

PUBLIC FINANCE AND AUDIT ACT 1983—REGULATION

(Public Finance and Audit (General) Regulation 1995)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Public Finance and Audit Act 1983, has been pleased to make the Regulation set forth hereunder.

Michael Egan
Treasurer.

PART 1—PRELIMINARY

Citation

1. This Regulation may be cited as the Public Finance and Audit (General) Regulation 1995.

Commencement

2. This Regulation commences on 1 September 1995.

Definitions

3. (1) In this Regulation:

“**Australian Accounting Standard**” means a statement of accounting standards issued by the National Councils of the Institute of Chartered Accountants in Australia and the Australian Society of Certified Practising Accountants;

“**Department**” means a person, group of persons or body specified in Column 1 of Schedule 3 to the Act;

“**financial statements**” means:

- (a) in relation to a Department, the financial statements of the Department referred to in section 45E of the Act; or

(b) in relation to a statutory body, means the financial statements of the body referred to in section 41A of the Act;

“**statutory body**” means a statutory body referred to in Division 3 of Part 3 of the Act;

“**the Act**” means the Public Finance and Audit Act 1983.

(2) In this Regulation, any question as to whether a matter relating to financial statements is material is to be determined having regard to the Australian Accounting Standards.

PART 2—DEPARTMENTS

Certification

4. The financial statements of a Department must be accompanied by a statement signed by the Department Head as to the following:

- (a) that the financial statements have been prepared in accordance with the provisions of the Act, this Regulation and the Treasurer’s directions;
- (b) that the financial statements exhibit a true and fair view of the financial position and transactions of the Department;
- (c) whether, as at the date on which the statement is signed, there are any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

Exemptions

5. (1) The Treasurer may, on application by a Department Head made at any time, grant an exemption from any or all of the provisions of this Part (this clause excepted), in relation to the financial statements of the Department for a particular financial year.

(2) An exemption may be granted subject to such conditions as the Treasurer may determine.

(3) An exemption ceases to apply if the Treasurer, by notice in writing, so informs the Department Head of the Department in respect of which the exemption was granted.

(4) Details of an exemption, and the reasons for the exemption, must be included as a separate note in the notes to the financial statements for the financial year in which the exemption applies.

PART 3—STATUTORY BODIES**Accounting standards**

6. Except as may be provided by the Act, this Regulation and the Treasurer's directions, the financial statements of a statutory body must be prepared in accordance with the Australian Accounting Standards, as adapted and modified to enable the provisions of those standards to apply to statutory bodies.

Income and expenditure information

7. (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 1 of Schedule 1 must be shown separately in the financial statements of a statutory body which include an income and expenditure statement.

(2) Any such particular may, except in so far as Part 1 of Schedule 1 otherwise provides, be included in the financial statements by way of note or otherwise.

(3) The requirements of this clause are in addition to any other matters necessary to exhibit a true and fair view of the financial position and transactions of the body.

Balance sheet information

8. (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act:

(a) the particulars set out in Part 2 of Schedule 1 must be shown separately in the financial statements of a statutory body whose financial statements include a balance sheet; and

(b) the particulars set out in Part 2 of Schedule 1, except for:

(i) the fixed assets referred to in item 1 of that Part; and

(ii) the matters referred to in item 4 of that Part, to the extent only that they relate to stores held in departments, divisions or sections of the body which have been issued from a central store of the body,

must be shown separately in the financial statements of a statutory body whose financial statements do not include a balance sheet, but include a statement of balances (however described); and

(2) Any such particular may, except in so far as Part 2 of Schedule 1 otherwise provides, be included in the financial statements by way of note or otherwise.

(3) The requirements of this clause are in addition to any other matters necessary to exhibit a true and fair view of the financial position and transactions of the body.

Additional information shown by notes or otherwise

9. (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the particulars set out in Part 3 of Schedule 1 must be shown by way of notes or otherwise to the financial statements of a statutory body.

(2) If the financial statements of a statutory body could be misleading by reason of a failure to explain the method used to account for, or calculate the amount of, any item or information included in or excluded from the financial statements, there must be stated (whether by way of note or otherwise) the method used to account for, or calculate, the amount of the item or information.

Consolidated accounts-certain information to be shown by notes

10. For the purposes of section 41B (1) (c) (vi) and (g) of the Act, there must be shown by way of notes in the consolidated accounts of a statutory body:

- (a) key figures, such as total revenue and operating result for the financial year, for each entity controlled by the statutory body that is an entity of the kind referred to in section 39 (1A) of the Act; and
- (b) the proportion that each key figure represents to the total of all key figures for the group (comprising the statutory body and each such controlled entity).

Inclusion of corresponding amounts for previous financial year

11. (1) For the purposes of section 41B (1) (c) (vi) and (g) of the Act, the corresponding amount for the preceding financial year or balance date must be shown for each item appearing in the financial statements of the body or in the notes to those statements.

(2) Subclause (1) does not apply in the case of the first year of existence of a statutory body.

(3) If the financial statements do not contain an item corresponding to an item in the statements for the preceding financial year or balance date, the previous item and the amount of that item must be shown in the statements.

Rounding off

12. If appropriate, all amounts shown in the financial statement of a statutory body may be expressed by reference to the nearest \$1,000.

Exclusion of Budget information from financial statements submitted for certification

13. The financial statements of a statutory body submitted under section 41A of the Act to the Auditor-General for verification and certification must not include or be accompanied by a budget of the statutory body or any budget information.

Certification

14. (1) Under section 41B (1) (g) of the Act, the financial statements of a statutory body must be accompanied by a statement, made in accordance with a resolution of the statutory body, as to the following:

- (a) that the financial statements have been prepared in accordance with the provisions of the Act, this Regulation and the Treasurer's directions;
- (b) whether the persons signing the statement are aware, as at the date on which the statement is signed, of any circumstances which would render any particulars included in the financial statements to be misleading or inaccurate.

(2) The statement must be signed by 2 members of the statutory body or, if the statutory body is a corporation sole, by the person who constitutes the corporation sole.

Exemptions

15. (1) The Treasurer may, on application by a statutory body made at any time, grant an exemption from any or all of the provisions of this Part (this clause excepted), in relation to the financial statements of the body for a particular financial year.

(2) An exemption may be granted subject to such conditions as the Treasurer may determine.

(3) An exemption ceases to apply if the Treasurer, by notice in writing, so informs the statutory body to which the exemption was granted.

(4) Details of an exemption, and the reasons for the exemption, must be included as a separate note in the notes to the financial statements for the financial year in which the exemption applies.

PART 4—MISCELLANEOUS**Prescribed investments**

16. (1) For the purposes of section 20 (e) of the Act, the following investments are prescribed:

- (a) a bill of exchange that has been accepted or endorsed by a bank;
 - (b) a promissory note made by:
 - (i) a statutory body constituted under an Act of the Commonwealth or a State; or
 - (ii) an eligible company; or
 - (c) a loan of money on the security of a letter of credit which is confirmed by a bank;
 - (d) an advance to a bank or an eligible company secured by such legally enforceable documents or other security as the Secretary of the Treasury or an officer of the Treasury authorised by the Secretary for the purpose may approve;
 - (e) future contracts traded on the Sydney Futures Exchange Limited;
 - (f) forward rate agreements complying with the publication of the Australian Bankers' Association entitled 'The Australian Dollar Forward Rate Agreements Recommended Terms and Conditions';
 - (g) option contracts traded on the Sydney Futures Exchange Limited;
 - (h) option contracts with a bank or an eligible company or with a statutory body constituted under an Act of the Commonwealth or of a State;
 - (i) securities the repayment of which is guaranteed by the Government of a State;
 - (j) deposits with the New South Wales Treasury Corporation;
 - (k) the purchase and sale prior to, and at, maturity of an investment prescribed by any of the preceding paragraphs.
- (2) The Treasurer may:
- (a) nominate the prescribed investments, if any, in which money must be invested; and
 - (b) determine the amount of money that must be invested in each prescribed investment so nominated.
- (3) In this clause:
- “eligible company”** means:
- (a) a company that is accredited with a rating of between “AAA” and “AA” by Standard & Poor’s (Australia) Pty. Ltd. or is accredited with a rating of between “Aaa” and “Aa” by Moody’s Investors Service, Inc.; or
 - (b) a company whose liabilities are unconditionally guaranteed by a company to which paragraph (a) or (b) applies.

Definitions of “authority” and “officer of an authority”

17. (1) For the purposes of the definition of “authority” in section 4 (1) of the Act, the police force of New South Wales is prescribed.

(2) For the purposes of the definition of “officer of an authority” in section 4 (1) of the Act, a member of the police force (within the meaning of the Police Regulation Act 1899) is a prescribed person in relation to the police force of New South Wales.

(3) For the purposes of paragraph (d) of the definition of “officer of an authority” in section 4 (1) of the Act, a person specified in Column 2 of the Table to this subclause is a prescribed person in relation to the authority specified opposite the person in Column 1 of the Table.

TABLE

Column 1	Column 2
Department of Community Services	An employee of the Community Welfare Employment Corporation constituted by section 13B of the Community Welfare Act 1987
Ageing and Disability Department	The President and Deputy President of the Guardianship Board under the Guardianship Act 1987
Department of Health	An employee of an area health service specified in Schedule 2 to the Area Health Services Act 1986
Department of Health	An employee of a public hospital within the meaning of the Public Hospitals Act 1929

Payment of accounts

18. (1) This clause applies to a contract entered into by or on behalf of an authority for the supply of goods or services (or both) to the authority.

(2) The Head of an authority must nominate the holder of a position within the staff establishment of the authority to be the accounts complaints officer for the authority.

- (3) An order form issued by an authority must include:
- (a) a statement to the effect that, if a payment is not made within the time determined in accordance with subclause (4), the supplier should take the matter up with the accounts complaints officer for the authority; and
 - (b) the telephone number of the accounts complaints officer; and
 - (c) a statement that the Head of the authority may award penalty interest if the payment is not made within the time determined in accordance with subclause (4).
- (4) The Head of an authority is to ensure that:
- (a) if a contract to which this clause applies provides for the time of a payment and the contract is properly performed by the supplier—the payment is made by that time; or
 - (b) if a contract to which this clause applies does not provide for the time of a payment and the contract is properly performed by the supplier—payment is made by the end of the month following the month in which an invoice or statement from the supplier is received.
- (5) If a payment is not made within the time determined in accordance with subclause (4), the Head of the authority (or a person appointed by the Head of the authority) may direct that the supplier be paid interest on the amount not paid within that time, from that time until the time of payment and at a rate of up to 20 per cent per annum, unless a greater penalty is payable under the contract in respect of the default in payment.
- (6) An interest payment under this clause must be met from within the authority's approved budget.

Prescribed statutory bodies under Division 4 of Part 3 of the Act

19. (1) Under section 44 (1) of the Act, the following persons, groups of persons or bodies are prescribed for the purposes of Division 4 of Part 3 of the Act:

- (a) Agricultural Scientific Collections Trust;
- (b) The trustees for the time being of The Art Gallery of New South Wales Foundation;
- (c) The trustees for the time being of each state recreation area reserved under the National Parks and Wildlife Act 1974;
- (d) Dumaresq-Barwon Border Rivers Commission;
- (e) C.B. Alexander Foundation;
- (f) Australia Day Council (New South Wales);

- (g) Area health services within the meaning of the Area Health Services Act 1986;
- (h) Trustees of the Farrer Memorial Research Scholarship Fund;
- (i) Trustee of the Home Purchase Assistance Fund;
- (j) Northern Riverina Electricity;
- (k) NorthPower;
- (l) Southern Riverina Electricity;
- (m) Grain Handling Ministerial Corporation;
- (n) Minister administering the Environmental Planning and Assessment Act 1979 (being the corporation sole constituted under section 8 (1) of that Act);
- (o) Minister administering the Heritage Act 1977 (being the corporation sole constituted under section 102 (1) of that Act);
- (p) NSW Insurance Ministerial Corporation;
- (q) Ambulance Service of New South Wales;
- (r) UNILINC Limited;
- (s) Office of the Minister for Public Works and Services.

(2) For the purposes of section 44 (1) of the Act, the following funds or accounts are prescribed for the purposes of Division 4 of Part 3 of the Act:

- (a) a prize fund under the Lotto Act 1979 (being an account established for the purposes of section 14 of that Act in respect of a licensee within the meaning of that Act);
- (b) ICAC Superannuation Fund;
- (c) Public Sector Executives Superannuation Plan;
- (d) University of Sydney Professorial Superannuation Scheme;
- (e) University of Sydney Short Term Academic and Other Special Appointments Superannuation Scheme;
- (f) Macquarie University Professorial Superannuation Scheme;
- (g) University of Newcastle Staff superannuation Scheme.

(3) For the purposes of section 45 of the Act:

- (a) any trustee of the ICAC Superannuation Fund is prescribed in relation to the Trustees of that Fund; and
- (b) any trustee of the Public Sector Executives Superannuation Plan is prescribed in relation to the Trustees of that Plan.

Particular audit of the NSW Treasury Managed Fund

20. For the purposes of section 44 (1) of the Act, the NSW Treasury Managed Fund is prescribed for the purposes of Division 4 of Part 3 of the Act.

Statutory authorities liable to pay dividends to Consolidated Fund

21. For the purposes of section 59B of the Act, the statutory authorities specified in Schedule 2 to the Act are prescribed.

Repeals

22. (1) The following Regulations are repealed:

- (a) the Public Finance and Audit Regulation 1984;
- (b) the Public Finance and Audit (Statutory Bodies) Regulation 1985;
- (c) the Public Finance and Audit (Departments) Regulation 1986;
- (d) the Public Finance and Audit (Investment of Funds) Regulation 1986.

(2) Any act, matter or thing that, immediately before the repeal of a Regulation referred to in subclause (1), had effect under that Regulation continues to have effect under this Regulation.

SCHEDULE 1—STATUTORY BODIES

(Cl. 7, 8, 9)

Part 1—Income and expenditure information

1. The amount charged for depreciation or amortisation or set aside to a provision for diminution in value of fixed assets, investments and intangible assets.

2. The amount charged for, or set aside for, the renewal or replacement of fixed assets over and above the historical cost of the fixed assets, that amount being shown as an appropriation of surplus or profit.

3. The amounts of interest paid, or due and payable, on loans, advances, debentures or deposits or otherwise.

4. The amount set aside to any provision for known commitments which are identifiable and quantifiable.

5. The amount set aside to any provision for doubtful debts.

6. The amount, if any, appropriated for the repayment of any loans, advances, debentures or deposits or otherwise.

7. Non-repayable appropriations, grants and subsidies, other than those of a capital nature, received by the body showing separately the appropriations, grants and subsidies received from the Commonwealth government and the appropriations, grants and subsidies received from the State government.

8. Except as provided by the Public Authorities (Financial Arrangements) Act 1987, the amount of interest, dividends and other money received or due and receivable on investments and on sinking funds, insurance funds and similar funds held by the body.

9. The amount of emoluments or other benefits paid or due and payable, directly or indirectly, to members or directors (however described) of the body, but not including amounts paid by way of salary to full-time members or directors of the body.

10. The amount paid or due and payable to the auditor for auditing services.

11. The total amounts paid or becoming payable to consultants engaged by the statutory body (other than the Public Trustee or the Senate or Council of a university) during the financial year.

12. The full amount of expense arising in the financial year in respect of superannuation and other deferred employee entitlements and the amount credited to each appropriate provision, which expense must, in the case of a statutory body whose salaries and associated costs are not met from the Consolidated Fund:

- (a) except as provided by paragraph (b), be shown separately in the income and expenditure statement and not by way of note; or
- (b) if deferred employee entitlements have been capitalised by way of oncost recoupment, be shown by way of note.

13. A separate description and amount for all other material items of income and expenditure on a program or activity basis.

Part 2—Balance sheet information

1. The description and amount, by appropriate category, of:

- (a) all fixed assets (other than those described in paragraph (b)) and all investments, with a description of the basis of valuation of those assets and investments (that is, cost, market value or otherwise) and, if that basis is a basis other than market value, the market value; and
- (b) all fixed assets which form an integral part of a network for the distribution of the statutory body's service or production (such as dams, pipelines, transmission wires and railway corridors) or fixed assets specifically set aside by an Act or other legislative provision which cannot be disposed of (such as national parks and university grounds) with a description of the basis of valuation of those assets (that is, cost or otherwise).

2. The description and amount of loans, advances or money otherwise due to the body by members or directors (however described) of the body, or officers or employees of the body holding executive decision-making positions, or relatives of those members, directors, officers or employees, but not including loans, advances or money otherwise due for the purpose of carrying out official duties, such as travelling advances and the like.

3. The description and amount of loans, advances or money otherwise due to the body by a corporation, a director of which is a member or director (however described) of the body, or an officer or employee of the body holding an executive decision-making position.
4. The description and amount of inventories or stock on hand and the basis of valuation.
5. The description and amount of secured loans advanced by the body.
6. The description and amount of government and other public sector debentures, stocks, notes and bonds and other securities held by the body that are quoted on a stock exchange in Australia or elsewhere.
7. The description and amount of government and other public sector debentures, stocks, notes, bonds and other securities held by the body that are not quoted on a stock exchange in Australia or elsewhere.
8. The description and amount of shares, share options, debentures, stocks, notes and bonds and other securities in public corporations (not being public sector corporations) held by the body that are quoted on a stock exchange in Australia or elsewhere.
9. The description and amount of shares, share options, debentures, stocks, notes and bonds and other securities held by the body in corporations, other than corporations to which item 6 or 8 applies.
10. The description and amount of negotiable certificates of deposit and interest bearing deposits or other money market securities.
11. The provision for doubtful debts shown as a deduction from the asset category.
12. Sources of funds, showing separately:
 - (a) capital acquired free of liability; and
 - (b) public borrowings; and
 - (c) State or other government advances; and
 - (d) State or other government grants.
13. The description and amount of all retained earnings or accumulated funds.
14. The description and amount of all reserves with a separate amount shown for each description.
15. The description and amount of all provisions with a separate amount shown for each provision.
16. The amount of unprovided past service costs in respect of superannuation and other deferred employee entitlements, which amount must, in the case of a statutory body whose salaries and associated costs are not met from the Consolidated Fund, be shown on the face of the balance sheet and not by way of note.

Part 3—Additional information

1. In relation to:
 - (a) the balance sheet or statement of balances — the basis of accounting, whether by historical cost or otherwise; and

- (b) the income and expenditure statement or statement of receipts and payments—whether the basis of accrual accounting has been used and, if not, the basis used and approved in respect of the body under section 41B (2) of the Act.
2. Details of changes in accounting policies adopted since the previous financial year.
 3. A reference to whether or not the Australian Accounting Standards have been adhered to in preparing the financial statements and, if those Standards have not been so adhered to, details of any departures from those Standards and the reasons for the departures.
 4. The description and estimated amount of contingent liabilities with appropriate particulars.
 5. A schedule of outstanding public borrowings or other repayable advances, setting out those debts that are due:
 - (a) not later than 1 year; and
 - (b) later than 1 year but not later than 2 years; and
 - (c) later than 2 years but not later than 5 years; and
 - (d) later than 5 years,after the end of the financial year.
 6. In respect of each liability or contingent liability, the payment of which is secured by a charge on assets of the body, whether registered or unregistered, a statement that it is secured and particulars as to the extent to which it is secured.
 7. The amount and particulars of material capital expenditure contracted for so far as the amount has not otherwise been accounted for.
 8. The amount and particulars of material lease or hire expenditure contracted for so far as the amount has not been provided for showing separately the amount of expenditure which is payable within 12 months after the end of the financial year.
 9. The amount of estimated liability for commitments, other than capital expenditure to which item 7 applies and, if the amount set aside as referred to in item 4 of Part I is less than the estimated liability, a statement of the basis of calculating the amount set aside.
 10. The estimated value of material assets provided free or at a nominal charge by government departments or other statutory authorities which has not otherwise been accounted for.
 11. The estimated value of material assets provided free of charge or at a nominal charge by any person (not being a government department or other statutory authority) which has not otherwise been accounted for.
 12. The estimated amount of material expenditure incurred by government departments and other statutory authorities in direct support of the body but not charged to or accounted for by the body.
 13. Any non-current asset, if material, shown in the accounts or records of the body at an amount which, having regard to its value to the body as a going concern, exceeds the replacement cost in current condition at the end of the financial year and, when

adequate provision for writing down that asset is not made, such information or explanations must be included as will prevent the accounts from being misleading by reason of the overstatement of the amount of that asset.

14. If investments held are quoted on a stock exchange in Australia or elsewhere, a separate total for each class of quoted investment and, in respect of each such class, the aggregate market value calculated:

- (a) if investments of that class have been traded on a stock exchange during the last month of the financial year—on the officially quoted “last sale” price as at the end of the financial year; or
- (b) in any other case— by applying to the officially quoted “last sale” price as at the end of the financial year the percentage movement from the date of the last sale to the end of the financial year of the stock exchange index for the industrial group which includes that class of investment.

15. In respect of all fixed assets, investments, inventories, stock on hand and work-in-progress shown in the financial statements, the method of arriving at the separate amount of the asset and, if more than one method is used, a separate total in respect of each class of noncurrent asset shown in the financial statements setting out:

- (a) the cost of the non-current assets of that class or (at the discretion of the body) if the noncurrent assets of that class have been valued, the amount at which they have been valued and, if the valuation applies only to a part of a class, separate totals for such of the non-current assets of that class as have been so valued and for the remainder of the non-current assets of that class; and
- (b) the aggregate amount written off in respect of each class or part of a class since the date of acquisition or valuation, as the case may be; and
- (c) the difference between the amounts shown under paragraphs (a) and (b).

16. A statement of the purpose, nature, restriction or basis of reserves.

17. The following information concerning superannuation liabilities and expenses:

- (a) the amount of unprovided past service costs as at the date of the most recent actuarial assessment;
 - (b) the date of the most recent actuarial report upon which calculations of superannuation liability and expense were based;
 - (c) the assumptions adopted by the actuary as to interest rates, the rate of increase in the Consumer Price Index and the rate of salary increases;
 - (d) the effect on the calculation of the amount of unprovided past service costs of the adoption of different values for the key economic assumptions and any other assumptions that the actuary considered to be of critical importance;
 - (e) any material changes in the terms and conditions of the superannuation scheme since the date of the last actuarial report;
 - (f) the amount of any superannuation expenditure carried forward in the financial year as part of the cost of capital works.
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1995—No. 406

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SCHEDULE 1—STATUTORY BODIES

EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with minor changes in substance, the regulations under the Public Finance and Audit Act 1983. The new Regulation deals with the following matters:

- (a) matters relating to the keeping of accounts by Departments (Part 2);
- (b) matters relating to the keeping of accounts by statutory bodies (Part 3 and Schedule 1);
- (c) other matters of a minor, consequential or ancillary nature (Parts 1 and 4).

1995—No. 406

This Regulation is made under the Public Finance and Audit Act 1983, including section 64 (the general regulation making power) and sections 4, 20, 39, 41A, 41B, 44, 45 and 59B.

This Regulation relates to matters that are not likely to impose an appreciable burden, cost or disadvantage on any sector of the public.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
