

TREASURY CORPORATION (AMENDMENT) ACT 1987
No. 225

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS

TREASURY CORPORATION (AMENDMENT) ACT 1987 No. 225

NEW SOUTH WALES



Act No. 225, 1987

An Act to amend the Treasury Corporation Act 1983 with respect to local government borrowing, the management and staff of the New South Wales Treasury Corporation and in other respects. [Assented to 10 December 1987]

See also Public Authorities (Financial Arrangements) Amendment Act 1987.

*Treasury Corporation (Amendment) 1987***The Legislature of New South Wales enacts:****Short title**

1. This Act may be cited as the Treasury Corporation (Amendment) Act 1987.

Commencement

2. (1) Except as provided by subsection (2), this Act shall commence on a day or days to be appointed by proclamation.

(2) Section 4 shall commence on the date of assent to this Act.

Amendment of Treasury Corporation Act 1983 (No. 75)

3. The Treasury Corporation Act 1983 is amended as set out in Schedule 1.

Amendment of Statutory and Other Offices Remuneration Act 1975 (No. 4 of 1976), Sch. 2 (Public Offices)

4. The Statutory and Other Offices Remuneration Act 1975 is amended by inserting at the end of Part 1 of Schedule 2 the following matter:

Chief Executive of the New South Wales Treasury Corporation.

Savings and transitional provisions

5. (1) A delegation in force under section 10 of the Treasury Corporation Act 1983 immediately before the commencement of Schedule 1 (8) to this Act shall be deemed to be a delegation by the Treasury Corporation under that section, as amended by this Act.

(2) Nothing in this Act affects any arrangement for the use of staff by the Treasury Corporation under section 4 (8) of the Treasury Corporation Act 1983, as in force immediately before the commencement of Schedule 1 (2) to this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 3 (Definitions)—

(a) Section 3 (1), definition of “appointed day”—

Omit the definition.

(b) Section 3 (1)—

Before the definition of “Corporation”, insert:

“Chief Executive” means the Chief Executive of the Corporation appointed under this Act;

*Treasury Corporation (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*

(c) Section 3 (1)—

After the definition of “Corporation”, insert:

“council” means a council within the meaning of the Local Government Act 1919, and includes any other local government authority (other than an authority within the meaning of Part 2 of the funding Act) prescribed by the regulations;

(d) Section 3 (1), definition of “public authority”—

After “Treasury Corporation”, insert “, and includes a council”.

(2) Section 4 (**New South Wales Treasury Corporation**)—

Section 4 (2)–(8)—

Omit the subsections, insert instead:

(2) The affairs of the Corporation shall (subject to this Act) be managed by the Chief Executive.

(3) Any act, matter or thing done in the name of, or on behalf of, the Corporation by the Chief Executive, or with the authority of the Chief Executive, shall be deemed to have been done by the Corporation.

(4) The Corporation is subject to the control and direction of the Treasurer.

(3) Sections 4A–4C—

After section 4, insert:

Secretary of the Treasury may direct policies etc. of Corporation

4A. (1) The affairs of the Corporation shall be managed by the Chief Executive in accordance with such policy and other directions as may be given by the Chairperson of the Corporation or (in the absence of the Chairperson or in such other circumstances as the Chairperson may direct) by the Deputy Chairperson of the Corporation.

(2) The Chairperson of the Corporation is the Secretary of the Treasury and the Deputy Chairperson of the Corporation is another officer of the Treasury nominated for the purpose by the Treasurer.

(3) Any act, matter or thing done by the Chief Executive may not be called into question, by any person transacting any business or otherwise dealing with the Corporation, because of a contravention of any direction under this section.

*Treasury Corporation (Amendment) 1987***SCHEDULE 1—AMENDMENTS—*continued*****Appointment of Chief Executive**

4B. (1) The Governor may, on the recommendation of the Treasurer, appoint a person as the Chief Executive of the Corporation.

(2) Schedule 1 has effect with respect to the Chief Executive.

Staff of Corporation etc.

4C. (1) The Corporation may employ such staff as the Corporation requires to perform its functions.

(2) The Corporation may fix the salaries, wages, allowances and conditions of employment of any such staff in so far as they are not fixed by or under another Act or law.

(3) The Corporation may (with the concurrence of the Minister administering the Superannuation Administration Act 1987) provide, or arrange for the provision of, superannuation benefits for or with respect to any such staff (including the Chief Executive).

(4) The Corporation may—

(a) with the approval of the Treasurer; and

(b) on such terms and conditions as may be approved by the Public Service Board,

arrange for the use of the services of any staff or facilities of a government department, administrative office or public authority.

(5) The Corporation may engage persons having suitable qualifications and experience as consultants to the Corporation.

(6) The Corporation may appoint an agent to transact any business or do any act that the Corporation is authorised or required to do in the performance of its functions.

(7) Schedule 2 has effect with respect to the rights of certain staff of the Corporation.

(8) A reference in any Act to an officer of the Treasury (however expressed) includes, if the Treasurer so directs, a reference to a member of the staff of the Corporation (including the Chief Executive).

(4) Section 5 (Functions of Corporation)—

(a) Section 5 (1) (d)—

Omit “the appointed day”, insert instead “the commencement of this Act”.

(b) Section 5 (1) (e) (i)—

*Treasury Corporation (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*

Omit “section 21A of the Audit Act, 1902”, insert instead “section 20 of the Public Finance and Audit Act 1983”.

(5) Section 6 (**Agency arrangements**)—

Section 6 (1)—

After “funding Act”, insert “or any other Act”.

(6) Section 9 (**Provision of financial accommodation**)—

Section 9 (1)—

Omit “but subject to subsection (2)”, insert instead “or any other Act but subject to subsection (2) and section 9A”.

(7) Section 9A—

After section 9, insert:

Provision of financial accommodation to councils

9A. (1) A council is not required or authorised to obtain financial accommodation from the Corporation during any period unless—

(a) the council has requested the Corporation to obtain financial accommodation for the council during that period; and

(b) the Treasurer has approved of the request.

(2) Any such request must be made by notice in writing to the Treasurer.

(3) Section 17 (Guarantee fee) of the funding Act applies to a council in respect of financial accommodation obtained by the Corporation for the council in the same way as it applies to an authority.

(4) This Act does not affect section 174 (Limited overdrafts) or section 178A (Advances by ratepayers and occupiers) of the Local Government Act 1919.

(8) Section 10—

Omit the section, insert instead:

Delegation

10. (1) The Corporation may delegate to a person any of its functions, other than this power of delegation.

(2) Section 49 of the Interpretation Act 1987 applies to a delegation under this section.

(9) Section 11 (**Accounts and audit**)—

Omit the section.

*Treasury Corporation (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued*(10) Section 12 (**Annual report by Corporation**)—

Omit the section.

(11) Section 12A—

Before section 13, insert:

Seal of Corporation

12A. (1) The Corporation shall have a seal which may be affixed by the Chief Executive or by a person authorised by the Chief Executive to affix the seal either generally or in a particular case or class of cases.

(2) The Chief Executive or person so authorised shall attest by his or her signature to the fact of the affixing of the seal.

(3) Every document requiring authentication by the Corporation may be sufficiently authenticated without the seal of the Corporation if it is signed by the Chief Executive or by a person authorised to do so by the Chief Executive.

(12) Schedules 1 and 2—

At the end of the Act, insert:

SCHEDULE 1—THE CHIEF EXECUTIVE

(Sec. 4B (2))

Age

1. A person of or above the age of 65 years is not eligible to be appointed as Chief Executive or to act in the office of Chief Executive.

Acting Chief Executive

2. (1) The Governor may, from time to time and on the recommendation of the Treasurer, appoint a person to act in the office of Chief Executive during the illness or absence of the Chief Executive, and the person, while so acting, has all the functions of the Chief Executive and shall be deemed to be the Chief Executive.

(2) The Governor may, at any time, remove a person so appointed from office.

(3) For the purposes of this clause, a vacancy in the office of the Chief Executive shall be regarded as an absence from office of the Chief Executive.

Term of office

3. Subject to this Schedule, a person appointed as Chief Executive shall hold office for such a period (not exceeding 7 years) as may be specified in the person's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Chief Executive to be full-time officer

4. The Chief Executive shall devote the whole of his or her time to the duties of the office of Chief Executive, except to the extent permitted by this Act or by the Chairperson of the Corporation.

*Treasury Corporation (Amendment) 1987*SCHEDULE 1—AMENDMENTS—*continued***Remuneration**

5. The Chief Executive is entitled to be paid—
- (a) remuneration in accordance with the Statutory and Other Offices Remuneration Act 1975; and
 - (b) such travelling and subsistence allowances as the Treasurer may from time to time determine in respect of the Chief Executive.

Vacancy in office

6. (1) The office of a person appointed as Chief Executive becomes vacant if the person—

- (a) dies;
- (b) completes a term of office and is not re-appointed;
- (c) resigns the office by instrument in writing addressed to the Chairperson of the Corporation;
- (d) is removed or retired from office by the Governor under this clause;
- (e) reaches the age of 65 years;
- (f) is absent from duty for 14 days (whether or not wholly or partly consecutive) in any period of 12 months, except on leave granted by the Chairperson of the Corporation or unless the absence is occasioned by illness or other unavoidable cause;
- (g) 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;
- (h) becomes a temporary patient or a continued treatment patient within the meaning of the Mental Health Act 1958, a forensic patient within the meaning of the Mental Health Act 1983 or a protected person within the meaning of the Protected Estates Act 1983;
- (i) is convicted in New South Wales of an offence that is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence that, if committed in New South Wales, would be an offence so punishable; or
- (j) engages in any paid employment outside the duties of the office of Chief Executive, except with the consent of the Chairperson of the Corporation.

(2) The Governor may remove the Chief Executive from office for incapacity, incompetence or misbehaviour.

(3) The Chief Executive may, after reaching the age of 60 years and before reaching the age of 65 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

Filling of vacancy in office

7. If the office of the Chief Executive becomes vacant, a person shall, subject to this Act, be appointed to fill the vacancy.

*Treasury Corporation (Amendment) 1987***SCHEDULE 1—AMENDMENTS—*continued*****Public Service Act 1979 not to apply**

8. The Public Service Act 1979 does not apply to the appointment of a person as the Chief Executive and a person is not, as Chief Executive, subject to that Act.

SCHEDULE 2—PROVISIONS RELATING TO THE RIGHTS OF CERTAIN STAFF OF THE CORPORATION

(Sec. 4C (7))

Definitions

1. In this Schedule—

“member of staff” means a member of the staff of the Corporation employed under section 4C (1) (other than a person employed on a temporary or casual basis), and includes the Chief Executive;

“proclaimed statutory body” means any body constituted by or under an Act that is declared by the Governor, by proclamation, to be a statutory body for the purposes of this Schedule;

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

Application

2. This Schedule applies to a member of staff only if the terms of employment of the member so provide and applies to such a member subject to those terms of employment.

Preservation of rights of staff previously public servant etc.

3. (1) This clause applies where a member of staff was, immediately before being employed as a member of staff—

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

(2) A member of staff—

- (a) shall retain any rights accrued or accruing to him or her as such an officer, contributor or person;
- (b) may continue to contribute to any superannuation scheme to which he or she was a contributor immediately before being employed as a member of staff; and
- (c) is 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 a member of staff.

(3) Service as a member of staff shall be regarded as service as an officer or employee for the purposes 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.

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SCHEDULE 1—AMENDMENTS—*continued*

(4) A member of staff shall be regarded as an officer or employee, and the Corporation shall be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(5) If a member of staff 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 the scheme—

(a) he or she is not so entitled on becoming (whether on being employed as a member of staff or at any later time while a member of staff) a contributor to any other superannuation scheme; and

(b) the provisions of subclause (4) cease to apply to or in respect of him or her and the Corporation in any case where he or she becomes a contributor to any such other superannuation scheme.

(6) Subclause (5) does not prevent the payment to a member of staff (on 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, because of resignation, to be an officer or employee for the purposes of the scheme.

(7) A member of staff is not, in respect of the same period of service, entitled to dual benefits of the same kind through the operation of this clause.

Staff entitled to re-appointment to former employment in certain cases

4. A person who—

(a) being a member of staff, ceases to be a member of staff because of the expiration of the period for which the person was employed or because of resignation;

(b) was, immediately before being employed as a member of staff—

(i) an officer of the Public Service or a Teaching Service; or

(ii) an officer or employee of a proclaimed statutory body; and

(c) has not reached the age at which the person would have been entitled to retire had the person continued to be such an officer or employee,

is entitled to be appointed to some position in the Public Service, the Teaching Service or the service of that proclaimed statutory body, as the case may be, not lower in classification and salary than that which the person held immediately before being employed as a member of staff.