A public authority shall keep the Corporation supplied with funds to the extent necessary to provide for the making of payments under subsection (1) on behalf of the public authority as they fall due.

(3) A failure by a public authority to make a payment in compliance with a condition upon which particular financial accommodation was obtained by it from the Corporation may, if the Treasurer approves, be treated by the Corporation as if it were a like failure in relation to all other current financial accommodation provided to the public authority by the Corporation.

Deposit of money with Corporation.

8. Notwithstanding anything in any other Act, a public authority may deposit money with the Corporation for investment as provided by section 5 (1) (e).

Provision of financial accommodation.

9. (1) Notwithstanding anything in the funding Act but subject to subsection (2), a public authority shall not obtain financial accommodation otherwise than from the Corporation.

(2) Subsection (1) does not apply—

- (a) in respect of the provision of financial accommodation under section 8 of the funding Act; or
- (b) in any case from time to time by order in writing exempted by the Treasurer from the operation of this section either generally or in a particular case.

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Delegation by Manager.

10. (1) The Manager may, by instrument in writing, delegate to any person referred to in section 4 (8) any function of the Manager as manager of the Corporation, other than this power of delegation.

(2) An act or thing done in the performance of a function by a person to whom the function has been delegated under subsection (1) has the same force and effect as if it had been done by the Manager.

(3) A delegation under subsection (1) does not prevent the performance by the Manager of the function delegated.

(4) A delegation under this section may be made subject to such conditions or limitations as to the performance of the function delegated, or as to time or circumstance, as may be specified in the instrument of delegation.

Accounts and audit.

11. (1) The Manager shall cause to be kept proper accounts and records in relation to the operations of the Corporation.

(2) An account shall be kept in the Special Deposits Account in the Treasury, to be called the "Treasury Corporation Account" to record the transactions of the Corporation.

Annual report by Corporation.

12. (1) As soon as practicable after 30th June, but on or before 31st December in any year, the Corporation shall prepare and forward to the Treasurer a report on the performance of its functions by the Corporation during the year ended on that 30th June.

(2) The Treasurer shall lay the report, or cause it to be laid, before both Houses of Parliament as soon as practicable after the receipt by him of the report.

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Regulations.

13. (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;
- (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 a specified person,

or may do any of those things.
