

The Audit Act, 1891

WESTERN AUSTRALIA

ANNO QUINQUAGESIMO QUARTO

VICTORIÆ REGINÆ

No. 12

An Act to amend the Law relating to the Receipt, Custody, and Issue of the Public Moneys, the Audit of the Public Accounts, and the Protection and Recovery of the Public Property.

[Assented to 26th February, 1891.]

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 Western Australia, in Parliament assembled, and by the authority of the same, as follows:—

Preamble

1. This Act may be cited for all purposes as 'The Audit Act, 1891.'

Short title

2. 'The Audit Act, 1881,' and 'The Loan Control Act, 1882,' are hereby respectively repealed.

Repeal 46 Vic., No. 1, 46 Vic., No. 25

3. The Auditor General for the time being shall hold office during good behaviour, and shall not be removable therefrom unless an address be presented to the Governor from both Houses of the Legislature in one session, or from either House in two consecutive sessions, praying for such removal: Provided that it shall be lawful for the Governor in Council to suspend the Auditor General from his office for inability or misbehaviour; and when and so often as the same shall happen, a full statement of the cause of such suspension shall be laid before both Houses of Parliament, if then sitting, within seven days from such suspension, or if they be not then sitting then within seven days after the commencement of the next session; and if an address shall not, within one calendar month afterwards during that session, be presented to the Governor by the Legislative Council or House of Assembly praying for the removal of the Auditor General from his office, he shall be restored thereto; but if such address shall be so presented, the Governor in Council may remove the Auditor General from his office, and thereupon the same shall become vacant.

Appointment of Auditor General

4. In case of the death, resignation, or removal of the Auditor General, it shall be lawful for the Governor in Council to appoint some other person to fill such vacancy.

Governor may appoint successor in case of vacancy in office

5. In the case of the illness, suspension, or absence from the Colony of the Auditor General, it shall be lawful for the Governor in Council to appoint some other person to act as Auditor General during such illness, suspension, or absence; and he shall make and subscribe a declaration in the manner and form hereinafter stated; and shall, during the time he is so acting, have all the powers and perform all the duties of the Auditor General.

Appointment of deputy

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Declaration of
person holding
or entering
office

6. The person who at the passing of this Act holds, or who may be hereafter appointed to the office of Auditor General, shall make and subscribe before the Executive Council the following declaration, and every such declaration shall be kept among the records of the said Council.

DECLARATION

'I (*name*), do solemnly and sincerely 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.'

Auditor General
incapacitated
from sitting in
Parliament, and
forbidden to
follow other
business

7. No Auditor General appointed under this Act shall during his continuance of such office be capable of being a member of the Executive Council, or of either House of Parliament, or shall occupy any other office, or follow any other business.

Regulations to
be framed

8. It shall be lawful for the Governor in Council from time to time to frame such regulations (not inconsistent with the provisions of this Act) as may be necessary and expedient for the purposes of this Act, and for the due care and management of the public moneys; and all such regulations shall be laid before both Houses of Parliament within fourteen days after the framing thereof if Parliament be sitting, and if Parliament be not sitting then within fourteen days after the next meeting of Parliament.

Treasury to pre-
pare monthly
statements of
expenditure

9. The Colonial Treasurer shall, as often as occasion may require, calculate the amount of moneys likely to become due and payable out of the Consolidated Revenue, Loan Moneys, or other Trust and Deposit Accounts during a period not exceeding one month next after such calculation, and shall thereupon prepare warrants setting forth the said amounts, classifying and arranging them under the same divisions and sub-divisions that shall have been employed in the appropriation thereof or shall be required by such regulations, and after having signed such warrants shall transmit the same to the Auditor General for his countersignature. It will not, however, be necessary to obtain a warrant for payment of interest on the Public Debt, or other liabilities which are authorised by special Acts of the Legislature.

Auditor General
to ascertain that
money is
available

10. Before countersigning any such warrants as aforesaid, the Auditor General shall ascertain that the sums therein mentioned are then legally available for and applicable to the service or purpose mentioned in such warrants, and after countersigning such warrants shall return the same to the Colonial Treasurer, who shall thereupon submit them to the Governor for his approval and signature.

Auditor General
may withhold
countersign-
ture

11. In case the said Auditor General shall, on examining the said warrants, find that the sums therein stated, or any of them, are not then legally available or applicable to the services or purposes therein set forth, he shall withhold his countersignature from the certificate, and shall return to the Colonial Treasurer the said warrants, attaching thereto a paper setting forth in writing, for the information of the Governor, the grounds on which he withholds his countersignature, and such paper shall be placed before the Governor with the said

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warrants when submitted by the Colonial Treasurer for his approval and signature.

12. All persons who by any law, regulation, or appointment are now or shall hereafter be charged with the duty of collecting or receiving revenue, or with the disbursing moneys on account of the Public Service, shall perform all such duties and render such accounts as shall be prescribed by this Act or any such regulations to be made thereunder.

Persons receiving revenue or disbursing public moneys to perform duties required by this Act

13. The Colonial Treasurer shall pay at the Treasury, or require to be paid at outstations, only such accounts as shall be from time to time duly authorised by the Governor; but no such accounts shall be so paid until he shall have ascertained that the said regulations shall have been complied with in every particular.

Payment of accounts at Treasury and outstations

14. The correctness of every account in regard to computations, castings, rate of charge, and the faithful performance of the services charged for shall be specially certified to by at least two officers of the department incurring the expense; and the said Auditor General shall, in his report hereinafter mentioned, surcharge the officers the amount of any overpayment that may be made on the faith of the correctness of their certificate.

Correctness of accounts to be certified by department incurring the expense

15. All sums of money which shall be appropriated to the Public Service for any year shall be available for the services of that year, provided that the accounts shall come in course of payment during the year, or be presented by heads of department for payment at the Treasury within ten days from the close of the financial year; and payment of all such accounts shall be deemed to have been made within the said financial year; and all votes which shall be appropriated to the Public Service for any year, or unexpended balances thereof, outstanding at the close of the financial year, shall lapse. Provided that votes or unexpended balances thereof, if bound by contracts taken within the year, or in any previous year, shall be continued and maintained pending fresh votes, and shall be a charge upon and paid out of the revenue of the next succeeding year; and the Governor may issue his warrant therefor.

Votes available for payment of accounts presented within ten days of close of the financial year

16. Annual Estimates shall be submitted to the Legislative Assembly of the proposed Expenditure from the Consolidated Revenue, classified and arranged in such a manner as to show in detail the expenditure of each department in salaries, allowances, and contingent expenses; and, on the passing by the Legislative Assembly of the said Estimates, the amount thereof shall be included in an Appropriation Act. Annual Estimates of the anticipated Revenue and other resources of the Colony shall also be prepared in such a manner as may be considered desirable, and shall be presented to the Legislative Assembly with the Annual Estimate of the contemplated Expenditure. Such Estimates of Revenue and Expenditure shall also be presented to the Legislative Council.

Liabilities on votes and unexpended balances

Annual Estimates of Revenue and Expenditure

17. If the exigencies of the Public Service render it necessary to alter the proportions assigned to the particular items comprised under any one sub-division in the Annual Supplies, it shall be lawful for the Governor in Council to order that there shall be applied, in aid of any item that may be deficient, a further sum out of any surplus arising

Power to vary the Annual Appropriation

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on other items under the same sub-division; and every such order shall be delivered to the said Auditor General, and a copy thereof shall be laid before both Houses of Parliament within fourteen days after the signing thereof, if Parliament is then sitting, and if not, then within fourteen days after the next meeting of Parliament.

Nothing herein contained, however, shall be deemed to enable the Governor in Council to direct that any such sum as aforesaid shall be applied in augmentation of or in addition to any salary or wages the amount whereof shall have been fixed by the Appropriation Act.

Separate Loan
Accounts to be
kept

18. Separate accounts shall be kept in the Treasury of all moneys which have been or shall hereafter be raised by way of Loan upon the public credit, and shall be kept under such separate heads as specified in the several Acts under the authority whereof the moneys were raised.

Loan Estimates

19. Annual Estimates shall be submitted to Parliament of the proposed expenditure from the moneys standing to credit of any Loan Account, in which Estimates the nature of the proposed work or other objects of the proposed expenditure, and the amount of the proposed expenditure in each case shall be specified, and such Estimates shall include all salaries and allowances to be paid out of such moneys in like manner as in the estimates of ordinary expenditure.

New Harbour
Works to be
submitted for
approval of
Parliament

20. Whenever it is proposed to undertake any new works for the improvement of any Harbour, the cost whereof is intended to be defrayed out of Loan moneys, the plans and sections of the proposed works, or copies thereof, together with a Statement showing the nature and extent thereof, shall be laid before both Houses of Parliament for their approval.

Accounts
chargeable to
annual votes,
and unexpended
balances

21. All moneys voted in any year in respect of such annual estimates shall be charged with the accounts that come in course of payment during that year, or be presented for payment by the proper officer at the Treasury within ten days from the close of the financial year, and the payment of all such accounts shall be deemed to have been made within the said financial year; provided that votes or unexpended balances thereof, if bound by contracts taken within the year, or in any previous year, shall be continued and maintained pending fresh votes, and shall be a charge upon and paid out of the moneys voted during the next succeeding year.

Treasurer may
agree with any
bank for con-
ducting business

22. The Colonial Treasurer may from time to time agree with any bank or banks, upon such terms and conditions as he may think fit, for the receipt, custody, payment, and transmission of public moneys, within or without the Colony, and for advances to be made, and for the charges in respect of the same, and for the interest payable by or to the bank upon balances or advances respectively, and generally for the conduct of the banking business of the Government; but no such agreement shall be made for a period of more than one year, unless it contains a provision that the same may be terminated at any time after a notice of not exceeding six months.

Bank pass-books
and certificates
of balances

23. Every person or body politic into whose bank any moneys shall be paid to the Public Account shall, once in every week or oftener if so required, deliver or send by post to the said Colonial Treasurer

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a pass-book showing particulars of the debit and credit side of the Public Account to date, and a certificate setting forth the balance to debit or credit of the said account.

24. One duplicate copy of the cash book shall be forwarded by the Colonial Treasurer daily, together with all vouchers in support of the entries therein, to the Auditor General for the purpose of being checked in his office.

Treasury to send copy of cash-book to Auditor General

25. The said Auditor General, on receipt by him of the copy referred to, shall compare the debit and credit entries with the supporting vouchers and documents forwarded therewith, and examine their correctness as to rates, computations, and castings, and shall examine the supporting vouchers as to whether they bear upon the face of them a correct description of the proper heads of receipt or of expenditure to which the moneys mentioned therein have been debited or credited respectively, and shall ascertain whether the moneys mentioned on the debit side of the said copy have been duly paid over to the Public Account, and whether the sums mentioned as paid on the credit side of the said copy have been actually disbursed under competent authority and on the prescribed certificates; and the said Auditor General shall allow and discharge the Colonial Treasurer for all receipts which shall be found correct, and for all payments made in pursuance of the warrants under the hand of the Governor, and accompanied by the receipts or acquittances of the respective persons to whom such payments have been so made.

Examination of copy and supporting vouchers

26. In the examination of the copy of the cash book, the bank pass-books and certificates, and all other documents produced as vouchers or as subordinate vouchers, the said Auditor General shall make such queries and observations addressed to officers certifying accounts, or persons in any way concerned with the receipt and disbursements of the moneys referred to in this Act, and shall call for such further accounts, vouchers, statements, and explanations as he may think necessary; and after such queries and observations have been answered, and after such further accounts and explanations have been rendered, shall disallow and surcharge all sums not duly credited to the proper head of revenue or account and paid over to the Public Account, and shall disallow and surcharge all sums disbursed in excess or not duly vouched and authorised, and shall forward to the Colonial Treasurer a statement of all such unsatisfied surcharges to be enforced by him against such officers certifying accounts or other persons through whose default such surcharges have arisen.

Auditor General to make observations and queries, and to discharge and surcharge

27. In all cases in which any such officer or other person as aforesaid may be dissatisfied with any disallowance or surcharge in his accounts made by the said Auditor General, such officer or other person shall have a right of appeal to the Governor in Council, who after such investigation as may by him be considered equitable may make such order directing the relief of the appellant, wholly or in part, from the disallowance or surcharge in question as shall appear to the Governor in Council to be just and reasonable, and his decision shall be final.

Persons accountable to have right of appeal to Governor in Council

28. The said Auditor General or any officer appointed by him for this purpose is authorised and empowered from time to time to inspect

Auditor General to inspect

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Government stores, books of account, &c.

and take account of all goods warehoused under bond to the Government in any store, whether public or private, and to inspect the books and accounts of every person in the Government Service to whose possession or control any moneys shall have come for or on account of the Public Revenue, or other Public Account, by virtue of his office or employment, or of any legal process whatsoever, for or on account or for the use or benefit of any other person, and to inspect all stores belonging to Her Majesty of whatsoever nature or description the same may be, and to cause stock thereof to be taken; and also to investigate and examine all contracts, accounts, invoices, requisitions, books, bills of parcel, and vouchers in anywise relating to or concerning the same, and all circumstances affecting or attending the making of any such contract, and to ascertain the quantity, description, and price of all stores supplied on account of Her Majesty, and to forthwith make and sign a report of the result of such inspection, investigation, examination, and comparison, and as to the manner in which the books, accounts, and other papers as aforesaid, and stores shall have been kept; and every such report shall, within one week after the making and signing thereof, be transmitted to the Colonial Treasurer.

Provisions for imperfect vouchers

29. When a voucher produced by the Colonial Treasurer or any officer for a sum of money disbursed by him shall be defective from the want of any certificate or other document which ought to have accompanied it, or in any other particular, it shall be lawful for the said Auditor General, upon proof being made to his satisfaction that such Colonial Treasurer or other officer did not wilfully neglect to obtain and produce such certificate or document, and that the sum specified in the voucher has been actually and properly disbursed, to admit such voucher as a sufficient discharge of the said Colonial Treasurer or other officer, and to allow the amount of the same to his credit.

Allowance without vouchers or with imperfect vouchers

30. In all cases where any sum of money shall be allowed to the credit of the Colonial Treasurer or other person, either without any written voucher or upon an imperfect voucher, or shall be disallowed in consequence of the absence or imperfection of such voucher, the particulars and amount of such allowance or disallowance shall be specified to the Colonial Treasurer by the said Auditor General, and in the case of the disallowance of any sum, the amount thereof shall be deemed and taken to be money paid by Her Majesty to the use of such Colonial Treasurer or officer at his request.

Auditor General may examine officers and call for papers

31. The said Auditor General is hereby authorised and empowered, by precept under his hand in the form contained in the schedule to this Act or to the like effect, to require all such persons as he may think fit to appear personally before him, at a time and place to be named in such precept, and to produce to him all such accounts, books, and papers in the possession or control of such persons as shall appear to be necessary for the purposes of his examination; and it shall be lawful for the said Auditor General and he is hereby authorised, when he shall see occasion, to cause search to be made and extracts to be taken from any book or record in the custody of the Colonial Treasurer or in any public office, without paying any fee for the same.

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32. The said Auditor General is hereby authorised and required to examine, upon promissory declaration to be made before him in lieu of oath, all persons whom he shall think fit to examine, touching the receipt and expenditure of money or stores respectively affected by the provisions hereof, and touching all other matters and things necessary for the due execution of the powers vested in the said Auditor General by this Act.

Auditor General may examine upon declaration

33. Any person who shall fail to attend the said Auditor General for the purpose of being examined or to produce any account books, vouchers, or other documents, or to answer any lawful question, when required so to do by the said Auditor General, shall be liable on any such default to be dealt with for contempt by the Auditor General, in like manner as persons charged with contempt of court are dealt with by the Supreme Court. Provided that every person so attending, other than a Civil Servant during office hours, shall be entitled to such travelling expenses and allowances as would be allowed to a witness on a trial at the Supreme Court, and no person shall be compelled to leave any place where he may be, or to appear, or be examined unless he shall first be paid such travelling expenses.

Persons failing to attend the Auditor General

34. If any person shall make or subscribe any such declaration as hereinbefore mentioned, and shall in the course of his examination before the said Auditor General wilfully and corruptly give false evidence, such person so offending shall incur the same penalties as are or may be provided against persons convicted of wilful and corrupt perjury.

Penalties for false declaration

35. The said Auditor General shall be entitled to lay before the Crown Solicitor a case in writing as to any question arising out of this Act, or concerning the discharge of the said Auditor General's duties thereunder, and such Crown Solicitor shall give a written opinion on such case.

Auditor General may take opinion of Law Officers of the Crown

36. If any person in the Public Service to whose possession or control any moneys shall come for or on account of the public revenue, or other public account by virtue of his office or employment, or of a legal process whatsoever, for or on account of, or for the use or benefit of any other person, or if any person liable to account for the receipt or expenditure of any public moneys or stores shall misapply, or improperly dispose of, or shall wilfully damage or destroy the same respectively, he shall be guilty of a felony.

Penalties for misappropriation of stores or money

37. The Colonial Treasurer, as soon as conveniently may be after the expiration of every quarter of the financial year, shall publish in the 'Government Gazette' a statement in detail of the Consolidated Revenue during such quarter, and also a statement in detail of the expenditure thereof, respectively, during such quarter, together with a Comparative Statement of such receipts and expenditure during the corresponding quarter of the previous financial year, and during the twelve months ending with such quarter. The Colonial Treasurer shall also at the same time publish in the said 'Gazette' a statement in detail of Loan Accounts with balances to credit thereof, and a general balance sheet of all accounts of the Treasury.

Quarterly statements of receipts and expenditure to be published in the 'Government Gazette'

38. The Colonial Treasurer shall, not later than three months after the end of every financial year, prepare a full and particular statement in detail of the expenditure of the Revenue for such year (classified and arranged in the same form and with the same columns and sub-

Annual statements of all accounts

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divisions and items of sub-divisions that shall have been employed in the appropriation thereof), and of all Loan and other accounts for the same period, and also of the receipt of the said revenue and of all loan and other accounts for the same year; the said statement shall be prepared by the Colonial Treasurer in such a manner as to show how Parliamentary appropriations have been exceeded, and what votes have lapsed under sections 15 and 21 of this Act, and such statement shall be transmitted to the Auditor General.

Auditor General's annual report

39. The said Auditor General shall make and sign a full report upon such annual statement, to be called the Auditor General's annual report, and showing in what particulars such statement agrees with or differs from the books and accounts of the Colonial Treasurer, and in case of disagreement indicating such differences and containing full particulars of every case in which the forms prescribed by this Act shall not have been adopted or shall in any manner have been varied or departed from, and of every case in which default shall have been made in delivering or sending accounts or accounting for public or other moneys or stores, and of all sums allowed by the said Auditor General without any vouchers or with imperfect vouchers, and of any proceedings that may have been taken by or against any person in pursuance of the provisions hereinbefore contained; and the said Auditor General shall ascertain and remark upon the causes of the excesses and underdrafts shown in the said statement.

Report and statements to be transmitted to both Houses of Parliament

40. The said Auditor General shall, within seven days after making and signing the said report, if Parliament be sitting, and if Parliament be not sitting, then within seven days after it assembles, transmit to both Houses of Parliament printed copies of the said statements, accompanied by copies of the said report.

Auditor General may make suggestions upon matters relating to the Public Accounts

41. It shall be lawful for the Auditor General in such annual report to recommend any plans and suggestions that he may think fit to be adopted for the better collection and payment of the Revenue and other moneys as aforesaid, and the more effectual and economical audit and examination of the Public Accounts, and any improvement in the mode of keeping such accounts, and generally to report upon all matters relating to the Public Accounts.

Auditor General may audit accounts of corporations and roads boards

42. It shall be the duty of the Auditor General, or any officer appointed by him for the purpose, to audit the accounts of any municipal corporation, roads board, or other public corporation or institution receiving aid out of the public moneys, when required so to do by the Colonial Secretary; and the said Auditor General shall have and exercise, in respect of the moneys and accounts of any such body and the persons dealing therewith, the same powers which are vested in the said Auditor General in respect of the Public Revenue.

Penalties for forgery of Treasury documents

43. If any person shall knowingly and wilfully forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly and wilfully aid or assist in forging or counterfeiting the name, initials, mark, or handwriting of any other person to any writing whatsoever, for or in order to the receiving or obtaining any part of the Public Revenue or any stores belonging to Her Majesty, or shall forge or counterfeit, or cause or procure to be forged or counterfeited, or knowingly or wilfully aid or assist in the forging or counterfeiting, any

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writing made by any such person as aforesaid, or shall utter or publish any such writing, knowing the same to be forged or counterfeited, with an intention to defraud Her Majesty or any person whomsoever, every person so offending shall be guilty of a felony.

44. The books of the Treasury shall be kept by double entry in such a manner as from time to time the Colonial Treasurer shall direct, provided that the provisions of this Act be complied with. Treasury books
to be kept by
double entry

W. C. F. ROBINSON,
GOVERNOR.

THE SCHEDULE

To Mr.

These are to command and require you that laying aside all and singular business and excuses you be and appear in your proper person before the Auditor General who shall be present at the (house) at (town) on the day of instant (or next) by o'clock in the (fore) noon of the same day, then and there to testify all those things which you know touching and concerning ; and also that you bring with you and produce to him at the time and place (*here describe what is to be produced*).

Given under (my) hand the day of

(L.S.)
Auditor General.
