

SECOND PRINT

**PUBLIC FINANCE AND AUDIT (SPECIAL DIVIDENDS)  
AMENDMENT BILL 1994**

NEW SOUTH WALES



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*This PUBLIC BILL, originated in the LEGISLATIVE ASSEMBLY and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

*Legislative Assembly*

*Clerk of the Legislative Assembly.*

NEW SOUTH WALES



Act No. , 1994

An Act to amend the Public Finance and Audit Act 1983 with respect to the dividends and other amounts payable by certain government authorities.

*Public Finance and Audit (Special Dividends) Amendment 1994*

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**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Public Finance and Audit (Special Dividends) Amendment Act 1994.

5 **Commencement**

2. This Act commences 3 months after the date of assent, unless commenced sooner by proclamation.

**Amendment of Public Finance and Audit Act 1983 No. 152**

10 3. The Public Finance and Audit Act 1983 is amended by inserting after section 59B the following section:

**Payment of dividends etc. by certain government authorities**

59C. (1) In this section:

“**dividend**” of a government authority means:

- 15 (a) a dividend payable by the authority under section 59B; or
- (b) in the case of a State owned corporation—a determination by the voting shareholders of the corporation under the corporation’s memorandum or articles of association of the dividend payable by the corporation; or
- 20 (c) any other dividend payable to the State under any Act that constitutes or regulates the activities of the authority,

but does not include income tax equivalent payments made to the State;

25 “**government authority**” means a State owned corporation, the Maritime Services Board (and its subsidiary port authorities), the State Rail Authority, the State Transit Authority, the Electricity Commission, the Water Board, Sydney Electricity, electricity county councils, water supply county councils and any other statutory authority prescribed by the regulations;

30 “**relevant asset purchase**” by a government authority means any payment by the authority to the State (other than a dividend or repayment of capital) for the purchase of any real or personal property, being a payment that in total exceeds \$1,000,000 (the purchases of separate parts of any property being treated as a single purchase for the purpose of this definition if they comprise

35 a single transaction);



*Public Finance and Audit (Special Dividends) Amendment 1994*

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**“repayment of capital”** by a government authority means a payment to the State by the authority to discharge any capital indebtedness of the authority arising from financial accommodation provided to the authority;

**“State”** includes any authority of the State. 5

(2) The dividend of a government authority is not to exceed the dividend calculated in accordance with a formula prescribed by the regulations. A dividend is not payable unless a formula has been prescribed.

(3) Different formulas may be prescribed for different classes of government authorities. 10

(4) A prescribed formula may be based on the value of assets of the government authority, on the gross income or surplus income of the government authority or on any other prescribed basis.

(5) The dividend of a government authority is also not to exceed such amount as the Treasurer determines to be the maximum dividend which can be paid without causing the authority to defer the carrying out or construction of any works which are a core statutory or commercial responsibility of the authority. 15

(6) Each government authority is to certify to the Treasurer the amount (if any) that the authority considers is the maximum amount that can be paid as dividend by the authority without causing the authority to defer the carrying out or construction of any works which are a core statutory or commercial responsibility of the authority. 20

(7) A government authority by which a dividend has been paid is to include in each account that it sends to a customer details of any amount payable by the customer that is attributable to a dividend paid by the authority. 25

(8) The Treasurer is to provide a government authority by which a dividend is payable with a written statement explaining on what basis the amount of the dividend was determined and calculated. 30

(9) A government authority by which a dividend is payable is to include in its annual report a copy of the statement provided to the authority by the Treasurer under subsection (8) and a copy of the certificate furnished by the authority to the Treasurer under subsection (6) in respect of that dividend. 35

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5 (10) A government authority must also include in its annual report details of any works that were referred to in any previous annual report of the authority (in a certificate included in that previous report under subsection (9)) and which have not been constructed or carried out. The annual report must also include a statement by the authority as to which if any of those works the authority still proposes to construct or carry out and a statement of the estimated cost of those works (if an estimate is available to the authority).

10 (11) The Treasurer is required to refer to the Auditor-General and the Public Accounts Committee particulars of any relevant asset purchase of a government authority within 1 month after the purchase. Any such authority is to inform the Treasurer of any relevant asset purchase of the authority to enable the Treasurer to comply with this subsection.

15 (12) The Auditor-General is to report to the Public Accounts Committee, and that Committee is to report to the Legislative Assembly, on whether the payment made for any such relevant asset purchase is a fair price for the economic benefit to the authority.

(13) This section has effect despite anything to the contrary in section 59B or in any other Act.

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