

WESTERN AUSTRALIA.

**AUDIT.**

**No 12 of 1904.<sup>1</sup>**

(Affected by Acts Nos. 19 of 1961 and 113 of 1965.)

[As amended by Acts:

- No. 24 of 1927, assented to 16th December, 1927;
- No. 52 of 1947, assented to 19th December, 1947;
- No. 16 of 1950, assented to 17th November, 1950;
- No. 71 of 1953, assented to 9th January, 1954;
- No. 16 of 1957, assented to 30th September, 1957;
- No. 51 of 1965, assented to 9th November, 1965;
- No. 74 of 1966,<sup>2</sup> assented to 12th December, 1966;

and Reprinted pursuant to the Amendments Incorporation Act, 1938.]

**AN ACT to amend the Law relating to the Collection and Payment of the Public Moneys, the Audit of the Public Accounts, and for other purposes connected with the control and management of the Public Finances of the State of Western Australia.**

[Assented to 16th January, 1904.]

**BE** it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PRELIMINARY.

1. This Act may be cited as the *Audit Act, 1904-1966*, and shall come into operation on a day to be fixed by proclamation.<sup>1</sup>

Short title and commencement. Amended by No. 74 of 1966, s.1.

2. The Audit Act, 1891, is hereby repealed.

Repeal.

3. (1) The Auditor General holding office at the commencement of this Act shall continue to hold his office subject to this Act.

Savings.

(2) All regulations made under the authority of the Audit Act, 1891, and in force at the commencement of this Act, shall be deemed to be made under this Act.

<sup>1</sup> Came into operation on 15th February, 1904; See *Gazette*, 12/2/1904, p. 491.  
<sup>2</sup> Came into operation on 9th January, 1967; See *Gazette*, 23/12/66, p. 3409.

Interpreta-  
tion.  
Amended by  
No. 51 of  
1965, s.2.

4. In this Act, unless the contrary intention appears,—

“Accounting officer” includes every person who by any law, regulation or appointment is charged with the duty of collecting or receiving, or who does actually collect or receive, any public moneys, or who is charged with the duty of disbursing or who does actually disburse, any public moneys;

“Deputy,” when used in connection with the word Treasurer, means some person appointed, in writing, by the Treasurer;

“Prescribed” means prescribed by this Act or the regulations;

“Public Account” includes the Consolidated Revenue Fund, and all public moneys whatsoever;

“Public moneys” includes all revenue, loan, trust, and other moneys whatsoever received for or on account of the State, or referred to in this Act;

“Regulations” means regulations made under this Act;

“The Treasurer” means the Treasurer of the State for the time being.

#### AUDITOR GENERAL.

Appoint-  
ment of  
Auditor  
General.  
Amended by  
No. 51 of  
1965, s. 3.

5. The Governor may appoint some person to be Auditor General, who shall be the permanent head within the meaning of the Public Service Act, 1904, of the Government department known as the Audit Department.

His salary.  
Amended by  
No. 113 of  
1927, s. 2.  
No. 52 of  
1947, s. 3.  
No. 16 of  
1950, s. 3.  
No. 71 of  
1953, s. 2.  
No. 51 of  
1965, s. 4.  
No. 113 of  
1965, s. 8.<sup>1</sup>  
No. 74 of  
1966, s. 3.

6. (1) The Auditor General shall receive a salary on and after the commencement of the Audit Act Amendment Act, 1966, at a rate per annum being not less than eleven thousand six hundred and fifty dollars and not more than such salary and adjustments at such rate per annum as the Governor determines and is hereby authorised to determine, from time to time, whenever he thinks fit, and such salary and adjustments are hereby charged on the Consolidated Revenue Fund which to the necessary extent is hereby appropriated accordingly.

<sup>1</sup> Decimal Currency Act, 1965.

(1a) [Repealed by No. 74 of 1966, s. 3.]

(2) The Auditor General shall retire from office on attaining the age of sixty-five years, unless authorised by the Governor to continue in office pursuant to subsection (3) of this section and he is able and willing to do so.

(3) The Governor may authorise the Auditor General to continue in the performance of the duties of his office after attaining the age of sixty-five years, if the Auditor General is able and willing to do so, for such time as the Governor determines but not longer than the thirty-first day of December next following the date of his attaining that age.

7. (1) The Auditor General shall not, during his continuance in such office, be capable of being a member of the Executive Council or of either House of the Parliament.

Incapacity  
for other  
position.  
Amended by  
No. 51 of  
1965, s. 5.

(2) The Auditor General shall be deemed to have vacated his office—

- (a) 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 any registered company;
- (b) if he becomes bankrupt or insolvent, or compounds with his creditors, or makes any assignment of his salary for their benefit, or takes advantage of the provisions of any Act relating to bankruptcy or insolvency;
- (c) if, except on leave granted by the Governor, he absents himself from duty for more than twenty-one consecutive days, or for more than forty-two days in any twelve months, inclusive in each case of annual leave; or
- (d) if he resigns his office by writing under his hand addressed to the Governor, and such resignation is accepted by the Governor.

8. If any public officer is appointed Auditor General, his service as Auditor General shall, for the purpose of determining all his existing and accruing rights, be counted as public service in the State.

Rights of  
officers  
preserved.

How re-  
moved from  
office or  
suspended.  
Amended by  
No. 24 of  
1927, s. 3.

9. (1) The Auditor General shall subject to sub-section two of section six hold his office during good behaviour, and shall not be removed therefrom unless an address praying for such removal shall be presented to the Governor by the Legislative Assembly and Legislative Council, respectively, in the same session of the Parliament.

(2) The Governor may at any time suspend the Auditor General from his office for incapacity, incompetence, or misbehaviour; and when, and so often as the same shall happen, the Treasurer shall lay before both Houses of the Parliament a full statement of the grounds of such suspension, within seven days after such suspension, if the Parliament be then in session and actually sitting, or, if the Parliament be not then in session or not actually sitting, within seven days after the commencement of the next session or sitting.

(3) The Auditor General so suspended shall be restored to office unless each House of the Parliament, within forty-two days after the day when such statement is laid before it, and in the same session, pass an address to the Governor praying for his removal.

Auditor  
General  
to make a  
declaration.  
Schedule.

10. The Auditor General, before he shall enter upon the duties or exercise the powers vested in him by this Act, shall make and subscribe before the Executive Council a declaration in the form contained in the Schedule to this Act.

Appoint-  
ment of  
Deputy of  
Auditor  
General.  
Repealed  
and substi-  
tuted by No.  
51 of 1965,  
s. 6.

11. The Governor may appoint some person who, in the event of any illness, incapacity, suspension or absence of the Auditor General, shall act as the deputy of the Auditor General during such illness, incapacity, suspension or absence, and who shall have and may exercise and perform, during any time for which he acts as deputy, the powers, authorities, duties and functions of the Auditor General; and the person so appointed shall make and subscribe before the Executive Council a declaration in the form contained in the Schedule to this Act or to the like effect.

12. The Auditor General may, by writing under his hand, appoint any person to inspect, examine, and audit any books, accounts, or stores which are required to be inspected, examined, or audited by this Act, and to report thereon to him; and any such person shall have power to inspect all such books, accounts, or stores, and all vouchers and papers relating thereto.

Auditor General may appoint persons to inspect.

13. (1) The Auditor General shall communicate with the Treasurer upon all matters arising under this Act or the regulations relating to the collection, receipt, issue, and expenditure of public moneys.

Auditor General to communicate with Treasurer.

(2) The Auditor General shall forthwith transmit to the Treasurer the name of any person failing to comply with any of the provisions of this Act or the regulations, and thereupon, and until such failure shall have been made good to the satisfaction of the Treasurer, all salary and moneys that may be or become due or payable to such person may be withheld.

Report defaulters.

14. (1) The Auditor General may, by precept under his hand, 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, vouchers, documents, and papers in the possession or control of such persons as shall appear to him to be necessary for the purposes of his examination.

Auditor General may call for persons and papers.

(2) The Auditor General may, when he shall think fit, cause search to be made in, and extracts to be taken from, any book, document, or record in the custody of the Treasurer or in any public office, without paying any fee for the same.

15. The Auditor General is hereby authorized and required to examine upon oath, declaration, or affirmation (which oath, declaration, or affirmation he is hereby empowered to administer) all persons whom he shall think fit to examine respecting the receipt or expenditure of money or any stores respectively affected by the provisions of this Act,

Auditor General may administer oath.

and respecting all other matters and things whatever necessary for the due performance and exercise of the duties and powers vested in him.

Auditor General may obtain opinion.

16. The Auditor General shall be entitled to lay before the Crown Solicitor a case, in writing, as to any question concerning the powers of the Auditor General, or the discharge of his duties and the Crown Solicitor shall give him a written opinion on such case.

Heading amended by No. 51 of 1965, s. 7.

#### ACCOUNTING OFFICERS.

Persons subject to Act. Amended by No. 51 of 1965, s. 8.

17. Every accounting officer shall be subject to the provisions of this Act and the regulations, and shall perform such duties, keep such books, and render such accounts as are prescribed by this Act or by the regulations, or as the Treasurer may direct.

Security to be given. Amended by No. 51 of 1965, s. 8.

18. Every accounting officer shall, if required by the Treasurer so to do, provide security for such sum, and in such manner and form as the Treasurer shall direct, for the due performance of his duties, and for the due accounting for and payment of all moneys which shall come to his possession or control by reason or virtue of his office, service, or employment.

Accounting officer's bank account. Amended by No. 51 of 1965, s. 8.

19. No accounting officer shall open any public or official account in any bank without the authority, in writing, of the Treasurer or his deputy, and no bank shall permit any accounting officer to have an overdraft on any public or official account, except the same be a credit authorised under this Act.

Transfer of balances on decease, resignation, or removal of accounting officers. Amended by No. 51 of 1965, s. 8.

20. On the death, resignation, or removal of any accounting officer, the balances remaining at the credit of his public or official account in any bank shall, upon the appointment of his successor, vest in and be transferred to the public or official account of such successor at the said bank; and on the death, bankruptcy, or insolvency of any accounting officer, such balances shall not constitute assets of his estate, or be in any manner subject to the control of his legal representative, assignee, or trustee.

COLLECTION OF MONEYS.

21. (1) The Treasurer may agree with any bank, upon such terms and conditions as he may think fit, for the receipt, custody, payment, and transmission of public moneys within or without the State, 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 State.

Treasurer may agree with any bank for conducting business.

(2) 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.

22. (1) The State Public Account shall be kept in such bank and under such subdivisions (if any) as the Treasurer may, in writing, direct.

State Public Account.

(2) All moneys paid into any bank to the Public Account shall be deemed to be public moneys and the property of Her Majesty, and to be money lent by Her Majesty to the bank.

23. Except as otherwise provided in this Act, every accounting officer collecting or receiving money shall daily, or at such intervals and in such manner as may be directed by the Treasurer, transmit or pay to the Treasurer or his deputy, or into the Public Account, or to such person as the Treasurer may direct, all money collected or received by him on account of the Consolidated Revenue Fund.

Accounting officers to pay into Treasury or bank, etc. Amended by No. 51 of 1965, s. 8.

24. The Treasurer, or his deputy, shall pay into the Public Account all money received by the Treasurer or his deputy.

Treasurer to pay into bank.

25. (1) Every accounting officer transmitting or paying any money collected or received by him to the Treasurer or his deputy, or to any person as aforesaid, shall at the same time transmit or deliver to the Treasurer or his deputy, or to such person, a

Accounting officers to furnish statements. Amended by No. 51 of 1965, s. 8.

statement, signed by him, of the days of the month on and the particular heads of receipt under which such money came to his possession or control, with such other particulars as may be prescribed.

(2) Every accounting officer, at the time of paying any money into the State Public Account, shall obtain from the manager or person in charge of the bank into which such money is paid (who is hereby required to give the same) an accountable receipt in duplicate for such money; and shall forthwith, after such payment, transmit to the Treasurer or his deputy one of the said duplicate accountable receipts, and also a statement, signed by him, of the days of the month on and the particular heads of receipt under which such money came to his possession or control, with such other particulars as may be prescribed.

Disposal of private moneys collected under Acts of Parliament. Amended by No. 51 of 1955, s. 9.

26. (1) When under any Act any money (which by such Act is directed to be paid into the Treasury or to the Treasurer) shall come to the possession or control of any person in the public service or subject to the provisions of this Act, by virtue of his office, service, or employment, for or on account or for the use or benefit of any other person, such first-mentioned person shall pay the same and act in respect thereof and in regard thereto in like manner as accounting officers are required to pay and act with reference to moneys which shall come to their possession or control for or on account of the Consolidated Revenue Fund, or as near thereto as the circumstances of the case will permit.

(2) Such money shall be placed to the credit of "The Trust Fund," and under such separate heads as may be directed by the Treasurer.

Public servants collecting private moneys to place them to their credit in bank.

27. (1) When, by virtue of his office, service, or employment, or of any legal process whatsoever, any money shall come to the possession or control of any person in the public service or, subject to the provisions of this Act, for or on account or for the use or benefit of any other person, and shall have remained in such possession or under such control

for such period as may be prescribed, such first-mentioned person shall pay the same into such bank, at such place and in such manner as the Treasurer shall direct.

(2) Such money shall be paid by such person as aforesaid to an official account to be opened by him in such bank; and all interest which shall become due from such bank for or in respect thereof shall form part of the Consolidated Revenue Fund.

(3) No such person shall be answerable or accountable for any loss that may happen through any such bank.

28. When any such money as last aforesaid shall have remained in such bank for a period not exceeding three months, such person shall pay the same and act in respect thereof and in regard thereto in like manner as accounting officers are required to pay and act with reference to moneys which shall come to their possession or control for or on account of the Consolidated Revenue Fund, or as near thereto as the circumstances of the case will permit; and such money shall be placed to the credit of the said Trust Fund, under such separate heads as may be directed by the Treasurer.

And to be paid to the public account. Amended by No. 51 of 1965, s. 9.

29. (1) All such sums as shall have been so placed to the credit of the said Trust Fund, and as shall have remained unclaimed for the period of six years after the same shall have been so placed, shall be carried to and form part of the Consolidated Revenue Fund.

Unclaimed trust fund to be carried to revenue.

(2) No person shall be entitled to receive any such sum which shall have remained unclaimed for six years; but no time during which the person entitled to the benefit of such sum shall have been an infant, or of unsound mind, shall be taken into account in estimating the said period of six years.

(3) Provided that any sum, the claim to which is established to the satisfaction of the Governor after the same shall have been carried to the credit

of the Consolidated Revenue Fund, may be withdrawn therefrom and refunded upon the authority of the Governor, but without interest.

PAYMENT OF MONEYS.

How moneys  
are to be  
issued.

30. No money shall be drawn from the Public Account except in the prescribed manner.

Money to be  
appropriated  
by law.

31. No money shall be drawn from the Public Account except under appropriation made by law, or by the authority of the Governor.

Advance  
credits.  
Amended by  
No. 51 of  
1965, s. 10.

32. (1) In special cases where the Treasurer may consider it expedient, the Treasurer or his deputy may, in anticipation of accounts to be afterwards rendered, establish a credit in any bank in favour of any accounting officer.

(2) Every accounting officer in whose favour a credit shall have been so established shall forthwith, after the payment of such accounts as aforesaid, or at such other times as the Treasurer may direct, transmit to the Treasurer or his deputy accounts or abstracts duly vouching for the several sums paid from such credit.

(3) The Treasurer or his deputy, upon the receipt of such accounts or abstracts, may withdraw from the said account such sums as may be necessary to cover the amounts so paid, and lodge the same in such bank to the credit of the accounting officer who shall have made the payments.

(4) The amounts mentioned in such drafts or cheques and for such credits shall not collectively in any case exceed the amount of the items set forth in the said warrant and any previous unexhausted warrants of the like nature.

(5) Except as provided in this Act, no draft or cheque shall be drawn upon or money withdrawn from the said account.

33. (1) No accounting officer shall pay any account unless he shall have been authorised so to do by some person appointed by the Governor for that purpose, and unless such account shall have been duly certified as correct by some person appointed by the Governor for that purpose.

Duty of  
paying and  
certifying  
officers.  
Amended by  
No. 51 of  
1965, s. 10.

(2) No such person shall authorise the payment of any account until he shall have ascertained that the payment thereof, in addition to any accounts already certified, will not exceed the amount of the appropriation made for that purpose.

(3) No such person shall certify to any account until he shall have ascertained that the expenditure has been duly authorised, and that such account is correct and is charged against the proper head of expenditure.

(4) Every account shall be considered duly authorised if it is in accordance with any existing law or regulation or has been directly sanctioned by the Treasurer, and, if chargeable on the Consolidated Revenue Fund, is covered by any Appropriation Act or any Act authorising the issue and application of moneys out of such fund in force at the time of payment.

(5) The correctness of every account in regard to computations, castings, rates of charge, and the faithful performance of the services charged shall be certified by the person incurring the expense.

(6) Except as hereafter provided, or as prescribed by regulations, every accounting officer shall, at the time of paying any account, obtain a receipt under the hand of the person to whom the same is payable, or under the hand of some person or banker authorised by such firstmentioned person, for the amount so paid, which shall always be set out in words at full length.

Votes available for payment of accounts presented within ten days of close of the financial year. Amended by No. 51 of 1965, s. 11.

34. (1) All sums of money 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 departments 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.

(2) Notwithstanding the provisions of subsection (1) of this section—

(a) if the Treasurer considers it expedient, the unexpended balance of any vote may, to the extent necessary to meet any relevant accrued unpaid commitment, be transferred to an appropriate account for that purpose, and any such transfer shall be deemed to be a payment correctly chargeable against such vote for that financial year; and

(b) 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 be a charge upon and paid out of the revenue of the next succeeding year; and the Governor may issue his warrant therefor.

Power to vary the annual appropriation. Amended by No. 51 of 1965, s. 12.

35. (1) If in the opinion of the Treasurer it is necessary to alter the proportions assigned to the particular items comprised under any subdivision in the annual supplies, the Governor may, by order, direct that there shall be applied, in aid of any item that may be deficient, a further limited sum out of any surplus arising on any other item under the same subdivision.

(2) Every order by which such altered application may be made shall be delivered to the Auditor General, and a copy thereof shall be laid before both

Houses of the Parliament within seven days after the making thereof, if the Parliament be then in session and actually sitting; or, if the Parliament be not then in session or actually sitting, within seven days after the commencement of the next session or sitting.

(3) Nothing hereinbefore contained shall authorise the Governor to direct that any such sum as aforesaid shall be applied in augmentation of or as an addition to any salary or wages.

36. Subject to section thirty-four of this Act, the annual estimates submitted to Parliament shall contain a statement of all outstanding liabilities in respect of public works in progress or contracts in execution for which any unexpended appropriation for the preceding year shall have been made by law, and provision for such liabilities shall be shown separately in the appropriation for the current year, and shall be a first charge thereon.

Outstanding  
liabilities.  
Amended by  
No. 51 of  
1965, s. 13.

#### AUDIT AND INSPECTION.

37. Unless otherwise directed in writing by the Treasurer, the manager or person in charge of any bank into which any money shall be paid to the Public Account, or into which any advance shall have been paid or in which any lodgment has been made or credit opened as provided by this Act, shall, at such times as may be appointed by the Treasurer, transmit to the Treasurer or his deputy a bank passbook or bank statement showing particulars of the debit and credit sides of the Public Account or of the account in connection with which such advance or lodgment shall have been made, or credit opened as aforesaid, and also a certificate setting forth the balance to the debit or credit of the said account.

Bankers to  
forward  
bank  
pass-book.  
Amended by  
No. 51 of  
1965, s. 14.

38. Every accounting officer charged with the duty of disbursing public moneys, if so required by the Auditor General, shall, not later than the fourth day after the expiration of each month, transmit to

Accountants  
to furnish  
statement.  
Amended by  
No. 51 of  
1965, s. 15.

the Auditor General a detailed statement, verified by his statutory declaration, of the several drafts or cheques which he shall have drawn during the preceding month.

Treasurer  
to keep a  
cash book.

39. The Treasurer shall keep at the Treasury a book to be called "The Cash Book," and shall enter therein, when and as such statements, accountable receipts, accounts, and receipts as aforesaid respectively are received by him, the amount mentioned in the same respectively.

Auditor  
General to  
examine  
cash book  
and  
vouchers.  
Amended by  
No. 16 of  
1957, s. 2;  
No. 51 of  
1965, s. 16.

40. The Auditor General shall examine the cash book at such times as he considers necessary, and shall—

- (a) compare the debit and credit entries with the supporting vouchers and documents forwarded therewith, and also with the bank pass-book or bank statement and certificate;
- (b) ascertain whether such vouchers and documents 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 credited or debited respectively;
- (c) ascertain whether the moneys mentioned on the debit side of the cash book have been duly accounted for, and whether the moneys mentioned on the credit side of the cashbook have been actually and duly disbursed under competent authority and on the prescribed certificates;
- (d) ascertain whether the moneys mentioned in such entries have been credited or debited to the proper heads of receipt or expenditure respectively;
- (e) ascertain to such extent as he may deem necessary whether the rates, computations, and castings are correct;

- (f) ascertain whether such moneys were legally available for and applicable to the service or purpose to which the same shall have been applied or charged; and,
- (g) ascertain whether the provisions of the Constitution and of this and any other Act and the regulations have been in all respects complied with.

41. (1) The Auditor General shall make such queries and observations, addressed to the Treasurer, or any other person whomsoever, and call for such accounts, vouchers, statements, documents, and explanations as he may think necessary.

Auditor  
General to  
examine  
and query  
accounts.  
Amended by  
No. 51 of  
1965, s. 17.

(2) If it shall appear to the Auditor General from any examination, audit, or inspection made by him or any person appointed by him—

- (a) that any accounting officer has wilfully or negligently omitted to collect or receive any money;
- (b) that any money shall not have been duly credited to the proper head of revenue or account, or not duly accounted for;
- (c) that any money shall have been applied or charged to any service or purpose for which the same was not legally available or applicable;
- (d) that any expenditure shall not have been duly authorised or shall not be duly vouched and certified;
- (e) that there has been any deficiency or loss through the fraud, mistake, default, or error of any person;
- (f) that the said returns, statements, accounts, and receipts, or any of them, are in any essential particular defective or imperfect;
- (g) that any material error has been committed; or

- (h) that any of the provisions of the Constitution or of this or any other Act or the regulations have not been complied with,

the Auditor General shall, by writing under his hand, require the person concerned to show cause within such time not exceeding one month as the Auditor General may allow, why he should not be surcharged, and may surcharge that person, if he fails to show cause to the satisfaction of the Auditor General, with any deficiency or loss or any expenditure that has not been duly authorised, vouched or certified.

(3) The Auditor General may, at any time within six months, revoke any surcharge made by him.

(4) The Auditor General shall report to the Treasurer all surcharges made by him.

(5) Where any surcharge shall have remained unsatisfied for a period of six months, and the Auditor General shall have given a certificate in writing to the Treasurer that for any reason therein mentioned such surcharge should be removed, the Governor may make an order that such surcharge shall be removed and such surcharge shall then be deemed to have been satisfied.

Treasurer  
to proceed  
against  
defaulters.

42. Whenever any officer shall have been surcharged as hereinbefore directed, the Treasurer shall, on the receipt of a report from the Auditor General, take such measures or proceedings as the case may require to recover the amount thereof, and no account payable to or claimed by such person shall be paid until such surcharge shall have been satisfied; and the amount of every such surcharge may be sued for as money paid by Her Majesty to the use of such person at his request; and in any such proceedings the certificate in writing of the Auditor General shall be conclusive evidence that the amount of such surcharge is due to Her Majesty.

43. (1) In all cases in which notice of any surcharge shall have been sent by the Treasurer to any accounting officer or any other person in the public service or subject to the provisions of this Act who may be dissatisfied with any disallowance or surcharge in his accounts made by the Auditor General, such accounting officer or person shall have a right of appeal to the Governor within three months after the sending of such notice.

Accountants to have right of appeal to the Governor. Amended by No. 51 of 1965, s. 18.

(2) The Governor, after such investigation as he considers 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 to be just and reasonable, and such order shall be binding on Her Majesty and all other parties, and be acted on accordingly.

44. (1) The Auditor General or such person as he shall appoint may, whenever he shall think fit, and shall, whenever required so to do by the Treasurer, inspect, examine, and audit the books and accounts of any accounting officer, and of any other person in the public service or subject to the provisions of this Act to whose possession or control any moneys have come for or on account of the Consolidated Revenue Fund or (by virtue of his office, service, or employment, or of any legal process whatsoever) for or on account or for the use or benefit of any other person.

Inspection and audit of books and accounts. Amended by No. 51 of 1965, s. 19.

(2) The Auditor General or such other person as he shall appoint shall—

Auditor General to inspect public stores, books, accounts, etc.

(a) once at least in every year inspect, examine, and audit the books and accounts of every accounting officer, and of every other person in the public service or subject to the provisions of this Act to whose possession or control any moneys shall have come for or on account of the Consolidated Revenue Fund or (by virtue of his office, service, or employment, or of any legal process whatsoever) for or on account or for the use or

benefit of any other person, and all stores belonging to Her Majesty of whatsoever nature or description the same may be, and shall cause stock thereof to be taken;

- (b) ascertain whether the whole of the revenue and all other collections whatever have been duly collected and accounted for, and whether the moneys received from the Treasurer, or his deputy, or issued under any credit, have been duly and properly paid to the several persons entitled to receive the same;
- (c) investigate and examine all contracts, accounts, invoices, requisitions, books, bills of parcels, vouchers, and documents in anywise relating to or concerning the same, and all circumstances affecting or attending the making of any such contract;
- (d) ascertain the quantity, description, and price of all stores purchased on account of Her Majesty and of all stores supplied for the use of every department of the public service, and whether any person in the public service has requisitioned for or obtained any stores in excess of the reasonable requirements of his office;
- (e) examine whether the proper quantities of all such stores are remaining in stock in the proper store or building; and
- (f) within one week after such examination make and sign and forward to the Treasurer a report of the result of such inspection, investigation, examination, audit, and comparison, and as to the manner in which the books, accounts, and other papers aforesaid and stores shall have been kept, and as to the state of the several offices and stores and a statement of surcharges in respect of all sums found to have been omitted to be collected or not duly

accounted for and of all payments which shall have not been duly authorised or properly made, or for which the necessary certificates, receipts, and vouchers shall not have been produced, and such other information as may be prescribed.

(3) Except where the fee for an audit is prescribed by any Act, the Auditor General may determine the fee to be paid for an audit as he considers reasonable in the circumstances, but no audit fee shall be payable by any department or concern that operates directly on the Consolidated Revenue Fund or is substantially financed from that Fund.

45. Subject to the provisions of subsection (6) of section thirty-three of this Act, no sum shall be allowed in any account to have been duly received or paid without a written voucher for the actual receipt or payment of every sum so claimed to be allowed (notwithstanding any allegation of papers having been lost or destroyed or of the impossibility of obtaining the prescribed voucher), except on application to the Governor, who, upon satisfactory evidence being produced that the requisite papers have been lost or destroyed, or that it is not possible to obtain or replace them, may order that the said sum shall be allowed or disallowed as the case may be, and may make such other order in the premises as he shall think fit, and such order shall be binding on Her Majesty and all other parties and be acted on accordingly.

No sum to be allowed without voucher unless by order.  
Amended by No. 51 of 1965, s. 20.

46. (1) When a voucher produced for a sum of money disbursed shall be defective from the want of any certificate or other document which ought to have accompanied it or in any other particular, the Auditor General may, upon proof being made to his satisfaction that the accounting officer did not wilfully neglect to procure or produce such certificate or document, and that the sum specified in the voucher has been actually and properly disbursed, admit such voucher as a sufficient discharge and allow the amount of the same.

Proviso for imperfect vouchers.  
Amended by No. 51 of 1965, s. 21.

(2) The Auditor General may admit and allow, in cases where it appears to him to be reasonable or expedient so to do, vouchers for any moneys expressed therein, although the same are not stamped according to law.

Allowances or disallowances without vouchers or with imperfect vouchers to be reported. Amended by No. 51 of 1965, s. 21.

47. In all cases where any sum of money shall be allowed either without any written voucher or upon an imperfect voucher or incorrect certificate, or shall be disallowed in consequence of the absence or imperfection of such voucher or the absence or incorrectness of such certificate, the particulars and amount of such allowance or disallowance shall be specified to the Treasurer in the report of the Auditor General; and in 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 accounting officer at his request; and, in addition to any other means of recovering such amount, the same shall be retained or stopped from any moneys then or thereafter payable to such accounting officer.

Auditor General may dispense with certain detailed audit. Substituted by No. 16 of 1957, s. 3. Cf. Commonwealth Audit Act, 1901-1954, s. 45B.

48. The Auditor General may, at his discretion, dispense with all or any part of the detailed audit of any Accounts.

#### STATEMENTS AND AUDIT THEREOF.

Treasurer to make quarterly statement of receipts and payments.

49. (1) The Treasurer, as soon as conveniently may be after the expiration of every quarter of the financial year, shall publish in the *Gazette* a statement in detail of the receipts and expenditure as well of the Consolidated Revenue Fund as of the Trust Fund and General Loan Fund during such quarter, together with a comparative statement of such receipts and expenditure during the corresponding quarter of the previous financial year, and in like manner, at the expiration of the financial year, shall publish an annual statement of receipts and expenditure, with a comparative statement of receipts and expenditure during the previous financial year.

(2) The Treasurer shall also, at the same time and in like manner, publish a statement in detail of the General Loan Fund, with the balances to the credit thereof.

50. The Treasurer shall, as soon as practicable after the end of every financial year, prepare a full and particular statement in detail of the expenditure of the Consolidated Revenue Fund for such year (classified and arranged in the same form and under the same divisions and subdivisions as shall have been employed in the appropriation thereof, and showing all votes which shall have lapsed), and of the General Loan Fund and all other accounts for the same period, and of the Trust Fund for the same period, under the several heads of account of that fund, and also of the receipts of the Consolidated Revenue Fund, General Loan Fund and other accounts and Trust Fund for the same year; and shall transmit such statement to the Auditor General.

And to prepare yearly statement thereof for audit.

51. The Auditor General shall forthwith examine such statement, and prepare and sign a report explaining such statement in full and showing—

Auditor General to audit and report.

- (a) in what particulars such statement agrees with or differs from the accounts of the Treasurer;
- (b) full particulars of every case in which the provisions of the Constitution Act, or of this or any other Act, or the regulations or any forms shall not have been carried out or adopted, or shall in any manner have been varied or departed from;
- (c) every case in which default shall have been made in delivering or sending accounts, or collecting or accounting for any moneys or stores;
- (d) all sums allowed or disallowed without vouchers or with imperfect vouchers, or upon incorrect certificates;

- (e) any proceeding that may have been taken by or against any person in pursuance of the provisions of this Act or the regulations;
- (f) all claims in respect of any department outstanding at the close of the financial year, which might by law have been paid out of the Consolidated Revenue Fund during such year;
- (g) all surcharges which have been made by the Auditor General, and not satisfied, or which have been removed by order of the Governor, and
- (h) such other information as may be prescribed, or as the Auditor General thinks desirable.

Certain  
Orders in  
Council and  
law officers'  
opinions  
to be  
appended.

52. The Auditor General shall annex or append to the said report—

- (a) a copy of every Order in Council by which it may have been directed that there should be applied, in aid of any item that may have been deficient, a further sum out of any surplus arising on any other item under the same subdivision; and
- (b) a copy of every case or statement of facts laid by the said Auditor General before the Crown Solicitor for his opinion, together with a copy of the opinion given thereon.

Report to  
be laid  
before both  
Houses of  
Parliament.

53. (1) The Auditor General shall, within fourteen days after making and signing the said report, if the Parliament be then in session and actually sitting, or if the Parliament be not then in session or actually sitting, within fourteen days after the commencement of the next session or sitting transmit to both Houses of the Parliament the statements transmitted by the Treasurer, accompanied by such report and by the copies hereinbefore directed to be appended thereto.

(2) The Auditor General shall, within fourteen days after making and signing the said report, if the Parliament be not then in session, transmit a copy of the statement and of such report and copies to the Treasurer, and the Treasurer shall, within fourteen days thereafter, publish them as a public document.

54. (1) The Auditor General may, in such yearly report, or in any special report which he may at any time think fit to make, recommend any plans and suggestions for the better collection and payment of the public moneys, and the more effectually and economically auditing and examining the public accounts and stores, and any improvement in the mode of keeping such accounts, and generally report upon all matters relating to the public accounts, public moneys, and stores, and such plans and suggestions shall be considered and dealt with by the Governor.

Auditor General to make suggestions for collection and payment.

(2) A copy of every special report shall be sent by the Auditor General to the Treasurer before such report is transmitted to Parliament to enable the Treasurer to make to Parliament any explanation he may think desirable.

55. The Governor may direct that any sum voted by Parliament in connection with any undertaking or matter shall be carried to the credit of a suspense account into and from which moneys receivable and payable in connection with such undertaking or matter shall be paid and withdrawn.

Suspense accounts.

Every such account shall be operated upon by such Minister of the Crown as the Governor may direct.

The sum or sums standing to the credit of every such account shall be paid into the Consolidated Revenue at such time or times as the Auditor General shall direct, and every such account shall be audited once at least in every half-year.

An annual return of the suspense accounts opened during the preceding financial year, and the reasons therefor, shall be laid before both Houses of Parliament.

## GENERAL LOAN FUND.

Separate  
accounts to  
be kept of  
General  
Loan Fund.

56. (1) A separate account shall be kept in the Treasury of all moneys which shall be raised by way of loan upon the public credit of the State, and which shall have been placed to the credit of the Public Account.

(2) Such account shall be called "The General Loan Fund," and shall be kept under such separate heads as are specified in the several Loan Acts under the authority whereof the moneys were raised.

How interest  
to be  
charged.

57. All interest payable on account of the Public Debt shall be calculated and charged monthly.

General  
Loan Fund  
expenditure  
to be  
covered by  
Act.

58. (1) It shall not be lawful for the Treasurer to expend any moneys standing to the credit of the General Loan Fund, except under the authority of an Act.

(2) Such Act shall show the nature of the proposed work or other object of the proposed expenditure, and the amount of the proposed expenditure in each case, and the total amount proposed to be expended for such work or object.

Suspense  
accounts.

59. When any money is appropriated out of the moneys standing to the credit of the General Loan Fund for the purpose of defraying the cost of the purchase of any material, the cost of which may ultimately be chargeable to and divisible amongst more works than one, and it is not known or does not appear to what work the cost of such material ought ultimately to be charged, then the Governor may direct that all moneys expended for such material shall be charged, in the first instance, to a "Suspense Account," and shall afterwards be charged to the proper work, when the same is ascertained.

60. (1) All the provisions of this Act relating to the issue and expenditure of public moneys, and the authority for such issue and expenditure, shall apply to the issue and expenditure of moneys standing to the credit of the General Loan Fund, and the Governor shall have the same authority with respect to such moneys and the expenditure thereof as he has with respect to moneys standing to the credit of the Consolidated Revenue Fund.

Provisions of  
Act to apply.  
Amended by  
No. 51 of  
1965, s. 22.

(2) All the provisions of this Act relating to the collection and receipt of money, and the audit of the Public Accounts, and the powers and duties of the Auditor General with respect to the expenditure of public moneys, and the duties and liabilities of accounting officers and other persons whomsoever, shall in like manner apply to moneys collected, received, or expended on account of the Loan Fund.

#### TRUST FUND.

61. A separate account shall be kept in the Treasury, to be called the Trust Fund, of all moneys which shall be placed to the credit of that fund, under such separate heads as may be directed by the Treasurer.

Trust Fund.

62. (1) All the provisions of this Act relating to the issue and expenditure of public moneys, and the authority for such issue and expenditure, shall apply to the issue and expenditure of moneys standing to the credit of the Trust Fund, and the Governor shall have the same authority with respect to such moneys and the expenditure thereof as he has with respect to moneys standing to the credit of the Consolidated Revenue Fund.

Provisions of  
Act to apply.  
Amended by  
No. 51 of  
1965, s. 22.

(2) All the provisions of this Act relating to the collection and receipt of moneys, and the audit of the public accounts, and the powers and duties of the Auditor General with respect to the expenditure of public moneys, and the duties and liabilities of accounting officers and other persons whomsoever, shall in like manner apply to moneys collected, received, or expended on account of the Trust Fund.

## MONEYS OUTSIDE STATE.

Moneys  
outside  
the State.

63. Notwithstanding anything in this Act contained, the Governor may make such arrangements as he considers necessary for the collection, receipt, custody, issue, expenditure, due accounting for care, and management of any money belonging to the State, and for the keeping of books and accounts, and furnishing statements, returns, and vouchers, and for the examination, inspection, record, and audit of such books, accounts, statements, returns, and vouchers.

## PENALTIES.

Penalties  
for  
misappropriations.  
Amended by  
No. 51 of  
1965, s. 23.

64. (1) Any accounting officer or person subject to the provisions of this Act who—

(a) misapplies or improperly disposes of, or makes use of otherwise than is provided by this Act or the regulations, any public moneys or stores which come into his possession or control; or

(b) pays any such moneys into his own private account at any bank,

shall be deemed to have fraudulently converted such moneys or stores to his own private use, and shall be guilty of a crime, and shall be liable to imprisonment with or without hard labour for any period not exceeding five years.

(2) Any such accounting officer or person who wilfully damages or destroys any public stores shall be guilty of an indictable offence, and shall be liable to imprisonment, with or without hard labour, for any period not exceeding two years.

Punishment  
for forgery  
of Treasury  
documents.

65. If any person—

(a) forges or counterfeits, or causes or procures to be forged or counterfeited, or knowingly or wilfully acts or assists in forging or counterfeiting—

(1) the name, initials, mark, or signature of any other person to any writing

whatsoever for or in order to receiving or obtaining any public money, or any money out of the public account, or any stores belonging to Her Majesty; or

(2) any writing made by any such person; or

(b) utters or publishes any such writing knowing it to be forged or counterfeited with an intention to defraud Her Majesty or any person whomsoever;

he shall be guilty of a crime, and shall be liable to imprisonment, with or without hard labour, for any period not exceeding fifteen years.

66. (1) Where the Treasurer shall have given a certificate in writing that, for any reason therein mentioned, any document subscribed by any person in any specified part of the State may be accepted in lieu of any statutory declaration required by this Act or the regulations, the Governor may order that any document so subscribed shall be so accepted without being declared.

Document  
in lieu of  
statutory  
declaration.

(2) Any person who shall subscribe any such document, knowing the same to be false, shall be guilty of a crime, and shall be liable to imprisonment, with or without hard labour, for any period not exceeding four years.

67. (1) Any person who shall fail to attend the Auditor General for the purpose of being examined, or to produce any accounts, books, vouchers, documents, or papers, or to be sworn or make a declaration or affirmation, or to answer any lawful question when required so to do by the Auditor General, shall be liable to a penalty not exceeding two hundred dollars.

Persons  
failing  
to attend  
Auditor  
General  
or to give  
evidence.  
Amended by  
No. 113 of  
1965. s. 8.<sup>1</sup>

(2) Where any person is compelled, under the provisions of this Act, to attend before the Auditor General, he shall be entitled to be paid such expenses as the Auditor General may certify to be reasonable.

<sup>1</sup> Decimal Currency Act, 1965.

Persons taking false oath or making a false declaration guilty of perjury.

68. If any person—

- (a) makes or subscribes any statutory declaration or affirmation mentioned in this Act, knowing it to be false; or
- (b) wilfully and corruptly gives false evidence in the course of his examination before the Auditor General,

he shall be guilty of an indictable offence, and shall be liable to imprisonment, with or without hard labour, for any period not exceeding four years.

Offences generally. Amended by No. 113 of 1965, s. 8<sup>1</sup>

69. Any person who is guilty of any wilful act of commission or omission contrary to any of the provisions of this Act, for which no penalty is expressly provided, shall be guilty of an offence, and on conviction shall be liable to a penalty not exceeding one hundred dollars.

Recovery of penalties.

70. All penalties incurred under this Act may, in addition to any other method provided in this Act, be imposed and recovered by and before any Court of summary jurisdiction upon the information or complaint of any person appointed by the Treasurer either generally or for the purpose of any particular case, and, when paid or recovered, shall be paid into the Consolidated Revenue Fund.

REGULATIONS.

Regulations to be made. Amended by No. 51 of 1965, s. 24; No. 113 of 1965, s. 8.<sup>1</sup>

71. (1) The Governor may make regulations (not inconsistent with the provisions of this Act), for carrying out the provisions of this Act, and in particular for—

- (a) the collection, receipt, custody, issue, expenditure, due accounting for, care, and management of all public moneys, and the guidance of all persons concerned therein;
- (aa) the purchase, receipt, safe custody, issue, sale or other disposal, or write-off, of stores, plant and other property of the State, the hire of plant, and the proper accounting for and stocktaking of such stores, plant and other property;

<sup>1</sup> Decimal Currency Act, 1965.

- (b) the more effectual record, examination, inspection, and audit of all receipts and expenditure, and the keeping of all necessary books and accounts;
- (c) prescribing the necessary forms for all books and documents whatever required under the provisions of this Act or the regulations.

(2) All such regulations shall be notified in the *Government Gazette*, and shall thereupon have the force of law.

(3) All such regulations shall be laid before both Houses of the Parliament within thirty days after the making thereof, if the Parliament be then sitting, and if not, then within thirty days from the next meeting of the Parliament.

(4) Any such regulation may impose upon any accounting officer or person subject to the provisions of this Act a penalty not exceeding ten dollars for any offence for the breach of any regulation; and such penalty may be recovered either in the same manner as a penalty incurred under this Act, or by deducting the same from any money due or thereafter becoming due to such accounting officer or person.

#### THE SCHEDULE.

Section 10.

---

I, \_\_\_\_\_, 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 according to law.