

PUBLIC FINANCE AND AUDIT BILL, 1983

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Miscellaneous Acts (Public Finance and Audit) Repeal and Amendment Bill, 1983, is cognate with this Bill.

The object of this Bill is, consequent upon the repeal of the Audit Act, 1902, to enact provisions that are more consonant with modern practice and requirements in relation to the administration and audit of public finances.

The Bill contains the following provisions:—

PART I.—PRELIMINARY.

Part I of the Bill contains preliminary provisions relating to the short title and the commencement of the proposed Act and its arrangement and interpretation (clauses 1-4).

PART II.—PUBLIC FINANCE ADMINISTRATION.

Part II of the Bill makes provision with respect to public finance administration.

Division 1 deals with the Public Accounts. The Division specifies the matters to be included in the Treasurer's annual statements and provides for certain monthly statements relating to those accounts (clauses 5-8).

Division 2 provides for the control of accounting arrangements through directions issued by the Treasurer and of expenditure from the Consolidated Fund by Treasurer's expenditure control authorities. Provision is made for the responsibility for, and control over, the internal financial operations of authorities within the meaning of the proposed Act. Certain provisions are made in regard to unclaimed moneys (clauses 9-15).

Division 3 contains provisions relating to public banking and investment arrangements. In particular, provision is made for a more simplified method than that under the Audit Act, 1902, of controlling the banking of public money through the use of Treasurer's directions (clauses 16-21).

Division 4 contains provisions relating to appropriation. In particular, provision is made for the issue and application by the Treasurer of an appropriation for a service or function where the responsibility for that service or function is transferred after the appropriation is made and for his alteration of the appropriate revenue and expenditure estimates of the State in accordance with alterations to specific purpose payments by the Commonwealth to the State for a financial year. The Treasurer is required to report to Parliament where either of these actions is taken.

Provision is also made for payments authorised on lapse of appropriation to be adjusted to take into account movements in the Consumer Price Index (clauses 22-27).

PART III.—AUDIT.

Part III relates to audit of the Public Accounts and other accounts.

Division 1 provides for the appointment of the Auditor-General and Deputy Auditor-General and makes provision generally in relation to those officers and their functions (clauses 28-41).

Division 2 provides for the duties of the Auditor-General with respect to the audit of accounts. The Division enables the Auditor-General to appoint certain persons as auditors to examine the accounts of accounting officers and to gain access to certain records and information for the purposes of the exercise of his functions under the proposed Act. Provision is made for the preservation of secrecy in relation to certain matters revealed by any audit under the proposed Act (clauses 42-46).

Division 3 provides a uniform system in relation to the audit of certain statutory bodies specified in Schedule 2 to the proposed Act (clauses 47-50).

Division 4 provides for the audit of certain other prescribed statutory bodies (clauses 51 and 52).

Division 5 provides for the making and form of the Auditor-General's annual report to Parliament (clauses 53-56).

PART IV.—THE PUBLIC ACCOUNTS COMMITTEE.

Part IV makes provision with respect to the Public Accounts Committee and is in substantially the same form as Part IIA of the Audit Act, 1902, which was inserted as an amendment to that Act in 1982 (clauses 57-62).

PART V.—MISCELLANEOUS.

Part V creates certain offences, provides for the recovery of money and property in certain circumstances and empowers the Governor to make regulations.

Schedule 1 contains the Auditor-General's Declaration.

Schedule 2 specifies the statutory bodies to which Division 3 of Part III of the proposed Act applies.

PROOF

PUBLIC FINANCE AND AUDIT BILL, 1983

No. , 1983.

A BILL FOR

An Act to make provision with respect to the administration and audit of public finances and for other purposes.

[MR BOOTH—30 *March*, 1983.]

See also Miscellaneous Acts (Public Finance and Audit) Repeal and Amendment Bill, 1983.

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BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

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PART I.**PRELIMINARY.****Short title.**

1. This Act may be cited as the "Public Finance and Audit Act, 1983".

Commencement.

- 10 2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence or shall be deemed to have commenced, as the case may require, on 1st July, 1983.

15 **Arrangement.**

3. This Act is divided as follows:—

PART I.—PRELIMINARY—ss. 1–4.

PART II.—PUBLIC FINANCE ADMINISTRATION—ss. 5–27.

DIVISION 1.—*Public accounts*—ss. 5–8.

- 20 DIVISION 2.—*Accounting arrangements*—ss. 9–15.

DIVISION 3.—*Public banking and investment arrangements*—ss. 16–21.

DIVISION 4.—*Appropriation provisions*—ss. 22–27.

PART III.—AUDIT—ss. 28–56.

- 25 DIVISION 1.—*The Auditor-General*—ss. 28–41.

DIVISION 2.—*Audit—Generally*—ss. 42–46.

DIVISION 3.—*General audit of statutory bodies*—ss. 47–50.

DIVISION 4.—*Particular audit of statutory bodies, funds and accounts*—ss. 51, 52.

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DIVISION 5.—*Auditor-General's annual report*—ss. 53–56.

PART IV.—THE PUBLIC ACCOUNTS COMMITTEE—ss. 57–62.

PART V.—MISCELLANEOUS—ss. 63–67.

SCHEDULE 1.—AUDITOR-GENERAL'S DECLARATION.

5 SCHEDULE 2.—STATUTORY BODIES.

Interpretation.

4. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“accounting officer” means—

- 10 (a) a person who by any law, regulation or appointment is charged with the duty of collecting or receiving, or who actually collects or receives, or who is charged with the duty of disbursing, or who actually disburses, any public money;
- 15 (b) a person who by any law, regulation or appointment is authorised to commit or incur the expenditure of public money;
- 20 (c) a person who by any law, regulation or appointment is charged with a duty relating to the keeping of accounts with respect to public money; or
- 25 (d) a person who by any law, regulation or appointment is charged with a duty relating to the purchase, receipt, issue, sale, custody, control, management or disposal of, or the accounting for, public property or who actually purchases, receives, issues, sells, keeps in custody, controls, manages, disposes of, or accounts for, public property;

“auditor” means a person appointed to be an auditor pursuant to section 43;

“authority” means—

- 30 (a) a Department within the meaning of section 4 (1) of the Public Service Act, 1979;

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(b) a Teaching Service within the meaning of section 4 (1) of the Education Commission Act, 1980;

(c) an authority of the State; or

5 (d) a person, group of persons or body prescribed for the purposes of this definition;

“authority of the State” means—

(a) a statutory body representing the Crown; or

10 (b) a person, group of persons or body appointed, constituted or regulated by or under an Act the accounts of which are, pursuant to this Act or any other law, required or authorised to be audited by the Auditor-General or to be laid before the Legislative Assembly;

15 “bank” means a bank within the meaning of the Banking Act 1959 of the Parliament of the Commonwealth as amended and in force for the time being or a bank constituted by a law of a State or of the Commonwealth;

“Consolidated Fund” means the fund formed as referred to in section 39 of the Constitution Act, 1902;

20 “Financial Agreement” means the Financial Agreement set forth in the Schedule to the Financial Agreement Ratification Act, 1928, as varied from time to time;

“financial year”, in relation to the Public Accounts, means the period from 1st July in one year to 30th June in the next following year;

“Head of an authority” means—

25 (a) in relation to a Department within the meaning of section 4 (1) of the Public Service Act, 1979—the appropriate Department Head within the meaning of that subsection;

30 (b) in relation to a Teaching Service within the meaning of section 4 (1) of the Education Commission Act, 1980—the appropriate Director-General within the meaning of that subsection;

35 (c) in relation to an authority of the State—the chief executive officer of the authority of the State or the person who exercises the functions of a chief executive officer in relation to the authority of the State; or

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- 5 (d) in relation to a person, group of persons or body prescribed for the purposes of the definition of "authority" in this section—such person as is prescribed for the purposes of this definition in relation to the person, group of persons or body;
- "loan Act" includes the Financial Agreement;
- 10 "money" includes any instrument ordering or authorising the payment of money, being an instrument of a kind which may be lodged with a bank for the purpose of enabling the bank to collect money so payable and credit that money to an account with that bank, and any bill of exchange, postal order, money order and promissory note;
- "officer of an authority" means—
- 15 (a) in relation to a Department within the meaning of section 4 (1) of the Public Service Act, 1979—an officer within the meaning of that subsection or a temporary employee within the meaning of that subsection;
- 20 (b) in relation to a Teaching Service within the meaning of section 4 (1) of the Education Commission Act, 1980—an officer within the meaning of that subsection or a temporary employee within the meaning of that subsection;
- (c) in relation to an authority of the State—a member of the authority of the State or a person appointed to or by or employed within the authority of the State; or
- 25 (d) in relation to a person, group of persons or body prescribed for the purposes of the definition of "authority" in this section—such person as is prescribed for the purposes of this definition in relation to the person, group of persons or body;
- 30 "other money" means money or securities of any kind for the payment of money, collected, received or held by the Treasurer or an officer of an authority in the course of his official duties, not being public money;
- 35 "other property" means property held by the Treasurer or an officer of an authority in the course of his official duties, not being public property;
- "prescribed requirements" means requirements prescribed by or under this Act or any other law, Treasurer's directions or the accounting manual of an authority referred to in section 12 (4);

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“public money” includes—

- (a) securities and all revenue, loan and other money whatever, collected, received or held by, for, or on account of the State; and
- 5 (b) without limiting the generality of paragraph (a)—
 - (i) money which, pursuant to any Act, is directed to be paid to or expressed to form part of the Consolidated Fund or the Special Deposits Account; and
 - 10 (ii) such money, or money of such class or description of money, as is prescribed for the purposes of this definition;

“public property” means all property, other than public money, held by any person for or on behalf of the State;

15 “regulation” means a regulation made under this Act;

“revenue” means all money collected or received for or on account of the Consolidated Fund;

“Special Deposits Account” means—

- 20 (a) an account of funds which the Treasurer is, by statutory or other authority, required to hold otherwise than for or on account of the Consolidated Fund;
- (b) an account of money directed to be paid to the Special Deposits Account by or under this or any other Act; or
- 25 (c) an account of such other money, not directed by or under this or any other Act to be placed to the credit of another account, which the Treasurer directs to be carried to the Special Deposits Account;

“the Public Accounts” means the statements prepared by the Treasurer under section 6;

30 “Treasurer’s direction” means a direction issued under section 9;

“Treasurer’s expenditure control authority” means a Treasurer’s expenditure control authority issued under section 10.

(2) In this Act, a reference to the Crown is a reference to the Crown in right of the State.

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(3) In this Act, a reference to—

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

PART II.

PUBLIC FINANCE ADMINISTRATION.

DIVISION 1.—*Public accounts.*

Treasurer's accounts.

- 5
5. The Treasurer shall keep in the Treasury accounts relating to the
- 10 Consolidated Fund, the Special Deposits Account and such other money as the Treasurer may determine under such separate heads as he may direct.

Preparation by Treasurer of the Public Accounts for each financial year.

6. (1) The Treasurer shall, as soon as practicable after the end of each financial year, prepare statements of—
- 15 (a) Treasury balances as at 30th June for that year, summarised and distributed into cash and securities;
- (b) Consolidated Fund receipts and payments;
- (c) Consolidated Fund receipts in detail;
- (d) Consolidated Fund payments in detail;
- 20 (e) variations during that year of the loan liability and annual interest liability to the Commonwealth;
- (f) the loan liability and annual interest liability to the Commonwealth as at 30th June for that year according to maturity dates;
- 25 (g) the loan liability to the Commonwealth according to the currency in which the loan liability is redeemable;

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(h) receipts and payments on account of the State to the National Debt Sinking Fund, including an indication of the amount of the Commonwealth's contribution under the Financial Agreement;

5 (i) the net loan liability and debt charges distributed between departmental services and authorities within the meaning of the Capital Debt Charges Act, 1957;

(j) advances repayable by bodies whose funds do not form part of the Treasurer's accounts under section 5;

10 (k) receipts and payments in detail for the year of the Special Deposits Account; and

(l) such other matters, if any, as may be prescribed.

(2) A statement under subsection (1) may include amounts rounded to the nearest dollar or, where the Treasurer so determines, rounded to the nearest one thousand dollars.

15 (3) The Treasurer shall, within 6 weeks after the close of each financial year, transmit the Public Accounts prepared in relation to the financial year to the Auditor-General.

Certain receipts and payments outside Australia to be included in Public Accounts.

20 7. The Public Accounts shall include receipts and payments of the account or fund to which they relate, made outside Australia, as at a date not earlier than 31st May in the financial year to which the Public Accounts relate.

Monthly statements.

25 8. The Treasurer—

(a) shall publish—

(i) a monthly statement during each financial year of operations on the Consolidated Fund; and

30 (ii) a monthly statement of the balance of cash and securities held by him,

as soon as practicable after the month to which the statement relates; and

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(b) shall publish in the Gazette—

- 5 (i) a detailed statement of the receipts and payments of the Consolidated Fund and the Special Deposits Account for the quarters ending 30th September, 31st December and 31st March, respectively, in each financial year;
- (ii) Treasury balances, summarised and distributed into cash and securities, as at the end of those quarters; and
- 10 (iii) such other matters, if any, as may be prescribed, as soon as practicable after the quarter to which the statement and balances relate.

DIVISION 2.—*Accounting arrangements.*

Treasurer's directions.

9. (1) The Treasurer may, from time to time, prepare and issue directions to accounting officers with respect to the principles, practices and
15 procedures to be observed in the administration of the financial affairs of the State and may, at any time, amend, vary or cancel a direction so issued.

(2) Without limiting the generality of subsection (1), the Treasurer may issue directions relating to—

- 20 (a) the accounting for receipts and payments of money;
- (b) money recoverable by the State;
- (c) the recording, issue and control of public property, including stores;
- (d) the sale and disposition of public property;
- (e) banking arrangements;
- (f) the writing off of debts;
- 25 (g) the preparation of the Public Accounts and other accounts;
- (h) the preparation of estimates;
- (i) the control and management of budget allocation;
- (j) program budgeting;
- (k) the insurance and protection of public property; and
- 30 (l) controls for computer-based accounting systems.

(3) A provision of a direction issued under this section may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;

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(b) apply differently according to different factors of a specified kind;
or

(c) authorise any matter or thing to be from time to time determined,
applied or regulated by any specified person, group of persons or
body,

or may do any combination of those things.

(4) A direction issued under this section shall not apply to or in
respect of—

(a) the State Bank of New South Wales;

(b) a university; or

(c) a person, group of persons or body prescribed for the purposes of
this section.

Treasurer's expenditure control authority.

10. (1) The Treasurer may, from time to time, issue a Treasurer's
expenditure control authority regulating the expenditure of money from the
Consolidated Fund.

(2) A Treasurer's expenditure control authority may—

(a) be a standing authority regulating the expenditure of money in
general terms;

(b) be limited as to the period during which it may operate to regulate
the expenditure of money;

(c) be limited as to the nature of the transactions in respect of which
money may be expended;

(d) be limited to a particular transaction or series of transactions; or

(e) be contained in the Treasurer's directions or in a separate
instrument.

(3) A reference in this section to the regulation of the expenditure
of money includes a reference to the commitment of money for expenditure.

Accounting officer to be subject to this Act, etc.

11. Every accounting officer shall be subject to the provisions of this Act
and the prescribed requirements.

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Internal control and audit.

12. (1) The Head of an authority shall ensure that there is an effective system of internal control over the financial operations of the authority, including—

- 5 (a) proper segregation of functional responsibilities;
- (b) a system of authorisation and recording, and procedures adequate to provide accounting control, in relation to assets, liabilities, revenues and expenses;
- 10 (c) sound practices for the efficient performance of functions by each organisational branch or section within the authority; and
- (d) procedures to ensure compliance with management policies and requirements made by the provisions of this Act and the prescribed requirements.

(2) Wherever practicable, the Head of an authority shall establish
15 and maintain an effective internal audit organisation which shall—

- (a) regularly appraise the financial administration of the authority and the effectiveness of that financial administration; and
- 20 (b) report directly at regular intervals to the Head of the authority or a person nominated by him as to the result of any appraisal, inspection, investigation, examination or review made by the internal audit organisation.

(3) The Head of an authority shall supervise the preparation and maintenance of an accounting manual for use within the authority.

Authorisation to incur expenditure.

25 **13.** Expenditure shall be committed or incurred by an officer of an authority only within the limits of an authorisation in writing conferred on him by a person entitled to confer that authority, being a Minister or the Head of an authority, as the case may require.

Excessive expenditure.

30 **14. (1)** An officer of an authority who commits or incurs expenditure shall be responsible for the exercise of due economy.

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(2) An officer of an authority shall not, without the authorisation of the Treasurer, commit or incur any expenditure in relation to a work or service in excess of the amount provided therefor in any item, subdivision, division or vote shown on the Estimates of the Consolidated Fund adopted
5 by an Appropriation Act.

Unclaimed money.

15 15. (1) Except in so far as the regulations may otherwise provide, where money which, by virtue of his office or employment, has come into the possession or under the control of an officer of an authority for or on account of or for the use or benefit of a person other than the authority and has remained unclaimed in a bank for a period of 3 months, the money shall be paid into the Special Deposits Account.

(2) Money placed to the credit of the Special Deposits Account pursuant to subsection (1)—

- 15 (a) which is unclaimed for a period of 2 years after it is so placed; or
(b) in respect of which a claim has been made but which, on the expiration of a period of 2 years after the money is so placed, is not being proceeded with,

shall be paid into the Consolidated Fund.

20 (3) Except in so far as it is inconsistent with this section, the Unclaimed Money Act, 1982, applies to and in respect of money to which this section applies in the same way as it applies to and in respect of money which is unclaimed money for the purposes of that Act.

DIVISION 3.—Public banking and investment arrangements.

25 Agreement with bank.

16. (1) The Treasurer may agree with any bank upon such terms and conditions as he may think fit for—

- 30 (a) the receipt, custody, payment and transmission of public money;
(b) the inscription, management and payment of interest on the public debt within or without New South Wales;
(c) the making of advances, the charges relating to advances and the interest payable by or to the bank upon balances or advances; and
(d) the conduct of the banking business of the State generally.

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(2) An agreement referred to in subsection (1) shall not be made to have effect within New South Wales for more than 1 year unless it contains a provision that it may be terminated at any time on the giving of 6 months' notice.

5 Accounts to be kept in bank.

17. A public funds account, for the banking of the Consolidated Fund, money required or directed to be carried to the Special Deposits Account and such other money as the Treasurer may determine and such other accounts as the Treasurer may open shall be kept in such bank or banks
10 as the Treasurer may in writing direct.

Official account not to be opened without authority.

18. (1) An accounting officer shall not, without the authorisation in writing of the Treasurer, open an account with a bank for the payment or receipt of public money.

15 (2) A bank shall not, without the authorisation in writing of the Treasurer, permit an accounting officer to open an account referred to in subsection (1), or to have an overdraft on such an account.

Banking of public money.

19. An accounting officer collecting or receiving public money shall
20 bank the money collected or received in accordance with the prescribed requirements.

Interest on accounts.

20. The several accounts of the Treasurer in any bank shall, for interest purposes, be considered as one account.

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Investment of funds.

21. Without limiting any authority granted by or under any other Act to invest money in the Consolidated Fund or other money to which section 17 applies, any such money may be invested—

- 5 (a) on deposit with a bank;
- (b) in the purchase of a bill of exchange that is drawn or accepted by a bank;
- (c) in a loan to a person who is a dealer in the short term money market and in relation to whom, at the time the loan is made, the Reserve Bank of Australia stands as lender of last resort; or
- 10 (d) in the purchase of securities, the repayment of which is guaranteed by the Government of New South Wales or of the Commonwealth and being securities which are repayable not more than 2 years after the date of purchase.

15 DIVISION 4.—*Appropriation provisions.*

Money not to be paid out unless authorised.

22. Money shall not be drawn from—

- (a) the Consolidated Fund, except under the authority of an Act of Parliament; or
- 20 (b) an account within the Special Deposits Account, except for the purposes of the account and under such authority as may be applicable to the constitution of the account.

Lapsing of appropriation of revenue.

23. (1) Except as provided by subsection (2), every appropriation out of the Consolidated Fund for any financial year shall lapse and cease to have any effect for any purpose at the close of that year.

(2) Where, out of any appropriation for salaries or wages or payments in the nature of salaries or wages, an amount, not exceeding the total of the sums required to meet so much of those salaries, wages and payments

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as is chargeable in respect of that part of the pay period current at 30th June in any year which terminates on that day, is transferred to the credit of a suspense account within the Special Deposits Account, and the amount so transferred is thereafter applied in or towards meeting those salaries, wages
5 or payments for that pay period, the amount so transferred shall, for the purposes of this section, be deemed to have been applied during the financial year in which the appropriation was made.

Transfer of functions between Departments, etc.

24. (1) Notwithstanding the provisions of any Appropriation Act, where,
10 after the passing of an Appropriation Act for any financial year the responsibility for a service or function for which an appropriation is made in the Appropriation Act for that year is transferred, the appropriation shall not lapse and may be issued and applied, in accordance with such determination as may be made by the Treasurer, for or towards the service or function the
15 responsibility for which is transferred.

(2) The Treasurer shall lay or cause to be laid before the Legislative Assembly, within 6 sitting days after a determination is made under subsection (1), details of the appropriation the subject of the determination and the part of any item, subdivision, division or vote relating to the service or function
20 the responsibility for which is transferred.

(3) For the purposes of this section, sitting days shall be counted whether or not they occur in the same session.

(4) Where the Treasurer has made a determination under subsection (1) in relation to an appropriation, he shall prepare the Public Accounts for
25 the financial year in relation to which the determination is made, as if the determination had been made so as to have had effect as from the beginning of that financial year.

Payments authorised on lapse of appropriation.

25. If, before the close of any financial year, no Act is passed appropriat-
30 ing money out of the Consolidated Fund to meet the requirements of the next succeeding financial year, the Treasurer may pay such sums as may be necessary to meet those requirements, subject to the following provisions:—

(a) the authority of the Treasurer shall cease upon the passing of the Appropriation Act for the next succeeding financial year, and shall
35 not in any event extend beyond the period of the first 3 months of that succeeding financial year;

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5 (b) upon the passing of the Appropriation Act, all payments made under the authority of this section shall be regarded and treated for all purposes as payments made out of the money appropriated by that Act under the item, subdivision, division or vote appropriate thereto;

(c) the payments made under the authority of this section shall not exceed, in total, such amount as would be equivalent to one quarter of the amount appropriated under the Appropriation Act for the immediately preceding financial year, adjusted by—

10 (i) except as provided by subparagraph (ii)—the percentage movement in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician; or

15 (ii) where some other group of numbers or of amounts relating to the price of goods and services, which is issued by the Australian Statistician, is prescribed for the purposes of this subparagraph—the group of numbers or of amounts so prescribed,

20 for the quarter of that year commencing on and including 1st January and ending on and including the next succeeding 31st March;

25 (d) when the estimates of expenditure for that succeeding financial year have been presented to Parliament, and the rate of expenditure in those estimates is, in any case, lower for any item, subdivision, division or vote than the rate of expenditure authorised in the Appropriation Act for the last preceding financial year, the payments made under the authority of this section shall not exceed those lower rates.

Power to vary the annual appropriation.

26. (1) Where the Commonwealth, in any financial year—

30 (a) provides for the making of a specific purpose payment not included in the revenue estimates of the State for the financial year; or

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- (b) provides for an increase in the amount of a specific purpose payment in excess of the amount shown in the revenue estimates of the State for the financial year,

5 the Treasurer may amend the appropriate revenue and expenditure estimates of the State for that year as if he had received advice from the Commonwealth, at the time those estimates were presented to Parliament, that the specific purpose payment or the increase in the amount of the specific purpose payment, as the case may require, would have been provided to the State by the Commonwealth in that year.

10 (2) Where, under subsection (1), the Treasurer amends the appropriate revenue and expenditure estimates of the State for a financial year to provide for the making of a specific purpose payment or an increase in the amount of a specific purpose payment, appropriations for that year for the purpose of the specific purpose payment may, as the case may require, be
15 made or increased accordingly.

(3) The Treasurer shall lay or cause to be laid before the Legislative Assembly, within 6 sitting days of the day on which the estimates are amended under subsection (1), a copy of the estimates as so amended.

(4) For the purposes of this section, sitting days shall be counted,
20 whether or not they occur in the same session.

Loan money to be carried to Consolidated Fund.

27. (1) All money borrowed under the authority of any loan Act, except money borrowed by way of overdraft under the authority of clause 5 of Part I of the Financial Agreement solely for temporary purposes, shall be carried
25 to the Consolidated Fund.

(2) Money borrowed by way of overdraft under the authority of clause 5 of Part I of the Financial Agreement solely for temporary purposes shall not be expended except in accordance with the provisions of this or any other Act.

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PART III.

AUDIT.

DIVISION 1.—*The Auditor-General.*

Appointment.

- 5 **28.** The Auditor-General shall be appointed by the Governor.

Ineligibility by reason of age.

29. A person who is of or above the age of 65 years is not eligible to be appointed as the Auditor-General.

Declaration of office.

- 10 **30. (1)** The Auditor-General, on being appointed under this Act, shall, before he exercises the powers or fulfils the duties conferred or imposed on him by this Act, make and subscribe, before one of the Judges of the Supreme Court, a declaration in the form of Schedule 1.

15 **(2)** The declaration made and subscribed pursuant to subsection (1) shall be kept among the records of the Supreme Court.

Disabilities.

31. The Auditor-General shall not during his continuance in his office be capable of being a member of the Executive Council or of the Parliament of the Commonwealth or of a State of the Commonwealth.

20 **Term of office.**

32. The Auditor-General shall hold his office during good behaviour until he attains the age of 65 years.

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Full-time office.

33. The Auditor-General shall devote the whole of his time to the duties of his office.

Public Service Act, 1979, not to apply.

- 5 **34.** The Public Service Act, 1979, does not apply to or in respect of the appointment of the Auditor-General and the Auditor-General is not, in his capacity as the Auditor-General, subject to that Act during his term of office.

Removal from office.

10 **35.** The Governor may remove the Auditor-General from office upon the address of both Houses of the Legislature.

Suspension from office.

- 15 **36. (1)** The Governor may suspend the Auditor-General from office—
- (a) for misbehaviour;
 - (b) for incapacity;
 - 15 (c) if he directly or indirectly engages in any paid employment outside the duties of his office, or in any trade or business except as a member of a registered company;
 - 20 (d) if he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
 - 25 (e) if, except on leave granted by the Governor, he absents himself from duty for 14 consecutive days, or for 28 days in any 12 months.
- 25 **(2)** The Minister shall lay or cause to be laid before each House of Parliament, within 7 sitting days of that House after the Auditor-General has been suspended from office, a full statement of the grounds for the suspension.

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(3) The suspension shall be lifted unless each House of Parliament, within 21 sitting days from the time when the statement was laid before it, declares by resolution that the Auditor-General ought to be removed from office.

5 (4) If each House does so declare within that period, the Auditor-General shall be removed from office by the Governor.

(5) For the purposes of this section, sitting days shall be counted whether or not they occur in the same session.

Preservation of rights of Auditor-General previously public servant, etc.

10 37. (1) In this section—

“statutory body” means any body declared under subsection (6) to be a statutory body for the purposes of this section;

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

(2) Subject to subsection (3) and to the terms of his appointment, where the Auditor-General was, immediately before his appointment as the Auditor-General—

- (a) an officer of the Public Service or an officer of a Teaching Service;
- 20 (b) a contributor to a superannuation scheme;
- (c) an officer employed by a statutory body; or
- (d) a person in respect of whom provision was made by any Act that he retain any rights accrued or accruing to him as an officer or employee,

25 he—

- (e) shall retain any rights accrued or accruing to him as such an officer, contributor or person;
- (f) may continue to contribute to any superannuation scheme to which he was a contributor immediately before his appointment; and

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(g) shall be entitled to receive any deferred or extended leave and any payment, pension or gratuity,

as if he had continued to be such an officer, contributor or person during his service as the Auditor-General, and—

- 5 (h) his service as the Auditor-General shall be deemed to be service as an officer or employee for the purpose of any law under which those rights accrued or were accruing, under which he continues to contribute or by which that entitlement is conferred; and
- 10 (i) he shall be deemed to be an officer or employee, and the Government of New South Wales shall be deemed to be his employer, for the purpose of the superannuation scheme to which he is entitled to contribute under this section.

(3) If the Auditor-General would, but for this subsection, be entitled under subsection (2) to contribute to a superannuation scheme or to receive
15 any payment, pension or gratuity under that scheme, he shall not be so entitled upon his becoming (whether upon his appointment as the Auditor-General or at any later time while he holds office as the Auditor-General) a contributor to any other superannuation scheme, and the provisions of subsection (2) (i) cease to apply to or in respect of him and the Government of
20 New South Wales in any case where he becomes a contributor to such another superannuation scheme.

(4) Subsection (3) does not prevent the payment to the Auditor-General upon his ceasing to be a contributor to a superannuation scheme of such amount as would have been payable to him if he had ceased, by reason
25 of his resignation, to be an officer or employee for the purposes of that scheme.

(5) The Auditor-General shall not, in respect of the same period of service, be entitled to claim a benefit under this Act and another Act.

(6) The Governor may, by proclamation published in the Gazette,
30 declare any body constituted by or under any Act to be a statutory body for the purposes of this section.

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Deputy Auditor-General.

38. (1) A Deputy Auditor-General may be appointed by the Governor to act in the office of the Auditor-General at any time while the Auditor-General is absent from his office through illness or any other cause or while
5 there is a vacancy in the office of the Auditor-General.

(2) An appointment under subsection (1) may be made whether or not, at the time at which the appointment is made, the Auditor-General is absent from his office as referred to in that subsection or there is a vacancy in the office of Auditor-General as so referred to.

10 (3) Section 30 applies to and in respect of the Deputy Auditor-General in the same way as it applies to and in respect of the Auditor-General.

(4) The Deputy Auditor-General, while acting as referred to in subsection (1), shall be deemed to be the Auditor-General and shall have and may exercise the functions of the Auditor-General.

15 (5) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of the Auditor-General, and all things done or omitted to be done by that person while so acting shall be as valid and effectual and shall have the same consequences as if they had been done or omitted to be done by the
20 Auditor-General.

Auditor-General shall communicate with Treasurer.

39. (1) The Auditor-General shall communicate with the Treasurer upon all matters arising under this Act or the prescribed requirements relating to the collection, receipt, issue and expenditure of public money.

25 (2) The Auditor-General shall transmit to the Treasurer the name of any person failing to comply with any of the provisions of this Act or the prescribed requirements.

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(3) Upon the name of a person being transmitted to the Treasurer under subsection (2) and until the failure of that person is made good to the satisfaction of the Auditor-General, the payment of any salary or money due or to become due to that person may, subject to and in accordance with
5 the regulations, be withheld.

Search in public books.

40. The Auditor-General may cause a search to be made in and any extracts to be taken from any book, document or record, in any public office, without paying any fee therefor.

10 Auditor-General may obtain opinion of law officer.

41. The Auditor-General shall be entitled to lay before the Attorney General or Crown Solicitor a case in writing as to any question regarding the interpretation of this Act, the Constitution Act, 1902, or any other Act, or the prescribed requirements concerning the functions of the Auditor-
15 General and the Attorney General or Crown Solicitor, as the case may be, shall give a written opinion on the case.

DIVISION 2.—Audit—Generally.**Duty of Auditor-General.**

42. The Auditor-General shall audit the Public Accounts and such
20 other accounts as he is authorised or required to audit in such manner as he thinks fit having regard to the character and effectiveness of the relevant internal control and recognised professional standards and practices.

Inspection and audit of accounts of accounting officers.

43. (1) The Auditor-General may appoint, in writing, a person, whether
25 or not that person is an officer of an authority, to be an auditor for the purposes of this Act.

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(2) The Auditor-General—

(a) may, whenever he thinks fit; and

(b) shall, whenever required by the Treasurer so to do,

5 inspect, examine and audit, or cause an auditor to inspect, examine and audit, the books and accounts of any accounting officer and of any other person who is subject to the provisions of this Act or the prescribed requirements or whose accounts the Auditor-General is authorised or required to audit and into whose possession or under whose control any public money, other money, public property or other property has come.

10 **(3)** An auditor who has made an inspection, examination and audit under subsection (2) shall, as soon as practicable after the inspection, examination and audit, make and sign a report and forward it to the Auditor-General.

15 **(4)** The Auditor-General shall, as soon as practicable after any inspection, examination and audit under this section, forward a report of the results of the inspection, examination and audit to the Treasurer.

Access to records, information, etc.**44. (1) The Auditor-General or a person authorised by him—**

20 (a) for the purposes of any inspection or audit authorised or required to be carried out by the Auditor-General pursuant to this Act or any other law in relation to any person, group of persons, body, fund or account; or

25 (b) for the purpose of exercising any other function conferred or imposed on the Auditor-General pursuant to this Act or any other law,

is entitled at all reasonable times to full and free access to the accounts, records, documents and papers of or relating to the person, group of persons, body, fund or account or relating to public money, other money, public property or other property and may make copies thereof or take extracts
30 therefrom.

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(2) The Auditor-General or a person authorised by him may require an officer of an authority to furnish him with such information in the possession of the officer or to which the officer has access as the Auditor-General or authorised person considers necessary for any of the purposes referred to in subsection (1) (a) or (b), and the officer shall comply with the requirements.

Penalty: \$500.

Access to bank records.

45. Where an account for the banking of public money or money (whether public money or otherwise) of an authority is kept with a bank, the bank or a person in charge of the account shall, whenever requested to do so by the Auditor-General or a person authorised by him, furnish to the Auditor-General or authorised person, in accordance with the request, a statement of the account or a certificate as to the balance of the account.

15 Secrecy.

46. (1) The Auditor-General and an auditor shall preserve and aid in preserving secrecy with respect to all matters and things that come to his knowledge in the exercise of his functions under this Act and the prescribed requirements and shall not communicate to any person any such matter or thing.

(2) Nothing in subsection (1) applies to or in respect of—

- (a) the conduct of any matter necessary for the proper administration of this Act or the prescribed requirements;
- 25 (b) proceedings for an offence relating to public money, other money, public property or other property or for the recovery of public money, other money, public property or other property;
- (c) disciplinary proceedings brought against an officer of an authority; or
- 30 (d) a report or communication authorised or required to be made by or under this Act or the prescribed requirements.

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DIVISION 3.—*General audit of statutory bodies.***Application and interpretation: Pt. III, Div. 3.**

47. (1) A reference in this Division to a statutory body is a reference to a person, group of persons or body specified in Schedule 2.

5 (2) A reference in this Division to a Minister, in relation to a statutory body, is a reference to the Minister having the administration of the Act by or under which the statutory body is appointed, constituted or regulated.

10 (3) The provisions of this Division are in addition to any other statutory provisions relating to the accounts or audit of a statutory body but, in the event of any inconsistency between the provisions of this Division and any other such statutory provisions, the provisions of this Division shall, to the extent of the inconsistency, prevail.

15 (4) Nothing in this Division limits or derogates from the provisions of Division 2.

Keeping of accounts.

48. A statutory body shall keep accounts and transmit them for audit in accordance with this Division.

Statement of accounts.

20 49. (1) A statutory body shall cause to be kept proper accounts and records in relation to all of its operations.

(2) Without limiting the generality of subsection (1), a statutory body, being the Senate or Council of a university, shall cause to be kept proper books of account in relation to the funds of the university.

25 (3) A statutory body shall, as soon as practicable, but within 6 months, after the end of each financial year of the body, prepare and submit to the Minister for presentation to Parliament a statement of accounts, together with the Auditor-General's certificate given under this section in relation to the statement.

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(4) The statement of accounts of or caused to be kept by a statutory body—

(a) shall be in a form approved by the Auditor-General (having regard to current accounting standards and industry practices relating to the statutory body);

(b) shall include such information as is requested by him; and

(c) shall exhibit a true and fair view of the financial position and transactions of the statutory body and, in the case of a statutory body being the Senate or Council of a university, of the university.

(5) The statutory body shall, as soon as practicable, but within 4 months, after the end of the financial year to which a statement of accounts relates, transmit the statement to the Auditor-General for verification and certification.

(6) The Auditor-General's certificate—

(a) shall state that he had audited the accounts of or caused to be kept by the statutory body relating to the relevant financial year;

(b) shall indicate whether the statement of accounts complies with subsection (3); and

(c) shall set forth any qualifications subject to which the certificate is given.

(7) Nothing in this section prevents the alteration of the statement of accounts, with the approval of the Auditor-General, after its receipt by him and before its submission to the Minister.

(8) The Minister shall lay the statement of accounts, or cause it to be laid, together with the Auditor-General's certificate, before both Houses of Parliament as soon as practicable after the receipt by him of the statement.

Inspection and audit of accounts of statutory bodies.

50. (1) The accounts and records of financial transactions of or relating to a statutory body, and the records of or relating to assets of or in the custody of the body, shall be inspected and audited by the Auditor-General.

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(2) The Auditor-General shall report to the statutory body, the Minister and the Treasurer on the result of any such inspection and audit and as to such irregularities or other matters as in his judgment call for special notice.

5 (3) Towards defraying the costs and expenses of any such inspection and audit, the statutory body shall pay to the Consolidated Fund such amounts, at such times, as the Treasurer decides.

DIVISION 4.—*Particular audit of statutory bodies, funds and accounts.*

Application and interpretation: Pt. III, Div. 4.

10 **51. (1)** A reference in this Division to a statutory body is a reference to—

(a) a person, group of persons or body; or

(b) a fund or account,

prescribed for the purposes of this Division.

15 (2) A reference in this Division to a Minister, in relation to a statutory body, is a reference to the Minister having the administration of the Act by or under which the statutory body is appointed, constituted or regulated.

(3) Nothing in this Division limits or derogates from the provisions of Division 2.

20 **Particular audit.**

52. (1) The Auditor-General shall, in accordance with the request of the Treasurer, a Minister or a person prescribed for the purposes of this section in relation to a statutory body, inspect and audit the accounts and records of financial transactions of or relating to a statutory body, and the records
25 of or relating to assets of or in the custody of the body.

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(2) Section 50 (subsection (1) excepted) applies to and in respect of an inspection and audit requested under subsection (1) in the same way as it applies to and in respect of an inspection and audit of a statutory body
5 referred to in Division 3 and, in the application of that section—

- (a) the reference in section 50 (2) to the Minister and the Treasurer shall, where the request for the inspection and audit of a statutory body is made by a person prescribed for the purposes of this section in relation to the statutory body, be read and construed
10 as if it included a reference to the person so prescribed; and
- (b) the references in section 50 (2) and (3) to the statutory body shall, where a fund or account is prescribed for the purposes of this Division, be read and construed as if they were references to the person keeping or administering the fund or account.

15

*DIVISION 5.—Auditor-General's annual report.***Examination by Auditor-General of Public Accounts.**

53. The Auditor-General shall examine the Public Accounts transmitted to him by the Treasurer in accordance with section 6 (3) and shall prepare and sign a full report stating whether in his opinion the accounts are properly
20 drawn up in accordance with this Act and accord with the accounts and records of the Treasurer furnished to him.

Annexures to report of Auditor-General.

54. The Auditor-General shall annex or append to the report prepared in accordance with section 53 a copy of every case laid by the Auditor-
25 General before the Attorney General for his opinion under section 41, together with a copy of the opinion given on the case.

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Public Accounts and reports to be transmitted to Parliament.

55. (1) The Auditor-General shall, as soon as practicable after receiving from the Treasurer the Public Accounts, but not later than 30th September in the year following that to which the Public Accounts relate, transmit the
5 Public Accounts to the Legislative Assembly, if Parliament is then sitting, accompanied by his report and copies of such opinions, if any, as are directed to be annexed or appended to his report under section 54.

(2) If, at the time at which the Auditor-General seeks to transmit the Public Accounts to the Legislative Assembly in accordance with sub-
10 section (1), Parliament is not sitting, the Auditor-General shall transmit the Public Accounts to the Legislative Assembly on the first sitting day after that time.

Suggestions by Auditor-General.

56. The Auditor-General may, in his annual report or in any special
15 report which he may at any time think fit to make, recommend any plans and make any suggestions for the better collection and payment of public money, and for more effectually and economically auditing and examining the Public Accounts and the accounts of statutory bodies to which Division
3 or 4 applies, and may generally report on any matter arising from audit
20 which in his opinion should be brought to the attention of Parliament.

PART IV.

THE PUBLIC ACCOUNTS COMMITTEE.

Interpretation: Pt. IV.

57. In this Part—

25 “Chairman” means the Chairman of the Committee;

“Committee” means the Public Accounts Committee for the time being constituted under this Part;

“Vice-Chairman” means the Vice-Chairman of the Committee.

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Constitution of Public Accounts Committee.

58. (1) As soon as practicable after the commencement of the first session of each Parliament, a committee of members of the Legislative Assembly, to be known as the Public Accounts Committee, shall be
5 appointed.

(2) The Committee shall consist of 5 members.

(3) The appointment of members of the Committee shall be in accordance with the practice of the Legislative Assembly with respect to the appointment of members to serve on select committees of the Legislative
10 Assembly.

(4) A member of the Legislative Assembly is not eligible for appointment as a member of the Committee if he is a Minister of the Crown or a Parliamentary Secretary.

(5) A member of the Committee ceases to hold office—

- 15 (a) when the Legislative Assembly is dissolved or expires by the effluxion of time;
- (b) if he becomes a Minister of the Crown or a Parliamentary Secretary;
- (c) if he ceases to be a member of the Legislative Assembly;
- 20 (d) if he resigns his office by writing under his hand addressed to the Speaker of the Legislative Assembly; or
- (e) if he is discharged from his office by the Legislative Assembly.

(6) The Legislative Assembly may appoint one of its members (not being a Minister of the Crown or a Parliamentary Secretary) to fill a
25 vacancy in the office of a member of the Committee.

(7) Any act or proceeding of the Committee is, notwithstanding that at the time when the act or proceeding was done, taken or commenced there was—

- (a) a vacancy in the office of a member of the Committee; or

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- (b) any defect in the appointment, or any disqualification, of a member of the Committee,

as valid as if the vacancy, defect or disqualification did not exist and the Committee were fully and properly constituted.

5 Chairman and Vice-Chairman of Committee.

59. (1) There shall be a Chairman and a Vice-Chairman of the Committee who shall be elected by and from the members of the Committee.

(2) A member of the Committee ceases to hold office as Chairman or Vice-Chairman if—

- 10 (a) he ceases to be a member of the Committee;
- (b) he resigns that office by writing under his hand presented to a meeting of the Committee; or
- (c) he is discharged from that office by the Committee.

(3) At any time when the Chairman is absent from New South
15 Wales or is, for any reason, unable to perform the duties of his office or there is a vacancy in the office of Chairman, the Vice-Chairman may exercise the functions of the Chairman under this Act or under the Parliamentary Evidence Act, 1901.

Procedure of Committee.

20 **60. (1)** The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Part, be as determined by the Committee.

(2) The Clerk of the Legislative Assembly shall call the first
25 meeting of the Committee in each Parliament in such manner as he thinks fit.

(3) At a meeting of the Committee, 3 members constitute a quorum.

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(4) The Chairman or, in the absence of the Chairman, the Vice-Chairman or, in the absence of both the Chairman and Vice-Chairman, a member of the Committee elected as chairman for the meeting by the members present shall preside at a meeting of the Committee.

5 (5) The Vice-Chairman or other member presiding at a meeting of the Committee shall, in relation to the meeting, have all the functions and powers of the Chairman.

(6) The Chairman, Vice-Chairman or other member presiding at a meeting of the Committee shall have a deliberative vote and, in the event
10 of an equality of votes, shall also have a casting vote.

(7) A question arising at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting.

(8) The Committee may sit and transact business notwithstanding any prorogation or adjournment of the Legislative Assembly.

15 (9) The Committee shall not sit or transact business on a sitting day of the Legislative Assembly during the time of the sitting, except by leave of the Legislative Assembly.

Functions of Committee.

61. (1) The functions of the Committee are—

- 20 (a) to examine the Public Accounts transmitted to the Legislative Assembly by the Auditor-General;
- (b) to examine the accounts of authorities of the State, being accounts that have been—
- (i) audited by the Auditor-General; or
- 25 (ii) laid before the Legislative Assembly by a Minister of the Crown;
- (c) to examine the reports of the Auditor-General transmitted with the Public Accounts or laid before the Legislative Assembly with the accounts of an authority of the State (including any documents
30 annexed or appended to those reports);

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- (d) to report to the Legislative Assembly from time to time upon any item in, or any circumstances connected with, those accounts, reports or documents which the Committee considers ought to be brought to the notice of the Legislative Assembly;
- 5 (e) to report to the Legislative Assembly from time to time any alteration which the Committee thinks desirable in the form of those accounts or in the method of keeping them or in the method of receipt, expenditure or control of money relating to those accounts;
- 10 (f) to inquire into, and report to the Legislative Assembly upon, any question in connection with those accounts which is referred to it by the Legislative Assembly, a Minister of the Crown or the Auditor-General; and
- 15 (g) to inquire into expenditure by a Minister of the Crown made without Parliamentary sanction or appropriation and report to the Legislative Assembly from time to time upon any matter connected with that expenditure which the Committee considers ought to be brought to the notice of the Legislative Assembly.

(2) The functions of the Committee extend to an examination of, inquiry into or report upon a matter of Government policy if and only if
20 the matter has been specifically referred to the Committee under subsection (1) (f) by the Legislative Assembly or a Minister of the Crown.

(3) The functions of the Committee do not extend to an examination of, inquiry into or report upon the estimates of any proposed expenditure by the State or by an authority of the State.

25 **Evidence.**

62. (1) Subject to this section, the Committee shall take all evidence in public.

(2) Where, in the opinion of the Committee, any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Committee relates to a secret or
30 confidential matter, the Committee may, and at the request of the witness giving the evidence or producing the document shall—

- (a) take the evidence in private; or

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(b) direct that the document, or the part of the document, be treated as confidential.

(3) Where a direction under subsection (2) is applicable in respect of a document, or a part of a document, produced in evidence to the Committee, the contents of the document or part shall, for the purposes of this section, be deemed to be evidence given by the person producing the document and taken by the Committee in private.

(4) Where, at the request of a witness, evidence is taken by the Committee in private—

- 10 (a) the Committee shall not, without the consent in writing of the witness; and
- (b) a person (including a member of the Committee) shall not, without the consent in writing of the witness and the authority of the Committee under subsection (6),

15 disclose or publish the whole or a part of that evidence.

Penalty: \$500 or imprisonment for a term not exceeding 3 months.

(5) Where evidence is taken by the Committee in private otherwise than at the request of a witness, a person (including a member of the Committee) shall not, without the authority of the Committee under subsection

20 (6), disclose or publish the whole or a part of that evidence.

Penalty: \$500 or imprisonment for a term not exceeding 3 months.

(6) The Committee may, in its discretion, disclose or publish or, by writing under the hand of the Chairman, authorise the disclosure or publication of evidence taken in private by the Committee, but this subsection

25 does not operate so as to affect the necessity for the consent of a witness under subsection (4).

(7) Nothing in this section prohibits—

- (a) the disclosure or publication of evidence that has already been lawfully published; or
- 30 (b) the disclosure or publication by a person of a matter of which he has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Committee.

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(8) This section has effect notwithstanding section 4 of the Parliamentary Papers (Supplementary Provisions) Act, 1975.

(9) Where evidence taken by the Committee in private is disclosed or published in accordance with this section—

- 5 (a) sections 6 and 7 of the Parliamentary Papers (Supplementary Provisions) Act, 1975, apply to and in relation to the disclosure or publication as if it were a publication of that evidence under the authority of section 4 of that Act; and
- 10 (b) Division 5 of Part III of, and Schedule 2 to, the Defamation Act, 1974, apply to and in relation to that evidence as if it were taken by the Committee in public.

(10) Where the Committee as constituted at any time has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted
15 at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken that evidence.

(11) The production of documents to the Committee shall be in accordance with the practice of the Legislative Assembly with respect to the production of documents to select committees of the Legislative Assembly.

20

PART V.**MISCELLANEOUS.****Recovery of money and value of property.**

63. (1) Where there occurs a loss of or deficiency in—

- 25 (a) public money or other money that has been advanced to an officer of an authority; or
- (b) public money or other money while that money is under the control of an officer of an authority,

that loss or deficiency shall be a debt due to the Crown or the authority, as the case may require, and may be recovered from the officer in a court
30 of competent jurisdiction.

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(2) Where an officer of an authority defends an action brought under subsection (1), the plaintiff is entitled to judgment if, in the absence of proof to the contrary, he proves—

- (a) that the defendant was an officer of an authority;
- 5 (b) that the money the subject of the action was under the control of the defendant; and
- (c) that the defendant converted the money to his own use or was guilty, by act or omission, of culpable negligence in relation to the control he exercised over the money.

10 (3) Where loss or destruction of or damage to public property or other property occurs while the property is in the care of an authority, the value of the property lost or destroyed or, as the case may be, the cost of repairing the damage to that property shall be a debt due to the Crown or the authority, as the case may require, and may be recovered in a court of
15 competent jurisdiction by action brought against—

- (a) the officer of the authority in whose care the property was at the material time; or
- (b) another officer of the authority who by his culpable negligence or
20 misconduct caused or contributed to the loss or destruction of or damage to the property.

(4) Where an officer of an authority defends an action brought under subsection (3), the plaintiff is entitled to judgment if, in the absence of proof to the contrary, he proves—

- (a) that the defendant was an officer of the authority; and
- 25 (b) that the defendant converted the property the subject of the action to his own use or by his culpable negligence caused or contributed to the loss or destruction of or damage to the property.

(5) Where the negligence or misconduct of an officer of an authority was not the sole cause of the loss or destruction of or damage to the property
30 the subject of an action under subsection (3), the Crown or the authority, as the case may require, may recover from the officer so much only of the cost of or the cost of replacing or repairing the loss, destruction or damage as is just and equitable having regard to the contribution made by the officer to that loss, destruction or damage as determined by the court.

35 (6) In this section a reference to an officer of an authority includes a reference to a person who has been such an officer.

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(7) For the purposes of this section—

(a) public money or other money shall be taken to be under the control of an officer of an authority if the money has been collected or received by or has come into the custody of the officer but has not been paid to another person or to the credit of a bank account as required by the provisions of this Act or the prescribed requirements; and

(b) public property or other property shall be taken to be in the care of an officer of an authority if the property—

(i) has been delivered to the officer; and

(ii) has not been returned to a person or delivered to another person entitled to receive it on behalf of the Crown or the authority, as the case may require.

(8) The provisions of this section do not affect a right of the Crown or an authority to recover an amount from an officer of an authority otherwise than under this section but the Crown or the authority, as the case may require, shall not recover amounts from the one officer both under this section and otherwise than under this section, in respect of the same loss, deficiency, destruction or damage.

20 Misappropriation of money or property.

64. (1) An officer of an authority shall not—

(a) misapply, improperly dispose of, or improperly use, any public money, other money, public property or other property; or

(b) pay any public money or other money into his own private account at any bank.

(2) An officer of an authority shall not wilfully and unlawfully damage or destroy any public property or other property.

(3) In a prosecution for an offence against subsection (1) (a), it is not necessary to prove the misapplication, improper disposal or improper use of any specific sum of money or property if there is proof of a general deficiency on the examination of the books of account or entries kept or made by the defendant or otherwise and the court or jury is satisfied that the defendant misapplied, improperly disposed of or improperly used all or any of the deficient money or all or any of the deficient property.

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Offences—generally.

65. A person (whether or not the person is declared to be subject to the provisions of this Act or the prescribed requirements) who contravenes or fails to comply with any provision of this Act or the prescribed requirements is guilty of an offence and liable, where a penalty is not otherwise expressly provided, to a penalty not exceeding \$2,000.

Proceedings for offences.

66. (1) Proceedings for an offence against a provision of this Act or the prescribed requirements shall be disposed of in a court of petty sessions held before a stipendiary magistrate sitting alone.

(2) A penalty incurred under this Act or the prescribed requirements, when paid or recovered, shall be paid into the Consolidated Fund.

Regulations.

67. (1) 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.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
 - (b) apply differently according to different factors of a specified kind; or
 - (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person, group of persons or body,
- or may do any combination of those things.

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SCHEDULE 1.

(Sec. 30.)

AUDITOR-GENERAL'S DECLARATION.

I, , do solemnly and sincerely
5 promise and declare that, according to the best of my skill and ability, I will faithfully,
impartially and truly execute the office and perform the duties of Auditor-General
according to law.

(Signature)

SCHEDULE 2.

(Sec. 47.)

10

STATUTORY BODIES.

- Albury-Wodonga (New South Wales) Corporation.
- A college of advanced education constituted under section 5 of the Colleges of Advanced
Education Act, 1975.
- 15 A corporation constituted under the Growth Centres (Development Corporations) Act,
1974.
- A marketing board constituted under the Marketing of Primary Products Act, 1927.
- Archives Authority of New South Wales.
- Australian Museum Trust.
- 20 Banana Marketing Control Committee.
- Board of Architects of New South Wales.
- Board of Governors of New South Wales State Conservatorium of Music.
- Broken Hill Water Board.
- Builders Licensing Board.
- 25 Building and Construction Industry Long Service Payments Corporation.
- Chipping Norton Lake Authority.
- Cobar Water Board.
- Corporate Affairs Commission.
- Council of Auctioneers and Agents.
- 30 Council of Law Reporting.
- Council of the Macquarie University.
- Council of the University of Newcastle.
- Council of the University of New England.
- Council of the University of New South Wales.
- 35 Dairy Industry Marketing Authority.
- Electricity Commission of New South Wales.
- Energy Authority of New South Wales.

Public Finance and Audit.

SCHEDULE 2—*continued.*

STATUTORY BODIES—*continued.*

- Fish Marketing Authority.
Forestry Commission of New South Wales.
- 5 Grain Handling Authority of New South Wales.
Homebush Abattoir Corporation.
Hunter District Water Board.
Hunter Valley Conservation Trust.
- Land Commission of New South Wales.
- 10 Legal Services Commission of New South Wales.
Library Council of New South Wales.
Local Government Superannuation Board.
Lord Howe Island Board.
- Maritime Services Board of New South Wales.
- 15 Metropolitan Waste Disposal Authority.
Metropolitan Water Sewerage and Drainage Board.
Mines Rescue Board.
Mine Subsidence Board.
- New South Wales Dried Fruits Board.
- 20 New South Wales Egg Corporation.
New South Wales Film Corporation.
New South Wales Institute of Psychiatry.
New South Wales Meat Industry Authority.
New South Wales Retirement Board.
- 25 New South Wales State Cancer Council.
Nominal defendant.
- Officer in charge of the State Brickworks.
Officer in charge of the State Tileworks.
- Poultry Farmer Licensing Committee.
- 30 Public Servant Housing Authority of New South Wales.
- Reclamation Trust.
Rental Bond Board.
- Senate of the University of Sydney.
State Bank of New South Wales.
- 35 State Dockyard Board of New South Wales.
State Superannuation Board.
Superannuation Tribunal constituted under the Coal and Oil Shale Mine Workers
(Superannuation) Act, 1941.
Sydney Cove Redevelopment Authority.
- 40 Sydney Cricket and Sports Ground Trust.
Sydney Farm Produce Market Authority.

Public Finance and Audit.

SCHEDULE 2—*continued.*

STATUTORY BODIES—*continued.*

- Teacher Housing Authority of New South Wales.
- The Aboriginal Lands Trust.
- 5 The State Mines Control Authority.
- The Sydney County Council.
- The Sydney Opera House Trust.
- The Trustees of the Museum of Applied Arts and Sciences.
- Totalizator Agency Board.
- 10 Travel Agents Registration Board.
- Trotting Authority of New South Wales.
- Trustees of the Parliamentary Contributory Superannuation Fund.
- Zoological Parks Board of New South Wales.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1983

