



New South Wales

Fiscal Responsibility Act 2005 No 41

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New South Wales

Fiscal Responsibility Act 2005 No 41

Act No 41, 2005

An Act with respect to fiscal targets and fiscal principles and to repeal the *General Government Debt Elimination Act 1995*; and for other purposes. [Assented to 16 June 2005]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Fiscal Responsibility Act 2005*.

2 Commencement

- (1) This Act commences, or is taken to have commenced, on 1 July 2005, except as provided by subsection (2).
- (2) Schedule 1 [3] commences:
 - (a) on the commencement of this Act, or
 - (b) on the commencement of Schedule 3.2 to the *Workers Compensation Amendment (Insurance Reform) Act 2003*, whichever is the later.

3 Purpose, objects and application of Act

- (1) The purpose of this Act is to provide the framework for the conduct of New South Wales fiscal policy, with a view to maintaining financial results that are fiscally sustainable in the medium and long term.

Note. Fiscal sustainability requires that the Government be able to manage financial risks and financial shocks in future periods without having to introduce significant and economically or socially destabilising expenditure or revenue adjustments in those future periods. What is considered consistent with fiscal sustainability will vary depending on the strength and outlook for the economy, the structure of expenditure and revenue of the budget, the outlook for the State's credit rating, demographic and social trends that will affect the budget, and the nature of financial risks faced by the Government at any given time.
- (2) The following principles are to be employed in meeting the purpose of this Act:
 - (a) to set out fiscal targets and fiscal principles for the State,
 - (b) to make it a goal for the Government to pursue its policy objectives in accordance with those fiscal targets and fiscal principles,
 - (c) to provide for progress reports on those fiscal targets and fiscal principles in the annual budget papers,
 - (d) to provide for reports on departures from those fiscal targets and fiscal principles to be prepared by the Treasurer.
- (3) This Act applies to and in respect of the State budget.

4 Definitions and other general provisions

(1) In this Act:

budget papers means the budget papers of the Government tabled in Parliament in connection with annual Appropriation Bills.

financial asset means a financial asset as described in accordance with GFS.

general government net financial liabilities includes all liabilities of the general government sector (such as unfunded superannuation and insurance liabilities) less all financial assets held by the general government sector (such as cash, advances and investments except for the Government's equity in the public financial enterprise sector and the public trading enterprise sector).

general government sector means New South Wales agencies or activities listed or described as part of the general government sector by the Australian Bureau of Statistics (which are listed or described in accordance with international statistics conventions).

government finance statistics or ***GFS*** means Australian Bureau of Statistics principles for the presentation of government finances (which are based on international statistics conventions).

net cost of services means the total cost of services less any revenue retained by agencies involved in the provision of the services.

net operating result means the excess of total revenue over total expenses as described for GFS.

Note. Net operating result excludes expenditure on the acquisition of capital assets, but includes the consumption of capital (depreciation).

net worth means total assets less total liabilities as described for GFS.

public financial enterprise sector means New South Wales agencies or activities listed or described as part of the public financial corporation sector by the Australian Bureau of Statistics (which are listed or described in accordance with international statistics conventions).

Note. The Australian Bureau of Statistics refers to the public financial enterprise sector as public financial corporations.

public trading enterprise sector means New South Wales agencies or activities listed or described as part of the public non-financial corporation sector by the Australian Bureau of Statistics (which are listed or described in accordance with international statistics conventions).

total state sector means the general government sector, the public financial enterprise sector and the public trading enterprise sector.

underlying general government net debt means the sum of the deposits held by, advances received by and borrowings made by the general government sector less the sum of cash and deposits held by, advances

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paid and investments, loans and placements made by the general government sector (as described for GFS). It excludes financial assets that are allocated to fund other liabilities through legislation or contract (for example, the net financial assets of the Liability Management Ministerial Corporation).

- (2) A reference in the definitions of *general government sector*, *public financial enterprise sector* and *public trading enterprise sector* in subsection (1) to agencies or activities listed or described by the Australian Bureau of Statistics is a reference to agencies or activities listed or described by the Bureau for the purposes of the preparation of GFS.
- (3) Notes included in this Act do not form part of this Act.

Part 2 Fiscal targets

5 Fiscal targets

- (1) For the purposes of this Act, the fiscal targets are as set out in this Part.
- (2) The fiscal targets comprise:
 - (a) the medium term fiscal targets, and
 - (b) the long term fiscal targets.
- (3) The fiscal targets are to be achieved in the context of maintaining prudent, commercially sound debt levels for the agencies or activities comprising the public trading enterprise sector.

6 Medium term fiscal targets

The medium term fiscal targets are:

- (a) to reduce the level of general government net financial liabilities as a proportion of gross state product to 7.5 per cent or less by 30 June 2010, and
- (b) to maintain underlying general government net debt as a proportion of gross state product at or below its level as at 30 June 2005, unless an increase is required in net debt to reduce one or more components of general government net financial liabilities.

7 Long term fiscal targets

The long term fiscal targets are:

- (a) to reduce the level of general government net financial liabilities as a proportion of gross state product to 6 per cent or less by 30 June 2015, and
- (b) to maintain underlying general government net debt as a proportion of gross state product at or below its level as at 30 June 2005, unless an increase is required in net debt to reduce one or more components of general government net financial liabilities, and
- (c) to eliminate total state sector unfunded superannuation liabilities by 30 June 2030.

Part 3 Fiscal principles

8 Fiscal principles

For the purposes of this Act, the fiscal principles are as set out in this Part.

9 Application of fiscal principles

- (1) The fiscal principles relate to sound financial management, and accordingly the Government should aim to pursue its policy objectives in accordance with those principles.
- (2) Those principles may be departed from in the presentation and implementation of the budget, but any departure should be temporary.
- (3) The Treasurer is to include in the budget papers a statement containing the following:
 - (a) the reasons for the departure,
 - (b) the approach to be taken to enable a return to the principles,
 - (c) the time frame within which a return to the principles should occur.

10 Impact of decisions of Commonwealth Grants Commission etc

The application of the fiscal principles and targets in determining the tax and other fiscal policies of the Government is subject to Commonwealth/State financial arrangements and the impact of decisions of the Commonwealth Grants Commission.

11 Fiscal principle No 1—keeping the budget and forward estimates in surplus

Fiscal principle No 1 is that the budget should be framed so as to achieve a net operating result for the general government sector that is a surplus consistent with the fiscal targets.

12 Fiscal principle No 2—constrained growth in net cost of services and expenses

- (1) Fiscal principle No 2 is that growth in net cost of services and expenses of the general government sector is to be managed in accordance with the objective of prudently managing State finances.
- (2) For the purposes of this section, the average annual growth in net cost of services and expenses of the general government sector on a GFS basis is to be calculated for:
 - (a) the 4-year period ending with, and inclusive of, the financial year prior to the budget year, and

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- (b) the 4-year budget and forward estimates period commencing with the budget year.
 - (3) For each of the 4-year periods referred to in subsection (2), the average annual growth in net cost of services and expenses is to be kept at or below long-term average revenue growth. An assessment of past and prospective long-term average revenue growth is to be reported each year in the budget.
 - (4) The calculations required by subsection (2) (a) and (b) are to be reported in the annual budget papers.

13 Fiscal principle No 3—managing public sector employee costs

- (1) Fiscal principle No 3 is that government policy with respect to negotiating rates of pay and related conditions of employment of general government sector employees is to be consistent with the fiscal targets.
- (2) In negotiating rates of pay for employees, public trading enterprises are to take into account conditions in their industry and the government's policy for negotiating rates of pay and related conditions of employment of general government sector employees.

14 Fiscal principle No 4—evaluation of capital expenditure proposals

Fiscal principle No 4 is that capital expenditure proposals are to be evaluated in accordance with government procurement policy requirements.

15 Fiscal principle No 5—managing State finances with a view to long-term fiscal pressures

- (1) Fiscal principle No 5 is that the budget should be framed taking into account the anticipated future fiscal gap likely to develop as a result of increased spending pressures associated with the ageing of the population and other long-term trends.
- (2) An assessment of long-term fiscal gaps is to be presented in the 2006–2007 budget papers and is to be updated in the budget papers in conjunction with the 5-yearly review of this Act.
- (3) An assessment of the impact of budget measures in respect of expenses and revenue on long-term fiscal gaps is to be presented in the annual budget papers.

16 Fiscal principle No 6—maintaining or increasing general government sector net worth

- (1) Fiscal principle No 6 is that general government sector net worth should at least be maintained in real terms from year to year.

- (2) Measures taken to implement this fiscal principle are to be identified and subject to progress reports in the annual budget papers.

17 Fiscal principle No 7—funding employer superannuation liabilities

- (1) Fiscal principle No 7 is that employer superannuation liabilities are to be managed and funded so as to eliminate total state sector unfunded superannuation liabilities by 30 June 2030 and that the manner of management and funding of these liabilities is to be subject to periodic review.
- (2) Measures taken to implement this fiscal principle are to be identified and subject to progress reports in the annual budget papers.

18 Fiscal principle No 8—total asset management

- (1) Fiscal principle No 8 is that government agencies must align their physical asset management practices (on a whole-of-life basis) with their service delivery priorities and strategies.
- (2) Measures taken to implement this fiscal principle are to be identified and subject to progress reports in the annual budget papers.

19 Fiscal principle No 9—prudent risk management

- (1) Fiscal principle No 9 is that financial risk is to be managed prudently on the basis of sound risk management principles.
- (2) For the purposes of this section, the management of financial risk comprises the following:
 - (a) maintaining total state sector net financial liabilities at prudent levels,
 - (b) managing risks associated with contingent liabilities,
 - (c) managing risks associated with the total state sector's debt and financial assets, including commercial risks arising from the ownership of public trading enterprises.
- (3) Measures taken to implement this fiscal principle are to be identified and subject to progress reports in the annual budget papers.

20 Fiscal principle No 10—tax restraint

- (1) Fiscal principle No 10 is that any adjustments to legislated tax rates, thresholds and bases are to be made with the maximum possible restraint having regard to the effect of these adjustments on the overall level of tax revenue, and policies should be pursued that are consistent with a reasonable degree of predictability and stability of tax rates, thresholds and bases for future years.

- (2) The estimated impact of proposed tax policy changes in the year of implementation and, where different, in a full year, is to be reported in the budget papers.

Part 4 Miscellaneous

21 Effect of Act

- (1) Nothing in this Act places on any person any obligation enforceable in a court of law or administrative review body.
- (2) Without limiting subsection (1), a failure to comply with a provision of this Act:
 - (a) does not prevent the introduction of any Bill in, or the passage of a Bill through, a House of Parliament or prevent assent being given to any Bill, and
 - (b) does not affect the validity of any legislation, and
 - (c) does not affect the validity of any action taken by any public official or agency, and
 - (d) does not expose any person to civil or criminal liability.
- (3) Accordingly, no court or administrative review body has jurisdiction or power to consider any question involving compliance or non-compliance with this Act.
- (4) This section does not apply to the other provisions of this Part or to Schedule 1.

22 Acts not affected by this Act

This Act does not affect the provisions of any of the following Acts:

Annual Reports (Departments) Act 1985

Annual Reports (Statutory Bodies) Act 1984

Public Authorities (Financial Arrangements) Act 1987

Public Finance and Audit Act 1983

State Owned Corporations Act 1989

Note. Within-year reporting requirements are contained in sections 6 and 8 of the *Public Finance and Audit Act 1983*.

23 Repeal of General Government Debt Elimination Act 1995 No 83

The *General Government Debt Elimination Act 1995* is repealed.

24 Amendment of Public Finance and Audit Act 1983 No 152

The *Public Finance and Audit Act 1983* is amended as set out in Schedule 1.

25 Review of Act

- (1) The Treasurer is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

26 Further review of Act

- (1) As soon as possible after the period of 10 years from the date of assent to this Act, the Treasurer is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of that period of 10 years.
- (3) If a House of Parliament is not sitting when the Treasurer seeks to present the report in accordance with subsection (2), the Treasurer is to present the report to the Clerk of the House concerned to be dealt with in accordance with section 63C of the *Public Finance and Audit Act 1983*.

Schedule 1 Amendment of Public Finance and Audit Act 1983

(Section 24)

[1] Section 4 Definitions

Omit “*General Government Debt Elimination Act 1995*” from the definition of **general government sector** in section 4 (1).

Insert instead “*Fiscal Responsibility Act 2005*”.

[2] Section 27AA Budget content

Omit “*General Government Debt Elimination Act 1995*” from section 27AA (2) (a) (i).

Insert instead “*Fiscal Responsibility Act 2005*”.

[3] Section 63F Status of Workers Compensation Insurance Fund (as inserted by Workers Compensation Amendment (Insurance Reform) Act 2003)

Omit “*General Government Debt Elimination Act 1995*” from section 63F (b).

Insert instead “*Fiscal Responsibility Act 2005*”.

[Second reading speech made in—
Legislative Assembly on 24 May 2005
Legislative Council on 9 June 2005]

BY AUTHORITY