



New South Wales

Public Finance and Audit Amendment (State-funded Private Entities) Bill 2018

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend the *Public Finance and Audit Act 1983* to authorise the Auditor-General to audit private entities that receive money from the State for a public purpose.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent to the proposed Act.

Schedule 1 amends the *Public Finance and Audit Act 1983* to provide for the auditing of private entities that are State-funded. A private entity is **State-funded** if the State provides money for a public purpose and the private entity receives some or all of the money (whether directly or indirectly) because the private entity has agreed to use the money to achieve that purpose or has entered into a contract that relates to that purpose. The performance audit may be conducted only to the extent that it assesses the activities of the private entity in relation to achieving the public purpose. The amendments also provide for the results of the audit to be reported by the Auditor-General to specified persons and to Parliament.



New South Wales

Public Finance and Audit Amendment (State-funded Private Entities) Bill 2018

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New South Wales

Public Finance and Audit Amendment (State-funded Private Entities) Bill 2018

No. , 2018

A Bill for

An Act to amend the *Public Finance and Audit Act 1983* to authorise the Auditor-General to audit private entities that receive funding from the State for a public purpose.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Finance and Audit Amendment (State-funded Private Entities) Act 2018*.

2 Commencement

This Act commences on the date of assent to this Act.

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| Schedule 1 | Amendment of Public Finance and Audit Act 1983 | 1 |
| | No 152 | 2 |
| Part 3, Division 8 | | 3 |
| Insert after Division 7 of Part 3: | | 4 |
| Division 8 | Performance audit of State-funded private entities | 5 |
| 52G | Definitions | 6 |
| | In this Division: | 7 |
| | <i>head</i> of a private entity means the person who is the chief executive officer (however described) of the entity or otherwise responsible for the entity's day to day management. | 8 9 10 |
| | <i>performance audit</i> means an audit under this Division. | 11 |
| | <i>private entity</i> means any person or body other than an authority. | 12 |
| | <i>responsible Minister</i> for a private entity means the Minister who is responsible for achieving the relevant public purpose concerned. | 13 14 |
| 52H | Auditor-General may conduct performance audit of State-funded private entities | 15 16 |
| (1) | The Auditor-General may at any time conduct a performance audit of a private entity that is State-funded. | 17 18 |
| (2) | A private entity is <i>State-funded</i> if: | 19 |
| (a) | the State provides money for a public purpose (the <i>relevant public purpose</i>), and | 20 21 |
| (b) | the private entity receives some or all of that money (whether directly or indirectly) because the private entity: | 22 23 |
| (i) | agrees to use the money in achieving the relevant public purpose, or | 24 25 |
| (ii) | has entered into a contract that relates to the relevant public purpose. | 26 27 |
| (3) | The performance audit may be conducted only to the extent that it assesses the activities of the private entity in relation to achieving the relevant public purpose. | 28 29 30 |
| (4) | A private entity may be audited under this section only if the activities of the entity in relation to achieving the relevant public purpose cannot be audited under any other provision of this Act. | 31 32 33 |
| 52I | Report of performance audit | 34 |
| (1) | The Auditor-General is to report to each of the following as to the result of a performance audit of a private entity under section 52H: | 35 36 |
| (a) | the head of the private entity, | 37 |
| (b) | the responsible Minister for the private entity, | 38 |
| (c) | the Treasurer. | 39 |
| (2) | The report must include the reasons for conducting the audit. | 40 |
| (3) | The Auditor-General must not make a report of a performance audit unless, at least 28 days before making the report, the Auditor-General has given each | 41 42 |

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| | person referred to in subsection (1) a summary of any findings and proposed recommendations in relation to the audit. | 1 2 |
| (4) | The Auditor-General may make a report before the expiry of that 28-day period if the head of the private entity has provided to the Auditor-General any submissions or comments the head of the entity wishes to make. | 3 4 5 |
| (5) | The Auditor-General is to include in the report any submissions or comments made by the head of the private entity or a summary, in an agreed form, of any such submissions or comments. | 6 7 8 |
| (6) | In a report of a performance audit, the Auditor-General: | 9 |
| | (a) may include such information as the Auditor-General thinks desirable in relation to the activities that are the subject of the audit, and | 10 11 |
| | (b) is to set out the reasons for opinions expressed in the report, and | 12 |
| | (c) may include any recommendations arising out of the audit that the Auditor-General thinks fit to make. | 13 14 |
| (7) | The Auditor-General may include the report in any other report of the Auditor-General. | 15 16 |
| 52J | Tabling of reports | 17 |
| (1) | The Auditor-General is, as soon as practicable after making a report under section 52I, to present the report to each House of Parliament, if that House is then sitting. | 18 19 20 |
| (2) | If a House of Parliament is not sitting when the Auditor-General seeks to present a report to it under this section, the Auditor-General is to present the report to the Clerk of the House concerned to be dealt with in accordance with section 63C. | 21 22 23 24 |
| (3) | The Auditor-General may include the report in any other report of the Auditor-General to the House of Parliament concerned. | 25 26 |