

Western Australia

Financial Administration Regulations 1986

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Financial Administration Regulations 1986

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Financial Administration Regulations 1986

1. Citation

These regulations may be cited as the *Financial Administration Regulations 1986*¹.

2. Commencement

These regulations shall come into operation on such day as is fixed for the coming into operation of Part II of the *Financial Administration and Audit Act 1985*¹.

3. Interpretation

In these regulations, unless the contrary intention appears —

“employee organization” means an industrial union of employees, whether constituted, incorporated or registered under the *Industrial Relations Act 1979* or any other Act or under any Act of the Commonwealth and by whatever name called;

“empowered officer” means the Auditor-General, the Under Treasurer or an accountable officer;

“investigation committee” means a committee appointed under regulation 13;

“investigator” means a person appointed under regulation 12 to conduct an inquiry;

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“prescribed incident” means a loss of or deficiency in public moneys or other moneys, or a loss or destruction of or damage to public property or other property;

“relevant incident” in relation to an inquiry, means the prescribed incident to which the inquiry relates; and

“relevant officer” in relation to an inquiry, means the officer in relation to whom the inquiry is held.

4. Annual estimates of expenditure

The Treasurer shall prepare for submission to the Legislative Assembly the annual estimates of expenditure for the Consolidated Fund.

[Regulation 4 amended in Gazette 30 Sep 1993 p. 5335.]

5. Supplementation of appropriations

Where in accordance with section 28 of the Act expenditure is made from the Public Bank Account on the authority of a Treasurer’s Advance Authorisation Act the expenditure shall be submitted for parliamentary appropriation in the Appropriation Act for the financial year next after the financial year in which the expenditure is made.

6. Governor’s warrant

- (1) The Treasurer shall, as often as may be necessary for the purpose of securing compliance with section 31 of the Act, cause a warrant to be prepared and, after signature by the Treasurer, submitted to the Governor.
- (2) When a warrant submitted under subregulation (1) is approved and signed by the Governor, it shall constitute the Governor’s warrant authorising the Treasurer to withdraw moneys from the Public Bank Account for expenditure in respect of the Consolidated Fund.
- (3) Every Governor’s warrant shall be furnished by the Under Treasurer to the Auditor General.

[Regulation 6 amended in Gazette 30 Sep 1993 p. 5335.]

7. Payments without claim

Except with the approval of the Governor, a payment shall not be made from the Public Bank Account or a bank account of a department or statutory authority, for supply of a service or goods, unless supported by a claim evidencing the contract for supply of the service or goods, as the case may be.

[Regulation 7 amended in Gazette 30 Sep 1993 p. 5335.]

8. Bank accounts

- (1) The Treasurer may authorise the Treasury to issue cheques and arrange with a bank to meet such cheques from the Public Bank Account.
- (2) The Treasurer may arrange with a bank to meet cash orders drawn by departments and statutory authorities, and to reimburse the bank from the Public Bank Account upon receipt of advice at the Treasury that the cash orders have been met.
- (3) The Treasurer may authorise a department or statutory authority to issue cheques and arrange with a bank to meet such cheques from the Public Bank Account.
- (4) The Public Bank Account and its subdivisions shall be reconciled with the bank's records on a daily basis or on such other basis as the Treasurer agrees with the bank concerned.

[Regulation 8 amended in Gazette 30 Sep 1993 p. 5335.]

[9. Repealed in Gazette 23 Dec 2005 p. 6292.]

10. Write-offs

- (1) The amount which may be written off by an accountable officer in respect of one matter or transaction concerning public property held for or on behalf of the State or revenue or other debts due to the State, is subject to a limit of \$5 000.

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- (2) The amount which may be written off by the responsible Minister in respect of one matter or transaction concerning public property held for or on behalf of the State or revenue or other debts due to the State, is subject to a limit of \$50 000.
- (3) The amount which may be written off by an accountable authority in respect of one matter or transaction concerning public property held for or on behalf of a statutory authority or revenue or other debts due to a statutory authority is subject to a limit of \$50 000.

*[Regulation 10 amended in Gazette 12 Mar 1991 p. 1105;
5 Mar 1996 p. 843.]*

11. Preliminary notice before inquiry

Where under section 47(1) of the Act an empowered officer directs that an inquiry be held in accordance with the regulations, the empowered officer shall cause to be served on the relevant officer a preliminary notice —

- (a) specifying the name, office and address of the empowered officer;
- (b) informing the relevant officer of the direction that an inquiry be held;
- (c) specifying the prescribed incident intended to be the subject of the inquiry;
- (d) inviting the attention of the relevant officer to sections 46 to 51 of the Act and to regulations 3 and 11 to 21; and
- (e) if the inquiry is to be carried out by an investigation committee, inviting the relevant officer to provide the name of the employee organization of which he is a member or nominate a person or persons under regulation 15(2).

12. Inquiry by investigator

Where an empowered officer has caused a preliminary notice to be served on a relevant officer under regulation 11 and it appears to the empowered officer that —

- (a) in the case of an inquiry into a loss of or deficiency in moneys, the amount of the loss or deficiency does not exceed \$1 000;
- (b) in the case of an inquiry into loss or destruction of property, the value of the property does not exceed \$1 000; or
- (c) in the case of an inquiry into damage to property, the expense of repairing the damage to the property or the value of the property, whichever is the less, does not exceed \$1 000,

the empowered officer shall appoint a person (in these regulations called an “**investigator**”) to carry out the inquiry.

13. Inquiry by investigation committee

- (1) Where an empowered officer has caused a preliminary notice to be served on a relevant officer under regulation 11 and regulation 12 does not apply, the empowered officer shall appoint an investigation committee to carry out the inquiry.
- (2) An investigation committee shall consist of —
 - (a) a chairman;
 - (b) a person other than an officer performing duties in the same department as that in which the relevant officer was employed at the time of the relevant incident; and
 - (c) a person appointed in accordance with regulation 15.

14. Restrictions on appointment

- (1) In a case where the Auditor General is the empowered officer, the Auditor General shall not appoint himself as a member of an investigation committee in relation to an inquiry he has directed.

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- (2) In a case where the Under Treasurer is the empowered officer, the Under Treasurer shall not appoint himself as a member of an investigation committee in relation to an inquiry he has directed.
- (3) A person who is, or was at the time of the relevant incident, the accountable officer in relation to the department of the relevant officer shall not be appointed an investigator or a member of an investigation committee.

15. Member nominated by employee organization etc.

- (1) Where the relevant officer is a member of an employee organization that he is eligible to join because of his employment as an officer, the organization may nominate a person for appointment as a member of the investigation committee.
- (2) Where the relevant officer is not a member of an employee organization of the kind referred to in subregulation (1), the relevant officer may nominate one, 2 or 3 persons, one of whom shall, subject to subregulation (3), be appointed by the empowered officer.
- (3) If the organization or the relevant officer, as the case may require, does not respond within 7 days to an invitation to nominate a person or persons under this regulation, or if a person nominated or appointed declines to accept appointment, the empowered officer shall appoint a person under this regulation to be a member of the investigation committee.

16. Notice of appointment of investigator or investigation committee

Upon the appointment of an investigator or an investigation committee, the empowered officer shall cause to be served on the relevant officer a notice —

- (a) setting out the name of the investigator or each member of the investigation committee, as the case may require;

- (b) stating the place, date and time appointed for the holding of the inquiry;
- (c) inviting the relevant officer to make a written submission with respect to the relevant incident within the period specified in the notice, or such extended period as the investigator or investigation committee may allow;
- (d) specifying the address to which a written submission shall be sent; and
- (e) informing the relevant officer of his entitlement to make an oral submission to the investigator or investigation committee instead of or in addition to a written submission.

17. Conduct of inquiry

- (1) At an inquiry —
 - (a) the procedure to be followed is within the discretion of the investigator or the chairman of the investigation committee;
 - (b) the proceedings shall be conducted in private with as little formality and technicality, and with as much expedition, as the requirements of the Act and these regulations and a proper consideration of the matters being investigated permit;
 - (c) the investigator or the investigation committee is not bound by rules of evidence;
 - (d) the investigator or the investigation committee is entitled to full and free access to accounts and records relating to the relevant incident and may make copies of, or take extracts from, any such accounts and records;
 - (e) the relevant officer shall be given a reasonable opportunity to make oral and written submissions;
 - (f) any reasonable request by the relevant officer for a witness to be examined shall be agreed to.

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- (2) If it appears to the investigator or to the chairman of the investigation committee that a witness who is an officer but not the relevant officer may have caused or contributed to the relevant incident, the investigator or chairman shall forthwith provide that witness with a notice informing him of sections 46 to 51 of the Act and of regulations 3 and 11 to 21.
- (3) Upon the request of an investigator or the chairman of an investigation committee, the empowered officer may make available officers or engage other persons to assist the investigator or committee to carry out the inquiry.

18. Report on completion of inquiry

- (1) The report required by section 47(2) of the Act to be submitted on completion of an inquiry shall be submitted within 3 months of the appointment of the investigator or investigation committee or within such further period as the empowered officer may allow.
- (2) In addition to stating all relevant facts and findings, a report made for the purposes of section 47(2) of the Act shall include —
 - (a) reasons for the findings of the investigator or investigation committee;
 - (b) a statement of any defects in official practices and procedures that, in the opinion of the investigator or the committee, contributed to the relevant incident;
 - (c) a statement of the amount that, in the opinion of the investigator or the investigation committee, is equal —
 - (i) in the case of loss of or deficiency in moneys, to the amount of the loss or deficiency;
 - (ii) in the case of loss or destruction of property, to the value of the property lost or destroyed;
 - (iii) in the case of damage to property, to the expense of repairing the damage to the property or the value of the property, whichever is the less;

- (d) if the report finds the relevant officer has caused or contributed to the relevant incident, particulars of any mitigating circumstances, including —
 - (i) the extent of the work experience of the officer;
 - (ii) the extent to which the officer was supervised in the performance of such of his duties as related to the moneys or property in relation to which the relevant incident occurred;
 - (iii) the adequacy of official instructions given to the officer with respect to those duties;
 - (iv) the conditions under which, at the time at which the relevant incident occurred, the officer was required to perform his duties, including his workload and the facilities for the performance of those duties;
 - (v) the reliability and efficiency of the officer in the performance of his duties generally; and
 - (vi) the amount of any allowances to which the officer was entitled by way of compensation for the assumption of responsibility for any prescribed incident;
- (e) a record of any objection made by the relevant officer or any witness in relation to the procedure followed at the inquiry;
- (f) the reasons for refusing any request for a witness to be examined; and
- (g) a record of any dissenting opinion or recommendation of a member of the investigation committee.

19. Section 47(3) notice

A notice served on an officer under section 47(3) of the Act prior to the submission of a report by an investigator or investigation committee shall in addition to complying with

section 47(4) invite the officer to provide details of his current and prospective income, expenditure, assets and liabilities.

20. Copies of report

Upon receiving the report of an inquiry, the empowered officer shall send a copy to the relevant officer and the Under Treasurer (if the Under Treasurer is not the empowered officer) and, upon request, the empowered officer may provide a copy of the report to any other person concerned.

21. Application to statutory authorities

Regulations 3 and 11 to 20 apply to and in relation to a statutory authority subject to any necessary modifications and as if —

- (a) references in these regulations to the State were references to the statutory authority;
- (b) references in these regulations to an officer included references to a person who —
 - (i) constitutes, or is acting as a person constituting, the statutory authority; or
 - (ii) is or is acting as a member of the statutory authority or a board (by whatever name called) exercising control or direction of the statutory authority, or is a deputy of such a member;
- (c) references in these regulations to an accountable officer were references to an accountable authority;
- (d) references in these regulations to moneys included references to moneys of a statutory authority; and
- (e) the definition of “prescribed incident” in regulation 3 included after “public moneys” the following —

“

, moneys of a statutory authority

”.

22. Inspection

The Under Treasurer, or an officer of the Treasury authorised by him, may inspect the accounting records, forms of account and accounting and financial management systems of a department or statutory authority.

23. Parliamentary Commissioner for Administrative Investigations

The administration of the Parliamentary Commissioner for Administrative Investigations is deemed to constitute a department for the purposes of the Act.

23A. Information Commissioner

The administration of the Information Commissioner is deemed to constitute a department for the purposes of the Act.

[Regulation 23A inserted in Gazette 3 Dec 1993 p. 6487; amended in Gazette 17 Oct 1997 p. 5791.]

24. Departments of Parliament

The administration of —

- (a) the Legislative Assembly;
- (b) the Legislative Council; and
- (c) the Parliamentary Services Department,

is in each case deemed to constitute a department for the purposes of the Act.

[Regulation 24 inserted in Gazette 30 Jun 1987 p. 2546; amended in Gazette 18 Sep 1998 p. 5180; 23 Dec 2005 p. 6292.]

24A. Internal audit function — exemptions

- (1) For the purposes of section 53(f) or 55(f) of the Act, the Treasurer may exempt the accountable officer of a department or the accountable authority of a statutory authority respectively

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from the responsibility to develop and maintain an effective internal audit function if —

- (a) adequate internal controls and adequate financial reporting practices are in place in the department or statutory authority; or
 - (b) the costs incurred or likely to be incurred in developing and maintaining an effective internal audit function would or would be likely to outweigh the benefits.
- (2) An exemption is subject to the following conditions —
- (a) the condition that the accountable officer or accountable authority notifies the Treasurer of any changes that affect or could affect the internal controls or reporting practices of the department or statutory authority;
 - (b) any other condition specified in the exemption.
- (3) An exemption remains in force until one of the following happens —
- (a) a condition of the exemption is contravened;
 - (b) the exemption is revoked;
 - (c) the period specified in the exemption ends.
- (4) The period specified in an exemption must not exceed 3 years.
- [Section 24A inserted in Gazette 21 Sep 2001 p. 5220-1.]*

25. Act of grace payments

For the purposes of section 58B(3) of the Act, the prescribed amount is \$50 000.

[Regulation 25 inserted in Gazette 12 Mar 1991 p. 1106.]

26. Proceeds of the disposal by sale of public property

- (1) For the purposes of section 96 of the Act, where —
- (a) the relevant written law does not provide for the manner in which the proceeds of the disposal by sale of public

property held for or on behalf of the State or a statutory authority should be dealt with; and

- (b) no determination has been made under subsection (1) of section 23A of the Act that provides for those proceeds to be retained in accordance with that subsection,

this regulation prescribes the circumstances and the manner in which those proceeds may be dealt with otherwise than by being credited to the Consolidated Fund.

- (2) If the cost of acquiring the public property disposed of was met either wholly or partly from a contribution of a capital nature made by any person, or from any account or fund, under an agreement, so much of the proceeds of the disposal that does not exceed the amount of that contribution shall be —
 - (a) paid to the person; or
 - (b) credited to the account or fund,

in accordance with the agreement, and any balance of those proceeds shall be credited to the Consolidated Fund.

- (3) If an account of the Trust Fund, as constituted by section 9 of the Act, is funded solely by appropriation from the Consolidated Fund, the proceeds of the disposal by sale of public property purchased with moneys from that account shall be credited to the Consolidated Fund.
- (4) If the source of the funds used to acquire public property cannot be determined, the proceeds of the disposal by sale of the property shall be credited to the Consolidated Fund.

[Regulation 26 inserted in Gazette 12 Mar 1991 p. 1106; amended in Gazette 30 Sep 1993 p. 5337-8; 17 Oct 1997 p. 5791.]

27. Records to be maintained

Each department and statutory authority shall maintain a record of the sale of all public property held by or on behalf of the department or statutory authority.

[Regulation 27 inserted in Gazette 12 Mar 1991 p. 1106.]

28. Net appropriation — prescribed revenue

For the purposes of paragraph (d) of the definition of “prescribed revenue” in section 23A(9) of the Act the following sources of moneys are prescribed —

- (a) tax equivalent sums paid under section 5 of the *State Enterprises (Commonwealth Tax Equivalents) Act 1996*;
- (b) fees paid under section 13(3) of the *Western Australian Treasury Corporation Act 1986*;
- (c) payments in the nature of dividends, returns of surplus or payments in lieu of local government rates made to the State by —
 - (i) a department established under section 35 of the *Public Sector Management Act 1994*; or
 - (ii) a body, whether corporate or unincorporate, or the holder of an office, post or position, being a body, office, post or position that is established or continued for a public purpose under a written law;
- (d) payments made under agreements entered into under paragraph (i) of the proviso to the second paragraph of the definition of “department” in section 6(1) of the *Superannuation and Family Benefits Act 1938*²;
- (e) debt charges recovered on loans by the State to State agencies or instrumentalities of moneys borrowed by the State under the *Financial Agreement Act 1928*; and
- (f) repayments made on loans of the type described in paragraph (e).

[Regulation 28 inserted in Gazette 1 Jul 1998 p. 3563-4.]

29. Prescribed period — section 69 as modified in Schedule 1A

- (1) The period of 90 days after the end of the financial year is prescribed for the purposes of section 69(2) of the Act as modified in Schedule 1A Part I of the Act.
- (2) The period of 90 days after the end of the financial year is prescribed for the purposes of section 69(2) of the Act as modified in Schedule 1A Part II of the Act.

[Regulation 29 inserted in Gazette 23 Dec 2005 p. 6292.]

Notes

- ¹ This is a compilation of the *Financial Administration Regulations 1986* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any reprint.

Compilation table

Citation	Gazettal	Commencement
<i>Financial Administration Regulations 1986</i>	30 Jun 1986 p. 2256-60	1 Jul 1986 (see r. 2 and <i>Gazette</i> 30 Jun 1986 p. 2255)
<i>Financial Administration Amendment Regulations 1987</i>	30 Jun 1987 p. 2546	1 Jul 1987 (see r. 2)
<i>Financial Administration Amendment Regulations 1991</i>	12 Mar 1991 p. 1105-6	12 Mar 1991 ³
<i>Financial Administration Amendment Regulations (No. 2) 1991</i>	28 Jun 1991 p. 3265	28 Jun 1991
<i>Financial Administration Amendment Regulations 1993</i>	30 Sep 1993 p. 5335-8	30 Sep 1993
<i>Financial Administration Amendment Regulations (No. 2) 1993</i>	3 Dec 1993 p. 6487	3 Dec 1993
<i>Financial Administration Amendment Regulations 1996</i>	5 Mar 1996 p. 843	5 Mar 1996
<i>Financial Administration Amendment Regulations 1997</i>	17 Oct 1997 p. 5791	17 Oct 1997
Reprint of the <i>Financial Administration Regulations 1986</i> as at 31 Oct 1997 (includes amendments listed above)		
<i>Financial Administration Amendment Regulations 1998</i>	1 Jul 1998 p. 3563-4	1 Jul 1998
<i>Financial Administration Amendment Regulations (No. 2) 1998</i>	18 Sep 1998 p. 5180	18 Sep 1998
<i>Financial Administration Amendment Regulations 2001</i>	21 Sep 2001 p. 5220-1	21 Sep 2001
Reprint 2: The <i>Financial Administration Regulations 1986</i> as at 6 Jun 2003 (includes amendments listed above)		
<i>Financial Administration Amendment Regulations 2005</i>	23 Dec 2005 p. 6291-2	23 Dec 2005

- ² The *Superannuation and Family Benefits Act 1938* was repealed by the *State Superannuation Act 2000* s. 39.

- ³ The commencement date that was specified was before the date of gazettal.

