

INTERNAL AUDIT BUREAU ACT 1992 No. 20

NEW SOUTH WALES



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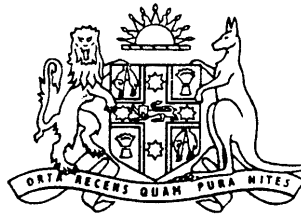
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INTERNAL AUDIT BUREAU ACT 1992 No. 20

NEW SOUTH WALES



Act No. 20, 1992

An Act with respect to the constitution and functions of the Internal Audit Bureau of New South Wales. [Assented to 14 May 1992]

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Internal Audit Bureau Act 1992.

Commencement

2. This Act commences on a day to be appointed by proclamation.

Definitions

3. (1) In this Act:

“**Board**” means the Board of the Bureau established under this Act;

“**Bureau**” means the Internal Audit Bureau of New South Wales constituted by this Act;

“**public authority**” means:

- (a) a Government department or administrative office; or
- (b) a statutory body representing the Crown; or
- (c) any other public or local authority (including any State owned corporation) constituted by or under an Act,

and includes any public authority constituted by or under a Commonwealth Act or an Ordinance of the Australian Capital Territory and exercising functions within New South Wales or the Australian Capital Territory.

- (2) In this Act:

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

PART 2—INTERNAL AUDIT BUREAU OF NEW SOUTH WALES

Division 1—Constitution and functions

Constitution of the Bureau

4. (1) There is constituted by this Act a body corporate with the corporate name of the Internal Audit Bureau of New South Wales.

- (2) The Bureau is a statutory body representing the Crown.

Functions of the Bureau

- 5. (1)** The Bureau has the following functions:
- (a) the provision of audit, management review and consultancy services to public authorities;
 - (b) such other functions as are conferred or imposed on the Bureau by or under this or any other Act.
- (2)** The Bureau may do all such things as are supplemental or incidental to the exercise of its functions.

Division 2—Management**Establishment of the Board**

- 6. (1)** The Bureau is to have a Board of Management.
- (2)** The Board is to consist of:
- (a) the Chief Executive; and
 - (b) the Secretary of the Treasury or some other officer of the Treasury appointed by the Secretary of the Treasury; and
 - (c) 2 members appointed by the Governor on the recommendation of the Minister.
- (3)** The member of the Board referred to in subsection (2) (b) is to be the Chairperson of the Board.
- (4)** One of the members of the Board referred to in subsection (2) (c) is, by the instrument of his or her appointment or by a subsequent instrument signed by the Governor, to be appointed as Deputy Chairperson of the Board.
- (5)** Schedule 1 has effect with respect to the constitution and procedure of the Board.

Functions of the Board

- 7.** The functions of the Board are as follows:
- (a) to determine the policies and long-term strategic plans of the Bureau;
 - (b) to oversee the effective, efficient and economical management of the Bureau.

Chief Executive

- 8. (1)** The Governor may appoint a Chief Executive of the Bureau.

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(2) The employment of the Chief Executive is subject to Part 2A of the Public Sector Management Act 1988, but is not subject to Part 2 of that Act.

(3) The Minister may, from time to time, appoint a person to act in the office of the Chief Executive during the illness or absence of the Chief Executive (or during a vacancy in the office of Chief Executive) and the person, while so acting, has all the functions of the Chief Executive and is taken to be the Chief Executive.

(4) The Minister may, at any time, remove a person from office as acting Chief Executive.

(5) An acting Chief Executive is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine.

Chief Executive to manage and control affairs of the Bureau

9. (1) The affairs of the Bureau are to be managed and controlled by the Chief Executive in accordance with the policies determined by the Board.

(2) Any act, matter or thing done in the name of, or OR behalf of, the Bureau by the Chief Executive, or by any person authorised by the Chief Executive to do that act, matter or thing, is taken to have been done by the Bureau.

Staff of the Bureau

10. (1) The Bureau may employ such staff as are necessary for the exercise of its functions.

(2) The Bureau may fix the salary, wages and other conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

(3) Part 2 of the Public Sector Management Act 1988 does not apply to the members of staff of the Bureau.

Use of staff and facilities of public authorities

11. (1) The Bureau may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a public authority.

(2) Any member of staff of a public authority of whose services the Bureau makes use is taken to be a member of staff of the Bureau for the purposes of this Act.

Consultants

- 12.** (1) The Bureau may engage consultants.
- (2) Any consultant engaged by the Bureau is taken not to be a member of staff of the Bureau for the purposes of this or any other Act.

Division 3—Financial provisions**Fund of the Bureau**

- 13.** (1) There is established in the Special Deposits Account an account to be called the Internal Audit Bureau of New South Wales Fund.
- (2) There is payable into the Fund:
- (a) all money received by or on account of the Bureau; and
 - (b) all interest received in respect of the investment of money belonging to the Fund; and
 - (c) all money borrowed by the Bureau; and
 - (d) all money directed to be paid into the Fund by or under this or any other Act.
- (3) There is payable from the Fund:
- (a) all payments made on account of the Bureau or otherwise and required to meet the expenditure incurred in relation to the functions of the Bureau; and
 - (b) all money directed to be paid from the Fund by or under this or any other Act.

Dividend contribution by the Bureau to Consolidated Fund

- 14.** (1) The Bureau is required to pay to the Treasurer for payment into the Consolidated Fund, by way of dividend contribution in respect of each financial year to which this section applies, such amount as may be determined by the Treasurer.
- (2) The amount so determined may be based on the income derived by the Bureau from its activities or on any other basis the Treasurer considers appropriate.
- (3) The Treasurer must consult with the Bureau in connection with any determination to be made by the Treasurer under this section.

(4) This section applies in respect of such financial years of the Bureau as the Treasurer determines.

(5) A dividend contribution is not payable by the Bureau under this section in respect of any financial year to the extent to which taxes are payable by the Bureau under the law of the Commonwealth in respect of the same financial year.

(6) A dividend contribution is not payable by the Bureau under section 59B of the Public Finance and Audit Act 1983 in respect of any financial year to the extent to which a dividend contribution is payable by the Bureau under this section, or to the extent to which taxes are payable by the Bureau under the law of the Commonwealth, in respect of the same financial year.

Investment

15. The Bureau may invest money:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power on the Bureau to invest money—in accordance with the Trustee Act 1925 or in any other manner approved by the Treasurer.

Financial year of the Bureau

16. (1) The financial year of the Bureau is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Division 4—General provisions

Personal liability of members etc.

17. A matter or thing done or omitted to be done by the Bureau, the Board, a member of the Board or any person acting under the direction of the Bureau or the Board does not, if the matter or thing was done or omitted in good faith for the purpose of executing this Act, subject the member or a person so acting personally to any action, liability, claim or demand.

Seal of the Bureau

18. The seal of the Bureau is to be kept by the Chief Executive and may be affixed to a document only:

- (a) in the presence of the Chief Executive or a member of staff of the Bureau authorised in that behalf by the Chief Executive; and
- (b) with an attestation by the signature of the Chief Executive or that member of the fact of the affixing of the seal.

Service of documents on the Bureau

19. (1) A document may be served on the Bureau by leaving it at, or by sending it by post to, the office of the Bureau or, if it has more than one office, any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on the Bureau in any other manner.

Recovery of charges etc. by the Bureau

20. Any charge, fee or money due to the Bureau may be recovered by the Bureau as a debt in a court of competent jurisdiction.

PART 3—MISCELLANEOUS**Regulations**

21. 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.

Amendment of other Acts

22. The Acts specified in Schedule 2 are amended in the manner set out in that Schedule.

Savings, transitional and other provisions

23. Schedule 3 has effect.

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SCHEDULE 1—PROVISIONS RELATING TO THE CONSTITUTION AND
PROCEDURE OF THE BOARD

(Sec. 6)

Part 1—Preliminary

Definitions

1. In this Schedule:

“**appointed member**” means a member of the Board referred to in section 6 (2) (c);

“**member**” means any member of the Board.

Part 2—Constitution

Deputies

2. (1) The Minister may, from time to time, appoint a person to be the deputy of an appointed member, and the Minister may revoke any such appointment.

(2) In the absence of an appointed member, the member’s deputy:

(a) may, if available, act in the place of the member, and

(b) while so acting, has all the functions of the member and is taken to be a member.

(3) The deputy of an appointed member who is Deputy Chairperson of the Board does not have the member’s functions as Deputy Chairperson.

(4) A person while acting in the place of an appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Terms of office of appointed members

3. Subject to this Schedule, an appointed member holds office for such period (not exceeding 5 years) as is specified in the member’s instrument of appointment, but is eligible (if otherwise qualified) for reappointment.

Remuneration

4. An appointed member is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Vacancy in office of appointed member

5. (1) The office of an appointed member becomes vacant if the member:

(a) dies; or

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SCHEDULE 1—PROVISIONS RELATING TO THE CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued*

- (b) completes a term of office and is not re-appointed; or
 - (c) resigns the office by instrument in writing addressed to the Minister; or
 - (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
 - (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings; or
 - (f) 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
 - (g) becomes a mentally incapacitated person; or
 - (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.
- (2) The Governor may remove an appointed member from office at any time.

Disclosure of pecuniary interests

6. (1) If:

- (a) a member has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) the interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

the member must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under subclause (1).

(3) Particulars of any disclosure made under this clause must be recorded by the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the Board.

(4) After a member has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the Board otherwise determines:

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**SCHEDULE 1—PROVISIONS RELATING TO THE CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued***

- (a) be present during any deliberation of the Board with respect to the matter; or
 - (b) take part in any decision of the Board with respect to the matter.
- (5) For the purpose of the making of a determination by the Board under subclause (4), a member who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:
- (a) be present during any deliberation of the Board for the purpose of making the determination; or
 - (b) take part in the making by the Board of the determination.
- (6) A contravention of this clause does not invalidate any decision of the Board.

Filling of vacancy in office of appointed member

7. If the office of any appointed member becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of an appointed member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a member or from accepting and retaining any remuneration payable to the person under this Act as a member.

(3) The office of an appointed member is not, for the purposes of any Act, an office or place of profit under the Crown.

Part 3—Procedure**General procedure**

9. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

Quorum

10. The quorum for a meeting of the Board is 3 members, of whom one must be the Chairperson or Deputy Chairperson of the Board.

SCHEDULE 1—PROVISIONS RELATING TO THE CONSTITUTION AND
PROCEDURE OF THE BOARD—*continued***Presiding member**

11. (1) The Chairperson of the Board or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

12. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

Transaction of business outside meetings or by telephone etc.

13. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is taken to be a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if a member who speaks on a matter before the meeting can be heard by the other members.

(3) For the purposes of

- (a) the approval of a resolution under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each other member have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

First meeting

14. The Chairperson of the Board may call the first meeting of the Board in such manner as the Chairperson thinks fit.

SCHEDULE 2—AMENDMENT OF OTHER ACTS

(Sec. 22)

Public Authorities (Financial Arrangements) Act 1987 No. 33

Schedule 1 (Authorities):

Insert, in alphabetical order:

Internal Audit Bureau of New South Wales.

Public Finance and Audit Act 1983 No. 152

Schedule 2 (Statutory Bodies):

Omit “Internal Audit Bureau.”, insert instead “Internal Audit Bureau of New South Wales.”.

Public Sector Management Act 1988 No. 33

(1) Schedule 3A (Chief Executive Positions):

Insert in Part 3, in alphabetical order of public authorities:

Chief Executive of the Internal Audit Bureau of New South Wales

(2) Schedule 3B (Senior Executive Positions):

From the matter relating to the Treasury in Part 1, omit “Director, Internal Audit Bureau”.

State Authorities Non-contributory Superannuation Act 1987 No. 212

Schedule 1 (Employers):

At the end of Part 1 of the Schedule, insert:

Internal Audit Bureau of New South Wales

State Authorities Superannuation Act 1987 No. 211

Schedule 1 (Employers):

At the end of Part 1 of the Schedule, insert:

Internal Audit Bureau of New South Wales

Superannuation Act 1916 No. 28

Schedule 3 (List of Employers):

At the end of Part 1 of the Schedule, insert:

Internal Audit Bureau of New South Wales

SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 23)

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect from the commencement of this Act or from a later date.

(3) To the extent that a provision referred to in subclause (1) takes effect from a date that is earlier than its date of publication in the Gazette, the provision does not operate:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of the person existing before the date of publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of publication.

Abolition of Internal Audit Bureau of the Treasury

2. The Internal Audit Bureau of the Treasury is abolished.

Transfer of staff

3. (1) Each member of staff of the Internal Audit Bureau of the Treasury (“**the old Bureau**”) becomes, on the commencement of this Act, a member of staff of the Bureau established by this Act (“**the new Bureau**”).

(2) Until the first appointment of a Chief Executive, the person who, immediately before the commencement of this Act, held the position of Director, Internal Audit Bureau, in the Treasury is to act in the position of Chief Executive.

(3) The terms and conditions on which a member of staff of the old Bureau becomes a member of staff of the new Bureau are (until other provision is duly made under this or any other Act or law) to be the same as those on which he or she was a member of staff of the old Bureau immediately before the commencement of this Act.

Reappointment to the Public Service

4. (1) A member of staff of the new Bureau who was a member of staff of the old Bureau immediately before the commencement of this Act may apply for a position in the Public Service as if he or she were an officer of the Public Service.

(2) Any such member who applies for such a position, or is appointed as an officer of the Public Service, is taken (for the purposes of the Public Sector Management Act 1988, the Government and Related Employees Appeal Tribunal Act 1980 and the Industrial Relations Act 1991 and for all other purposes) to be an officer of the Public Service in relation to the application or appointment

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SCHEDULE 3—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—
continued

(3) This clause applies only to applications for positions in the Public Service made within 2 years after the commencement of this Act.

Transfer of assets and liabilities

5. (1) The assets and liabilities of the State that relate to the old Bureau become, on the commencement of this Act, the assets and liabilities of the new Bureau

(2) Any question as to the nature or extent of the assets and liabilities of the State that relate to the old Bureau is to be determined by the Minister.

(3) A certificate issued by the Minister as to a determination under this clause is, for all purposes, conclusive evidence of the matters stated in the certificate.

*[Minister's second reading speech made in—
Legislative Assembly on 9 April 1992
Legislative Council on 5 May 1992]*