

FINANCIAL ADMINISTRATION AND AUDIT ACT 1985.

(No. 117 of 1985.)

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FINANCIAL
ADMINISTRATION
AND AUDIT.

No. 117 of 1985.

AN ACT to make provision for the administration and audit of the public finances of the State and certain statutory authorities and other bodies, to provide for annual reporting by departments and statutory authorities, to authorize and regulate the investment of certain public moneys, to provide for the office and functions of the Auditor General, to repeal the Audit Act 1904 and to make provision for related or incidental purposes.

[Assented to 30 December 1985.]

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

PART I.—PRELIMINARY.

1. This Act may be cited as the *Financial Administration and Audit Act 1985*. Short title.

Commence-
ment.

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation.

Interpreta-
tion.

3. (1) In this Act, unless the contrary intention appears—

“accountable authority” means the person appointed as accountable authority of a statutory authority under section 54;

“accountable officer” means the permanent head or other officer of a department appointed as an accountable officer of a department under section 52;

“accounting manual” in relation to a department or a statutory authority, means the accounting manual of the department or statutory authority as amended from time to time, issued under section 18 or 44, as the case may be;

“accounts” means the records, however compiled and whether recorded or stored in written or printed form or on microfilm or by electronic process or otherwise, of transactions in respect of public moneys or other moneys or moneys of a statutory authority, or public property or other property, expressed in money, or in the case of property, expressed in money or other units of measurement, being records required to be established and kept for the purposes of this Act and includes books, documents, writings, monetary forms, abstracts, vouchers and other records of any kind from which accounts as described in this definition have been compiled;

“Auditor General” means the officer of that title appointed or deemed to have been appointed in accordance with section 71;

“Minister” means—

- (a) in relation to a department, the Minister of the Crown to whom the administration of the department is for the time being committed by the Governor;
- (b) in relation to a statutory authority constituted by or under an Act, the Minister of the Crown to whom the administration of the Act by or under which the statutory authority is constituted is for the time being committed by the Governor; and
- (c) in relation to a statutory authority not constituted by or under an Act, the Minister of the Crown to whom the administration of the statutory authority is for the time being committed by the Governor;

“officer”, except in section 85, in relation to a department or a statutory authority, means a person who is—

- (a) employed under the Public Service Act 1978 or any other written law;
- (b) employed by a Minister;
- (c) employed under the provisions of any industrial award or agreement;
- (d) engaged by a department or a statutory authority as a consultant or is an employee of such a consultant; or
- (e) appointed to be a member of a statutory authority or a member of a body (by whatever name called) established by written law, cabinet decision, Ministerial, departmental

“other property” means property, other than public property, held in the course of his official duties by the Treasurer, an accountable officer, an accountable authority, a statutory authority, or an officer;

“permanent head” means a permanent head within the meaning given that term in section 5 (1) of the Public Service Act 1978;

“prescribed” includes prescribed under the Treasurer’s Instructions;

“principal accounting officer” means a person who holds an office which has been designated under section 56 as that of a principal accounting officer;

“Public Bank Account” means the Account of that name referred to in section 19;

“public moneys” means moneys, negotiable instruments or securities of any kind collected, received or held by any person for or on behalf of the State and includes all moneys forming part of the Public Bank Account;

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

“repealed Act” means the Audit Act 1904;

“sub-department” includes an entity that is the subject of a separate Division within the annual estimates of receipts and payments in respect of the Consolidated Revenue Fund, but does not include an entity specified as a statutory authority in Schedule 1;

“statutory authority”, except in Division 7 of Part II, means a person or body specified in Schedule 1;

“Treasurer” means the Treasurer of the State;

“Treasurer’s Instructions” means Instructions issued under and in accordance with section 58.

(2) Notwithstanding the definition of “department” in subsection (1), regulations under this Act may provide that the administration of—

- (a) the Legislative Assembly;
- (b) the Legislative Council;
- (c) the Joint House Committee;
- (d) the Joint Printing Committee;
- (e) the Joint Library Committee; and
- (f) the Parliamentary Commissioner for Administrative Investigations,

shall be deemed to constitute one or more departments for the purposes of this Act.

4. (1) Except where a provision of an Act states expressly that the provision has effect notwithstanding the provisions or a specified provision of this Act, or contains express words to that effect, the provisions of this Act shall have effect notwithstanding any inconsistent provision in any other written law and any such inconsistent provision shall be construed subject to this Act. Application.

(2) The Governor may by regulation amend Schedule 1.

PART II.—FINANCIAL ADMINISTRATION.

Division 1.—Treasurer's accounts.

Treasurer's
accounts.

5. There shall be, and the Treasurer shall cause to be kept under such separate heads as he may direct, the following accounts—

- (a) the Consolidated Revenue Fund;
- (b) the General Loan and Capital Works Fund;
- (c) the Treasurer's Advance Account; and
- (d) the Trust Fund.

Consolidated
Revenue
Fund.

6. (1) The Consolidated Revenue Fund established under the Constitution Act 1889 and in existence immediately prior to the commencement of this section shall constitute the Consolidated Revenue Fund for the purposes of this Act.

(2) There shall be credited to the Consolidated Revenue Fund—

- (a) all public moneys that are required by this Act or any other written law to be credited to the Consolidated Revenue Fund; and
- (b) all other public moneys except those required by this Act or any other written law to be credited to the General Loan and Capital Works Fund, the Treasurer's Advance Account or the Trust Fund.

General
Loan and
Capital
Works Fund.

7. (1) The separate account called the General Loan Fund established under the repealed Act and in existence immediately prior to the commencement of this section shall constitute the General Loan and Capital Works Fund for the purposes of this Act.

(2) There shall be credited to the General Loan and Capital Works Fund—

- (a) the proceeds of loans raised by the Government of the Commonwealth on behalf of the State under the Financial Agreement with the authority of a Loan Act;
- (b) general purpose interest-free capital grants provided by the Government of the Commonwealth, as approved by the Australian Loan Council; and
- (c) loan repayments under section 4 of the Financial Agreement Act 1928.

(3) There may be credited to the General Loan and Capital Works Fund—

- (a) other grants and advances of a capital nature provided by the Government of the Commonwealth;
- (b) contributions of a capital nature made by any person or from any fund or account;
- (c) interest derived from short term investments under section 39 (b); and
- (d) any other moneys as the Treasurer may determine.

(4) No charge shall be made against the General Loan and Capital Works Fund except in accordance with an appropriation made by an Act.

8. (1) The Treasurer's Advance Account may be operated on by the Treasurer for the purposes and within the monetary limit specified in the Treasurer's Advance Authorization Act for the relevant financial year.

Treasurer's
Advance
Account.

(2) The authorization contained in a Treasurer's Advance Authorization Act to charge the Treasurer's Advance Account shall lapse on 30 June of the financial year to which the Act relates.

(3) Where before the end of a financial year no authorization has been given by an Act for the Treasurer to withdraw moneys from the Public Bank Account during the next succeeding financial year for the purposes of the Treasurer's Advance Account, the Treasurer is, subject to subsection (4), authorized to withdraw sums from the Public Bank Account for that purpose, but so that in aggregate the sums withdrawn under this subsection do not exceed three-quarters of the limit authorized by the Treasurer's Advance Authorization Act for the immediately preceding financial year.

(4) The authority conferred on the Treasurer by subsection (3)—

(a) does not extend beyond the first 2 months of a financial year; and

(b) ceases upon the earlier enactment of a Treasurer's Advance Authorization Act for the financial year,

and upon the Treasurer's Advance Authorization Act for the financial year coming into operation, all payments and advances made under the authority conferred on the Treasurer by subsection (3) shall be regarded for all purposes as payments or advances made under the authorization provided in that Act.

Trust Fund.

9. (1) The separate account called the Trust Fund by the repealed Act and in existence immediately prior to the commencement of this section shall constitute the Trust Fund for the purposes of this Act.

(2) The Trust Fund shall consist of—

- (a) such accounts as are established under any Act as accounts forming part of the Trust Fund;
- (b) suspense accounts established under section 27; and
- (c) those other accounts established by the Treasurer that are—
 - (i) for moneys that are private in nature and are held in trust;
 - (ii) funded by parliamentary appropriations;
 - (iii) for the purpose of holding balances for specific purposes pending being credited to the fund against which the expenditure has been met under parliamentary appropriation; or
 - (iv) suspense accounts for moneys received pending identification of the purposes for which those moneys were received, subject to any conditions specified by the Treasurer.

10. (1) The appropriate accountable officer or accountable authority, as the case may be, shall cause a Trust Statement to be prepared for each account established under section 9 and shall send that Statement to the Treasurer and a copy to the Auditor General.

Trust
Statement.

(2) A Trust Statement shall state in detail—

- (a) the name and purpose of the account;
- (b) the revenue to be credited to the account;
- (c) the purposes for which expenditure may be charged to the account;

- (d) who is to be responsible for the administration of the account;
- (e) the accounting records required and the form in which those records are to be maintained in respect of the account; and
- (f) the manner in which moneys standing to the credit of the account may be invested.

(3) A copy of the Trust Statement for each account shall be included in the Treasurer's statement of accounts in the year in which the account is opened.

Payments
to Trust
Fund
accounts.

11. There shall be credited to each account of the Trust Fund—

- (a) all moneys that are required by this Act or any other written law to be credited to that account; and
- (b) all moneys received by any officer for the purposes for which that account is established.

Charging of
expenditure
to Trust
Fund
accounts.

12. Expenditure shall be charged to an account of the Trust Fund only for the purpose for which that account is established or for any other purpose authorized by this Act or any other written law concerning the particular account.

Accounts
not to be
overdrawn.

13. (1) The balance of any account forming part of the Trust Fund shall not be overdrawn except with the prior approval of the Treasurer.

(2) Where the Treasurer under subsection (1) allows an account forming part of the Trust Fund to be overdrawn, the overdraft shall be subject to such terms and conditions, including the charging of interest and the terms of repayment, as the Treasurer thinks fit.

14. Subject to this Act and any other written law, if the Treasurer is satisfied that there is available in an account of the Trust Fund a credit balance in excess of the amount reasonably required for the purposes of that account, the Treasurer may direct that the whole or a part of that excess be credited to the Consolidated Revenue Fund or to the General Loan and Capital Works Fund.

Transfer of
excess in
Trust Fund.

15. (1) The Treasurer may close any account forming part of the Trust Fund other than an account established by an Act.

Closure of
accounts.

(2) Upon the closure of an account under subsection (1), the balance of moneys standing to the credit of the account shall be applied first in payment of any debts outstanding in respect of that account and any balance shall be credited—

- (a) to such account, fund or in such other manner as is specified in the Trust Statement relating to that account; or
- (b) if no account, fund or manner is so specified, to the Consolidated Revenue Fund or the General Loan and Capital Works Fund as may be directed by the Treasurer.

Division 2.—Departmental accounts and manuals.

16. Each accountable officer shall, in respect of his department, cause to be established and maintained, in accordance with the requirements prescribed by the Treasurer's Instructions, accounting records, forms of account and accounting and financial management information systems to harmonize with and be subsidiary to the Treasurer's accounts and the system of those accounts.

Depart-
mental
accounts
subsidiary
to the
Treasurer's
accounts.

Other
depart-
mental
accounts
to be
maintained.

17. In addition to the departmental accounts subsidiary to the Treasurer's accounts referred to in section 16, each accountable officer shall maintain or cause to be maintained such other departmental accounts as may be prescribed by the Treasurer's Instructions to record the financial position and transactions of any manufacturing, trading, commercial or other activity conducted by the department.

Accounting
manuals.

18. (1) The accountable officer of a department shall prepare and issue an accounting manual for the use of officers of the department and the accountable officer shall ensure that the accounting manual is kept under review and maintained in an effective and up to date form.

(2) Every accounting manual and every amendment of an accounting manual shall comply and be consistent with this Act, any other written law with respect to financial administration and the Treasurer's Instructions and the manual shall set out in detail particulars of the financial systems of the department concerned and the forms, practices and procedures to be used or followed by officers of the department.

(3) A copy of or, in an appropriate case, an extract from the accounting manual shall be issued by the accountable officer to each officer of the department charged with the exercise or performance of a function with respect to the financial administration of that department.

(4) Every officer engaged on duties in connection with the financial administration of a department shall, subject to this Act, comply with the accounting manual issued in respect of that department.

Division 3.—Bank accounts.

19. In accordance with section 20, the Treasurer shall open and maintain the Public Bank Account, in the name of the Government of Western Australia, with such bank or banks and under such subdivisions as the Treasurer determines.

Public
Bank
Account.

20. (1) The Treasurer may agree with a bank or banks, upon such terms and conditions as the Treasurer thinks fit—

Conduct of
banking
business
of State.

- (a) for the receipt, custody, payment and transmission of public moneys;
- (b) for advances to be made and for charges in respect of advances;
- (c) for interest to be payable by or to the bank or banks upon balances or advances respectively; and
- (d) for the conduct generally of the banking business of the State.

(2) A bank account for the receipt, custody, payment or transmission of public moneys shall not be opened otherwise than in accordance with an agreement under this Division.

21. (1) Subject to the approval of the Treasurer, a department or statutory authority may open and maintain an account with a bank for such purpose and subject to such terms and conditions as the Treasurer approves.

Departments
and statutory
authorities
may open
and
maintain
bank
accounts.

(2) Except as otherwise directed by the Treasurer, a bank account opened and maintained under subsection (1) does not form part of the Public Bank Account.

Treasurer
may approve
overdraft.

22. No officer shall cause any bank account maintained under this Division to be overdrawn, except with and subject to the prior approval of the Treasurer.

Division 4.—Supply and Appropriation.

Moneys to be
appropriated.

23. Subject to this Act, no moneys shall be withdrawn from the Public Bank Account for expenditure in respect of the Consolidated Revenue Fund or the General Loan and Capital Works Fund except after the granting of supply and under appropriation made by an Act.

Payments
prior to
grant of
supply.

24. (1) Where before the end of a financial year no supply is granted in respect of moneys to be withdrawn from the Public Bank Account to meet the requirements of the next succeeding financial year, the Treasurer may make such payments and advances to meet those requirements at the commencement of the financial year as do not exceed in the aggregate an amount equivalent to one-fifth of the expenditure authorized by the respective Appropriation Acts for the immediately preceding financial year, but the authority conferred on the Treasurer by this section—

- (a) does not extend beyond the period of the first 2 months of the financial year; and
- (b) ceases upon the enactment of a Supply Act for the financial year.

(2) Upon the Appropriation Acts for the financial year coming into operation, all payments and advances made under the authority conferred on the Treasurer by subsection (1) shall be regarded and treated for all purposes as expenditure appropriated by those Acts to the relevant divisions and heads of service for that financial year.

25. (1) Notwithstanding the provisions of any Appropriation Act, where after the coming into operation of an Appropriation Act for a financial year the responsibility for a service or function for which an appropriation is made in the Appropriation Act for that year is transferred, the appropriation shall not lapse and the unexpended portion of any moneys appropriated may be issued and applied, in accordance with such determination as may be made by the Treasurer, for or towards that service or function.

Transfer of appropriations on transfer of function.

(2) Where the Treasurer has made a determination under subsection (1) in relation to an appropriation, the Treasurer shall prepare the Treasurer's statements for the financial year in relation to which the determination is made so as to deal separately with the portion of the appropriation that was expended prior to the determination and the unexpended portion of the appropriation that was the subject of the determination.

26. All sums of money appropriated by an Act for a financial year shall be available for the services of that year provided that the accounts are presented for payment at the Treasury within 10 days after the end of the financial year; and payment of all such accounts shall be deemed to have been made within that financial year.

Payment within 10 days after financial year.

27. (1) The Treasurer may direct that the unexpended balance of any appropriation at the end of a financial year may, to the extent necessary to meet any relevant commitment, be transferred to a suspense account to which moneys payable in connection with that commitment shall be charged, and any such transfer shall be deemed a payment correctly chargeable against such appropriation for that financial year.

Transfers to suspense account.

(2) The Treasurer may direct that any amount required to pay salaries and wages that are accrued at the end of a financial year shall be charged

against the appropriate Consolidated Revenue Fund or General Loan and Capital Works Fund items and transferred to a suspense account to which such accrued salaries and wages shall subsequently be charged, and any such transfer shall be deemed a payment correctly chargeable against such items for that financial year.

(3) The sum or sums standing to the credit of every suspense account to which a sum is transferred under this section shall be credited to the Consolidated Revenue Fund or the General Loan and Capital Works Fund at such time or times as the Treasurer directs.

Expenditure
in advance
of appropriation.

28. Where the Treasurer determines that expenditure should be made from the Public Bank Account for which—

- (a) no appropriation has been made in the financial year; or
- (b) an appropriation has been made in the financial year but the charging of that expenditure would cause the appropriation to be exceeded,

the Governor in a case to which paragraph (a) applies or the Treasurer in a case to which paragraph (b) applies may authorize that expenditure to be made from the Public Bank Account in advance of a parliamentary appropriation on the authority of the Treasurer's Advance Authorization Act and be charged to such fund or account under such heading of expenditure as may be directed in the authority given under this section.

Unexpended
appropriations
to lapse.

29. Subject to sections 26 and 27, every appropriation made out of the Consolidated Revenue Fund or the General Loan and Capital Works Fund for the service of a financial year shall lapse and

cease to have any effect for any purpose at the end of that year and any balance of the moneys so appropriated which may then be unexpended shall lapse.

Division 5.—Payment or transfer of moneys.

30. No money shall be withdrawn from the Public Bank Account or any transfer made within the Treasurer's accounts except in the prescribed manner.

Manner of
issue of
moneys.

31. No withdrawals shall be made from the Public Bank Account or other payments made in respect of moneys standing to the credit of the Consolidated Revenue Fund or the General Loan and Capital Works Fund except in accordance with a warrant under the hand of the Governor.

Warrants.

32. No payment shall be made from any of the Treasurer's accounts unless it is in accordance with an Act or regulation, or is in accordance with a Trust Statement, or if chargeable to the Consolidated Revenue Fund or the General Loan and Capital Works Fund, is covered by an appropriation Act or an Act authorizing the issue and application of moneys of such fund or account.

Payment
to be
authorized
by law.

33. (1) No payment shall be made from the Public Bank Account or any of the Treasurer's accounts unless certified as correct by a certifying officer.

Payments
to be
certified.

(2) A certifying officer shall not certify as correct the payment of an account for the purposes of subsection (1) unless—

- (a) satisfied that money is lawfully available for the payment of that account;

- (b) satisfied that the payment of that account when added to accounts previously certified will not exceed the appropriation made for that purpose;
- (c) satisfied that such account is correct and is charged against the proper head of expenditure;
- (d) payment of the account is authorized by an officer incurring the expense in accordance with the Treasurer's Instructions; and
- (e) any other prescribed requirements relating to the payment of the account have been complied with.

Division 6.—Receipt of public moneys.

Public moneys to be paid to a bank account.

34. Every person who collects or receives public moneys shall daily, or at such other intervals as may be directed by the Treasurer, deposit those moneys to the credit of the Public Bank Account or an account maintained in accordance with Division 3.

Public moneys to be credited to an account or fund.

35. All public moneys collected or received and deposited to the Public Bank Account shall be credited to the Consolidated Revenue Fund, the General Loan and Capital Works Fund, the Treasurer's Advance Account or the Trust Fund, or, where it is not possible to determine the proper fund or account, to the Consolidated Revenue Fund.

Private moneys collected to be credited to Trust Fund.

36. (1) Subject to this section, when any money to which this section applies comes to the possession or control of a person who is an officer or, subject to this Act, any person by virtue of his office,

- (ii) the repayment of all moneys deposited with the bank and all securities issued or backed by the bank are guaranteed by the Government of the State;

“register” means the register of approved dealers maintained under section 38 (5);

“registered dealer” means a person the name of whom or which appears in the register;
and

“securities” means—

- (a) stocks, bonds, bills, notes or debentures issued by the Government of the Commonwealth, by the Government of any State or by a statutory authority constituted under a law of the Commonwealth or any State;
- (b) bank accepted or indorsed bills of exchange; and
- (c) negotiable, convertible or transferable certificates of deposit issued by a bank.

Invest-
ment of
public
moneys in
certain
securities.

38. (1) Notwithstanding the provisions of any other Act, but subject to this Division, the Treasurer may withdraw so much of the public moneys standing to the credit of the Public Bank Account as he thinks fit and from time to time invest those moneys, and may for that purpose deal in any securities—

- (a) representing that investment; or
- (b) furnished by way of security under subsection (2) (e).

- (c) bank accepted or indorsed bills of exchange;
- (d) irrevocable letters of credit issued or confirmed by a bank; or
- (e) such other securities as may be authorized for the purposes of this subsection, either generally or in relation to any particular transaction, by the Governor on the recommendation of the Treasurer, being securities that are issued by a statutory authority or body constituted under a law of the Commonwealth or the State, notwithstanding that the securities are not guaranteed by the Government of the Commonwealth or the Government of the State.

(4) A person who seeks to be approved as a dealer and registered for the purposes of this Division shall make application to the Treasurer and shall furnish the Treasurer with such information as he may require, and the Treasurer shall, after causing such inquiry to be made as he thinks fit, approve or reject the application.

(5) A register shall be compiled and maintained in the Treasury setting out—

- (a) the names and address of persons approved as dealers for the purposes of this Division; and
- (b) such other information as the Treasurer may direct.

(6) The Treasurer may determine that the name of any registered dealer shall be removed from the register and—

- (a) that person thereupon ceases to be a person approved for the purposes of this Division; and

(b) as soon as practicable thereafter—

- (i) the name of the person shall be removed from the register; and
- (ii) the determination, and the removal of the name from the register, shall be notified in writing to that person.

39. Moneys received by the Treasurer in respect of any investment made pursuant to section 38 that are—

Proceeds of investments.

- (a) in repayment of principal shall be deposited to the credit of the Public Bank Account; and
- (b) in excess of the amount invested under that section shall be deposited into the Public Bank Account and credited to the Consolidated Revenue Fund or such other account or fund as the Treasurer may direct.

Division 8.—Investment of private moneys.

40. Subject to the terms of any written law concerning the investment of a particular trust fund or particular moneys and to the terms of the relevant trust statement, the Treasurer may invest any moneys held on trust on behalf of a person in the same manner as public moneys standing to the credit of the Public Bank Account may be invested under section 38.

Investment of private moneys.

41. (1) Where the State holds moneys in trust on behalf of a person and those moneys derive revenue through investment, the amount of that revenue shall, subject to subsection (2), be credited to the Consolidated Revenue Fund.

Revenue on private moneys held in trust.

(2) Notwithstanding subsection (1), the Treasurer may—

- (a) pay an amount not greater than the amount of revenue so derived, to a person or to an account as the Treasurer determines; or
- (b) make agreements as to the payment of interest or revenue in respect of moneys held on trust on behalf of a person and make payments in accordance with such agreements.

*Division 9.—Financial administration of
statutory authorities.*

Estimates
of statutory
authorities.

42. (1) Unless the Treasurer otherwise directs in writing, the accountable authority of a statutory authority shall cause annual estimates of the financial operations of the statutory authority to be prepared under such headings and in such manner as the Treasurer may approve or direct.

(2) The estimates prepared under subsection (1) shall be submitted by the accountable authority for the approval of the Minister who shall cause the estimates when approved to be submitted to the Treasurer by a date not later than that specified by the Treasurer.

Accounts
to be kept.

43. The accountable authority of a statutory authority shall cause to be kept proper accounts and records of the transactions and affairs of the statutory authority and shall do all things necessary to ensure that all moneys received are properly brought to account, all payments out its moneys are correctly made and properly authorized and that adequate control is maintained over public property and other property of or in the custody of the statutory authority and over the incurring of liabilities by the statutory authority.

44. (1) The accountable authority of a statutory authority shall prepare and issue an accounting manual for the use of officers of the statutory authority and the accountable authority shall ensure that the accounting manual is kept under review and maintained in an effective and up to date form. Accounting
manuals.

(2) Every accounting manual and every amendment of an accounting manual shall comply and be consistent with this Act, any other written law with respect to financial administration and the Treasurer's Instructions and the manual shall set out in detail particulars of the financial systems of the statutory authority concerned and the forms, practices and procedures to be used or followed by officers of the statutory authority.

(3) A copy of, or in an appropriate case an extract from, the accounting manual shall be issued by the accountable authority to each officer of the statutory authority charged with the performance of a function with respect to the financial administration of that statutory authority.

(4) Every officer engaged on duties in connection with the financial administration of a statutory authority shall, subject to this Act, comply with the accounting manual issued in respect of that statutory authority.

Division 10.—Write-offs and recoveries.

45. (1) Amounts in respect of public property and other property and revenue and other debts due to the State may be written off by an accountable officer or the responsible Minister subject to and in accordance with the limits prescribed by regulations. Write-offs.

(2) Amounts in respect of public property and other property and revenue and other debts due to the State greater than the amounts prescribed by

regulations for the purpose of subsection (1) may be written off by the responsible Minister with the prior approval of the Governor.

Liability for
losses, etc.

46. (1) Subject to subsection (2) and to section 47 (7), where there occurs 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, an officer who by misconduct or performance of duties in a grossly negligent manner causes or contributes to the loss, deficiency, destruction or damage is liable to pay to the State an amount equal—

- (a) in the case of loss of or deficiency in moneys, to the amount of the loss or deficiency;
- (b) in the case of loss or destruction of property, to the value of the property lost or destroyed;
- (c) 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.

(2) Where the negligence or misconduct of an officer was not the sole cause of any loss, deficiency, destruction or damage of the kind referred to in subsection (1), the officer is liable under that subsection to pay to the State so much only of the amount that but for this subsection would be payable as is just and equitable having regard to the officer's share of responsibility for the loss, deficiency, destruction or damage.

(3) Without limiting the generality of subsection (1), an officer may under subsection (4), (5) or (8) be under a liability to the State in respect of a loss of, or deficiency in, public moneys or other moneys, or the loss or destruction of, or damage to, public property or other property, notwithstanding that the officer has not caused or contributed to the loss, deficiency, destruction or damage by his misconduct or by performing any of his duties in a grossly negligent manner.

property was delivered to him on the express condition that he would, at all times, take strict care of the property,

the officer is, subject to subsection (9), liable to pay to the State an amount equal—

(aa) in the case of the loss or destruction of the property, to the value of the property;

or

(bb) 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.

(9) An officer is not liable to pay an amount to the State under subsection (8) in respect of the loss or destruction of, or damage to, public property or other property if the loss, destruction or damage occurred notwithstanding that the officer had taken such steps as it was reasonable, in all the circumstances, for him to take to prevent the loss or destruction of, or damage to, the property, as the case may be.

(10) For the purpose of subsection (8), public property or other property shall be taken to be under the control of an officer if the property has been delivered to the officer and has not been returned to the person entitled to receive the property on behalf of the State.

(11) The State is not entitled to recover amounts from the one officer under 2 or more subsections of this section in respect of the same loss, deficiency, destruction or damage.

(12) For the purposes of this section, an officer shall be taken to have performed duties in a grossly negligent manner if he has displayed in the performance of those duties a deliberate or serious disregard of reasonable standards of care.

47. (1) Where the Auditor General, the Under Treasurer or an accountable officer is of the opinion that a loss, deficiency, destruction or damage of the kind referred to in section 46 may have occurred in such circumstances as to render an officer liable under that section to pay an amount to the State, the Auditor General, Under Treasurer or accountable officer, as the case may be, may direct that an inquiry be held in accordance with the regulations.

Auditor
General,
Under
Treasurer,
and
accountable
officers
to take
action in
respect of
losses, etc.

(2) Upon completing an inquiry directed to be held under this section, the person conducting the inquiry shall prepare and submit to the person who directed that the inquiry be held a report which shall state all relevant facts and findings and may recommend that the officer be held liable under section 46 to pay a specified amount to the State.

(3) Before making a report that includes a recommendation that an officer be held liable to pay an amount under section 46, the person conducting the inquiry shall extend to the officer an opportunity to advance in writing within 30 days of the service of the notice on that officer of his opportunity so to do, any reasons why such a recommendation should not be made or any mitigating facts or circumstances which the officer wishes to be taken into account.

(4) A notice served on an officer under subsection (3) shall—

(a) be in writing;

(b) include details of the grounds on which the person conducting the inquiry proposes to make a recommendation; and

(c) state the amount which the person recommends should be recovered from the officer.

(5) The person conducting an inquiry shall give consideration to any response received from an officer on whom a notice has been served under subsection (3) and shall attach that response (if any) to his report.

(6) After receiving a report of an inquiry, the Auditor General, Under Treasurer or accountable officer, as the case may be, shall, after considering the report, including any response made by the officer to the notice served on him under subsection (3), and having regard to all the circumstances of the case—

- (a) determine in writing that the loss, deficiency, destruction or damage occurred in circumstances rendering the officer liable under section 46, and determine the amount that the officer is liable to pay to the State; or
- (b) decide to take no further action,

and shall in either case cause notice of his determination or decision to be served on the officer concerned.

(7) In determining the amount that an officer is liable to pay under subsection (6) (a), the Auditor General, Under Treasurer or accountable officer may have regard to mitigating facts or circumstances relevant either to the loss, deficiency, destruction or damage or to the officer and may determine an officer's liability to pay as so much only of the amount which but for this subsection he would be liable to pay as is just and reasonable having regard to those mitigating facts or circumstances.

48. The State may recover from an officer by action in a court of competent jurisdiction, the amount for which the officer is stated to be liable in a determination made under section 47, and in

such proceedings the court may have regard to but shall in no way be bound by the determination made under that section.

49. The burden of satisfying a court or a person conducting an inquiry or the Auditor General, Under Treasurer or accountable officer that by reason of subsection (7) or (9) of section 46 an officer is not liable to pay an amount to the State that he would otherwise be liable to pay lies on the person who alleges that he is not so liable.

Burden of proof.

50. (1) Section 46 shall not be taken to affect any right of the State to recover an amount from an officer otherwise than under this Division, but the State shall not recover amounts from the one officer both under this Division and otherwise than under this Division in respect of the same loss, deficiency, destruction or damage.

Persons not liable twice in respect of same loss, etc.

(2) Subject to subsection (3), it is not competent for the State to commence or continue legal proceedings (other than criminal proceedings) against a person in respect of his liability for a loss of, or deficiency in, public moneys or other moneys, or the loss or destruction of, or damage to, public property or other property, after he has paid to the State, in respect of that liability, an amount equal to the assessed amount of the loss, deficiency, destruction or damage.

(3) Subsection (2) does not prevent the State from continuing proceedings instituted against a person before the payment was made for the purpose only of obtaining an order in respect of the costs of the proceedings.

51. Sections 46 to 50 apply to and in relation to a statutory authority subject to any necessary modifications and as if—

Application to statutory authorities.

- (a) references in those sections to the State were references to the statutory authority;

- (b) references in those sections 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 those sections to an accountable officer were references to an accountable authority; and
- (d) references to public property included references to the property of a statutory authority.

*Division 11.—Appointments, delegations
and Instructions.*

Accountable
officer for
each
department.

52. (1) There shall be an accountable officer for each department who shall, subject to subsection (3), be responsible to the Minister for the financial administration of the services under the control of the department.

(2) Subject to subsection (3), the permanent head of a department shall be the accountable officer for that department.

(3) Where a sub-department maintains separate accounts, the Treasurer may appoint a person to be the accountable officer for the services under the control of that sub-department and an accountable officer appointed under this subsection shall be responsible to the Minister for the financial administration of those services.

(4) Unless the context otherwise requires, in relation to a sub-department for which an accountable officer has been separately appointed under subsection (3)—

- (a) a reference in this Act to the accountable officer of or for a department shall be construed as a reference to the accountable officer of that sub-department (and not to the accountable officer of a department of which the sub-department forms part);
and
- (b) a reference in this Act to a department shall be construed as a reference to that sub-department.

53. An accountable officer shall be responsible in respect of the services for which he is responsible for—

Duties of
accountable
officer of
department.

- (a) efficiency and economy of operations and the avoidance of waste and extravagance;
- (b) regular reviews at least once a year of fees and charges and the proper collection of all moneys due to or collected for the Government;
- (c) control over expenditure ensuring that such expenditure is in accordance with legal requirements;
- (d) the custody, control, management and accounting of all public property and other property of or under the control of the accountable officer's department;
- (e) the effectiveness of accounting and financial management information systems;
- (f) the development and maintenance of an effective internal audit function;

- (g) maintaining and monitoring the effective delivery of programmes to achieve objectives;
- (h) ensuring that due regard is paid to financial considerations at all stages in framing and reaching policy decisions, and in their execution; and
- (i) the appointment of certifying officers.

Accountable
authority
for each
statutory
authority.

54. (1) There shall be an accountable authority for each statutory authority which shall be responsible to the Minister for the financial administration of the services under the control of the statutory authority.

(2) Subject to subsection (3), the person or body (by whatever name called) having the general direction and control of and the overall responsibility for the operations of a statutory authority shall be the accountable authority for that statutory authority.

(3) In a case where the Treasurer considers that there is or may be some doubt as to the application of subsection (2), the Treasurer may, by notice published in the *Gazette*, appoint a person or body to be the accountable authority for the statutory authority concerned and upon the publication of such a notice the person or body so appointed shall assume and perform all the functions conferred on accountable authorities under this Act.

Duties of
accountable
authorities
of statutory
authorities.

55. Each accountable authority shall be responsible in respect of the services for which the authority is responsible for—

- (a) efficiency and economy of operations and the avoidance of waste and extravagance;
- (b) regular reviews at least once a year of fees and charges and the proper collection of all moneys due to the statutory authority;

Delegations
and auth-
orizations.

57. (1) The Treasurer may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him delegate to any Minister any functions that are conferred on the Treasurer by this Act other than this power of delegation.

(2) The Treasurer or any Minister to whom any function has been delegated under subsection (1) may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him delegate to any officer of the Treasury any functions that are conferred on the Treasurer by this Act other than—

(a) this power of delegation; or

(b) the power to approve a person as a dealer under section 38 for the purposes of that section.

(3) Where a function has been delegated under subsection (2) to the Under Treasurer, the Under Treasurer may authorize another officer of the Treasury to perform the function so delegated.

(4) A delegation under subsection (2) or an authorization under subsection (3) may be to—

(a) a specified person; or

(b) the person for the time being holding a specified office.

(5) Any act or thing done in the performance of a function by a Minister or by a person to whom that function has been delegated by the Treasurer under subsection (1) or (2), or by a person authorized by the Under Treasurer under subsection (3) to perform that function, has the same force and effect as if it had been done by the Treasurer.

(6) Where the performance of a function by the Treasurer is dependent upon the opinion, belief or state of mind of the Treasurer in relation to a matter and that function has been delegated under sub-

- (b) if a Minister has under subsection (2) delegated the performance of that function to an officer of the Treasury, that Minister—
 - (i) shall if the Treasurer has given a direction to him under paragraph (a) with respect to the performance of that function, give a corresponding direction to the officer; and
 - (ii) may, subject to any direction given to the Minister by the Treasurer under paragraph (a), give directions to an officer with respect to the performance of that function; and

- (c) if the Under Treasurer has under subsection (3) authorized another officer of the Treasury to perform that function, the Under Treasurer—
 - (i) shall, if the Treasurer has given a direction to him under paragraph (a) with respect to the performance of that function, give a corresponding direction to the officer; and
 - (ii) may, subject to any direction given to the Under Treasurer by the Treasurer under paragraph (a), give directions to the officer with respect to the performance of that function.

Treasurer's
Instructions.

58. (1) The Treasurer may prepare and issue and amend instructions, in this Act called the "Treasurer's Instructions", with respect to financial administration including the principles, practices and procedures to be observed in the establishment and keeping of accounts, but instructions issued under this section shall not be inconsistent with this Act or the regulations.

- (k) the printing, supply and use of monetary and other Treasury forms;
- (l) the destruction of accounting documents and records; and
- (m) such other matters and things relating to the financial administration of departments and statutory authorities as the Treasurer thinks necessary to achieve the objects and purposes of this Act.

(3) Treasurer's Instructions may be issued—

- (a) so as to apply—
 - (i) at all times or at a specified time;
 - (ii) to all departments and their subsidiary and related bodies or to specified departments or subsidiary or related bodies;
 - (iii) to all statutory authorities and their subsidiary and related bodies or to specified statutory authorities or subsidiary or related bodies;
- (b) so as to require a matter affected by the instructions to be—
 - (i) in accordance with a specified standard or specified requirement;
 - (ii) approved by or to the satisfaction of a specified person or body or a specified class of person or body;
- (c) so as to confer a discretionary authority on a specified person or body or a specified class of person or body;
- (d) so as to empower the Treasurer by written direction issued generally or in a particular case to supplement the requirements of the instructions; and

- (e) so as to provide, or to empower the Treasurer to provide by written direction, in a specified case or class of case for the exemption of persons or things or a class of persons or things from the provisions of the instructions, whether unconditionally or on specified conditions or conditions additionally imposed and either wholly or to such an extent as is specified or otherwise determined.

(4) Subject to this Act, every accountable officer, accountable authority and officer shall comply with the Treasurer's Instructions.

(5) In subsection (3) "specified" means specified in the instructions.

(6) The Treasurer shall cause to be published in the *Gazette* notice of the making or amendment of Treasurer's Instructions, but notices under this subsection need not include the text of the instructions or the amendments.

Division 12.—Treasurer's reports.

59. The Treasurer shall, as soon as possible after the end of every quarter of the financial year, publish in the *Gazette* a statement of the receipts and payments for that quarter in respect of the—

Treasurer's
quarterly
statements

- (a) Consolidated Revenue Fund;
- (b) General Loan and Capital Works Fund;
- (c) Treasurer's Advance Account; and
- (d) Trust Fund,

together with a comparative statement of the Consolidated Revenue Fund and General Loan and Capital Works Fund receipts and payments for the corresponding quarter of the preceding financial year.

Treasurer's
annual
statements.

60. (1) The Treasurer shall, by 31 August in each year, cause to be prepared and submitted for audit to the Auditor General statements of the receipts and payments for the financial year of the—

- (a) Consolidated Revenue Fund;
- (b) General Loan and Capital Works Fund;
- (c) Treasurer's Advance Account; and
- (d) Trust Fund, under the several heads of account of that fund.

(2) The statements required by subsection (1) to be prepared by the Treasurer shall be prepared to the level and in the manner and form prescribed by regulations and shall be supported by information prepared by accountable officers to the level and in the manner and form prescribed by Treasurer's Instructions.

(3) The Treasurer shall cause copies of the statements referred to in subsection (1) together with a copy of the opinion of the Auditor General on those statements to be laid before both Houses of Parliament within 21 days of receiving the Auditor General's opinion.

(4) If, within or on the expiration of the period referred to in subsection (3) either House of Parliament is not sitting so that subsection (3) cannot be complied with, the Treasurer shall immediately on the expiration of that period—

- (a) transmit copies of the statements prepared under subsection (1) together with the opinion of the Auditor General to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly; and
- (b) make the statements and opinion available to the public.

(5) Where the Treasurer has in accordance with subsection (4) transmitted copies of his statements prepared under subsection (1) together with the opinion of the Auditor General to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, the statements shall for the purpose of satisfying the time limit imposed by subsection (3) be deemed to have been laid before both Houses of Parliament.

(6) Notwithstanding subsection (5), the statements and opinion shall be tabled in both Houses of Parliament within 21 days when Parliament is next sitting.

61. If the Treasurer is not able to cause copies of the statements and opinion of the Auditor General referred to in section 60 to be laid before both Houses of Parliament by 31 October in any year, the Treasurer shall by that date inform both Houses of Parliament of his inability to table the statements and opinion and the reasons for that inability.

Treasurer
to advise
both Houses
of inability
to table by
31 October.

*Division 13.—Reports of Accountable officers
of departments.*

62. (1) The accountable officer of a department shall by 31 August in each year cause to be prepared and submitted to the Minister an annual report containing—

Accountable
officers of
departments
to report to
Minister.

- (a) financial statements of receipts and payments for the financial year;
- (b) performance indicators and such other information as may be directed by the Treasurer's Instructions;
- (c) a report on the operations of the department during the preceding financial year;
and
- (d) such other information as the Minister may direct in writing.

(2) The financial statements required to be prepared by subsection (1) shall—

- (a) be prepared in the manner and form required by the Treasurer's Instructions;
- (b) present fairly the financial transactions of the department during the financial year;
- (c) present fairly the state of affairs of the department at the end of the financial year;
and
- (d) be certified in the manner required by the Treasurer's Instructions.

(3) A report of operations required to be prepared by subsection (1) shall contain all the information that is required by the Treasurer's Instructions.

Accountable officers to send accounts etc. to Auditor General and Treasurer.

63. The accountable officer of a department shall by 15 August in each year cause to be submitted to the Auditor General and the Treasurer a copy of the financial statements and the information referred to in section 62 (1) (a) and (b).

Minister to table accountable officer's report.

64. (1) The Minister shall cause copies of each annual report referred to in section 62 together with a copy of the opinion of the Auditor General to be laid before both Houses of Parliament within 21 days of receiving the Auditor General's opinion.

(2) If within or on the expiration of the period referred to in subsection (1) either House of Parliament is not sitting so that subsection (1) cannot be complied with, the Minister shall immediately on the expiration of that period—

- (a) transmit copies of the annual report of the accountable officer together with the opinion of the Auditor General to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly; and

(b) make the report and opinion available to the public.

(3) Where the Minister has, in accordance with subsection (2), transmitted copies of the annual report of the accountable officer together with the opinion of the Auditor General to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, the report shall for the purposes of satisfying the time limit imposed by subsection (1) be deemed to have been laid before both Houses of Parliament.

(4) Notwithstanding subsection (3), the annual report of the accountable officer and opinion of the Auditor General shall be tabled in both Houses of Parliament within 21 days when Parliament is next sitting.

65. (1) Application may be made by an accountable officer to the Minister at any time before 31 August for an extension of the period within which the accountable officer is required to comply with section 62.

Application
for extension
of time.

(2) Application may be made by an accountable officer to the Treasurer at any time before 15 August for an extension of the period within which the accountable officer is required to comply with section 63 and the Treasurer may extend the period to a day not later than 31 August.

(3) An application under subsection (1) or (2) shall be supported by detailed reasons and other relevant information.

(4) Where the Minister grants an extension to an accountable officer under subsection (1)—

(a) the Minister shall within 21 days after granting the extension cause both Houses of Parliament to be informed of the details of the extension; and

- (b) the accountable officer shall include details of the extension in his annual report.

Division 14.—Statutory authority's reports.

Accountable
authority
to report to
Minister.

66. (1) The accountable authority of a statutory authority shall cause to be prepared and submitted to the Minister, within 2 months after the end of the financial year of the statutory authority, an annual report containing—

- (a) financial statements for the financial year;
- (b) performance indicators and such other information as may be directed by the Treasurer's Instructions;
- (c) a report on the operations of the statutory authority during the preceding financial year; and
- (d) such other information as the Minister may direct in writing.

(2) A report of operations required to be prepared by subsection (1) shall contain all the information that is required by the Treasurer's Instructions.

(3) The financial year of a statutory authority shall end on 30 June unless an Act provides otherwise.

Financial
statements.

67. (1) Unless the Treasurer otherwise approves, the financial statements referred to in section 66 (1) (a) shall be prepared on an accrual accounting basis and shall consist of—

- (a) a statement of financial transactions of the statutory authority for the financial year;
- (b) a statement of the financial position of the statutory authority at the end of the financial year;

- (c) proper and adequate notes to the financial statements; and
- (d) such other financial statements and information as may be directed by the Treasurer's Instructions together with other financial information that the Minister may require.

(2) The financial statements referred to in subsection (1) shall—

- (a) present fairly the financial transactions of the statutory authority during the financial year to which they relate;
- (b) where a statement of financial position at the end of the financial year is required to be prepared, present fairly the financial position of the statutory authority at the end of the financial year; and
- (c) be certified in the manner required by the Treasurer's Instructions.

68. The accountable authority of a statutory authority shall within 2 months after the end of the financial year of the statutory authority cause to be submitted to the Auditor General the financial statements and the other information referred to in section 66 (1) (a) and (b).

Accountable
authorities
to send
accounts etc.
to Auditor
General.

69. (1) The Minister shall cause copies of each annual report referred to in section 66 together with a copy of the opinion of the Auditor General to be laid before both Houses of Parliament within 21 days of receiving the Auditor General's opinion.

Minister
to table
accountable
authority's
report.

(2) If, within or on the expiration of the period referred to in subsection (1) either House of Parliament is not sitting so that subsection (1) cannot

be complied with, the Minister shall immediately on the expiration of that period—

- (a) transmit copies of the annual report of the accountable authority together with the opinion of the Auditor General to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly; and
- (b) make the report and opinion available to the public.

(3) Where the Minister has, in accordance with subsection (2), transmitted copies of the annual report of the accountable authority to the Clerk of the Legislative Council and the Clerk of the Legislative Assembly, the report shall for the purposes of satisfying the time limit imposed by subsection (1) be deemed to have been laid before both Houses of Parliament.

(4) Notwithstanding subsection (3), the annual report of the accountable authority and the opinion of the Auditor General shall be tabled in both Houses within 21 days when Parliament is next sitting.

Application
for extension
of time.

70. (1) Application may be made by the accountable authority of a statutory authority at any time within 2 months of the end of the financial year of that statutory authority to the Minister for an extension of the period within which the accountable authority is required to comply with sections 66 and 68.

(2) An application under subsection (1) shall be supported by detailed reasons and other relevant information.

(3) Where the Minister grants an extension to an accountable authority under subsection (1)—

- (a) the Minister shall within 21 days after granting the extension cause both Houses of Parliament to be informed of the details of the extension; and

- (b) the accountable authority shall include details of the extension in its annual report.

PART III.—AUDIT.

Division 1.—The Auditor General.

71. (1) The Governor shall appoint an appropriately qualified Auditor General. Appointment of Auditor General.

(2) The Public Service Act 1978 does not apply to or in respect of the appointment of the Auditor General and the Auditor General is not, as the Auditor General, subject to the provisions of that Act.

(3) Subject to subsection (2), the Auditor General shall be the permanent head of the Office of the Auditor General.

72. (1) The Auditor General shall receive salary and allowances at such rates per annum as are determined by the Salaries and Allowances Tribunal established by the Salaries and Allowances Act 1975 and such salaries and allowances payable to the Auditor General are hereby charged on the Consolidated Revenue Fund which to the necessary extent is appropriated accordingly. Salary and entitlements.

(2) The Auditor General shall be entitled to such leave of absence and other conditions of service as are applicable to officers appointed under the Public Service Act 1978.

73. Where a person, immediately prior to appointment as Auditor General— Rights of officers preserved.

- (a) occupied an office in the public service under the Public Service Act 1978, that person shall continue to retain his existing and accruing rights, including his rights under the Superannuation and Family

Benefits Act 1938, as if his service as Auditor General were service as an officer of the public service; or

- (b) occupied an office in a statutory, public or local authority, that person shall retain his rights (if any) under the Superannuation and Family Benefits Act 1938, and such other rights and entitlements earned or accrued as an officer of that authority as may be approved by the Governor, as if his service as Auditor General were continuing service.

Tenure of office.

74. (1) Subject to this Act, the Auditor General is entitled to hold office until he attains the age of 65 years.

(2) Notwithstanding subsection (1), the Governor may authorize the Auditor General to continue to hold office after attaining the age of 65 years, if the Auditor General is able and willing to do so, for such period not exceeding 12 months as the Governor determines.

(3) The Auditor General may resign his office by writing signed by him and delivered to the Governor.

Suspension and removal from office.

75. (1) The Governor may suspend the Auditor General from office—

- (a) for misbehaviour or incompetence;
- (b) for physical or mental incapacity impairing the performance of his functions;
- (c) if the Auditor General directly or indirectly engages in any paid employment outside the duties of the office of Auditor General, or in any trade or business other than as a member of a body corporate consisting of more than 20 persons;

- (d) if the Auditor General is or becomes an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (e) if the Auditor General absents himself from duty for any period in excess of 28 consecutive days without the consent of the Governor.

(2) The Treasurer shall cause to be laid before each House of Parliament, within 7 sitting days of that House after the suspension of the Auditor General from office, a full statement of the grounds for the suspension.

(3) The suspension shall be lifted and the Auditor General restored to office unless each House of Parliament, within 21 days from the time when the statement referred to in subsection (2) was laid before it, declares by resolution that the Auditor General ought to be removed from office.

(4) If each House of Parliament does so declare within the period referred to in subsection (3), the Auditor General shall be removed from office by the Governor.

76. The Auditor General, before entering upon the duties or exercising the powers vested in the Auditor General by this Act, shall make and subscribe before the Governor in Executive Council a declaration in the form in Schedule 2.

Declara-
tion by
Auditor
General.

77. (1) The Governor may appoint a person to act in the office of Auditor General—

Acting
appoint-
ments.

- (a) during a vacancy in that office; or

(b) during any period or during all periods when the person holding or appointed to act in that office is absent from duty or is for any other reason unable to perform the functions of that office.

(2) An appointment under subsection (1) may be made at any time and may be expressed to have effect only in the circumstances specified in the instrument of appointment.

(3) A person who is acting in the office of Auditor General shall perform all the functions of the office of Auditor General under this Act and shall be subject to all relevant provisions of this Act applying to the Auditor General.

(4) The validity of anything done by or in relation to a person purporting to act in the office of Auditor General under an appointment made under subsection (1) shall not be called in question on the ground that the occasion for the appointment had not arisen, that there is a defect or irregularity in the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

(5) A person appointed under this section to act as Auditor General shall, prior to the first occasion on which he so acts, make and subscribe before the Governor in Executive Council a declaration in the form in Schedule 2.

Division 2.—Audits.

Auditor
General
to audit
accounts.

78. (1) Subject to this Act, the Auditor General shall audit the Treasurer's accounts, the departmental accounts, the accounts of statutory authorities and such other accounts as the Treasurer may require to be audited by the Auditor General.

(2) The audit of the accounts of every department and statutory authority shall be performed at such times as the Auditor General thinks fit but once in respect of each financial year at the least.

(3) Where a grant or advance of moneys is made by the Government to a person for specific purposes, the Treasurer may require the Auditor General to audit the accounts of that person to ascertain whether the moneys granted or advanced have been expended in accordance with the purposes of the grant or advance.

79. (1) The Auditor General shall perform the audits which he is required to perform under this Act in such manner as the Auditor General thinks fit in accordance with auditing standards and practices and having regard to the character and effectiveness of the internal control and internal audit of the relevant department, statutory authority or other body.

Duties of Auditor General as to audits.

(2) In the performance of audits under this Act, the Auditor General shall consider whether the requirements of this Act and every other relevant written law have been complied with.

80. The Auditor General may at any time—

Power to investigate.

- (a) audit the accounting and financial management information systems of the Treasurer or any department or statutory authority to determine their effectiveness in achieving or monitoring programme results;
- (b) conduct any investigation that he considers necessary concerning any matter relating to the accounts of the Treasurer, a department or a statutory authority or to public moneys, other moneys or moneys of a statutory authority or to public property or other property and may carry out examinations of the efficiency and effectiveness of departments, statutory authorities or parts of departments or statutory authorities.

Audit of the
accounts
of the
Auditor
General.

81. (1) The Auditor General shall not audit the accounts of the Office of the Auditor General.

(2) The Governor may appoint a registered company auditor within the meaning of the *Companies (Western Australia) Code* to audit the financial statements and the information referred to in section 62 (1) (a) and (b) relating to the Office of the Auditor General.

(3) A person who performs an audit in accordance with this section shall be entitled to receive a fee to be determined by the Treasurer.

(4) An audit under this section shall be performed in accordance with auditing standards and practices.

(5) The Auditor General shall append to his annual report prepared under section 95 a copy of the opinion given by the auditor upon the completion of the audit referred to in subsection (2).

Auditor
General may
appoint
person to
audit.

82. (1) The Auditor General may by writing signed by him appoint an officer of the public service or some other person, whether corporate or unincorporate, to carry out all or a part of any audit that the Auditor General is required by this Act or by any other Act or by arrangement to carry out and a person so appointed shall report on completion of the audit to the Auditor General.

(2) The fee payable to a person appointed under subsection (1) who is not an officer of the public service shall be fixed by the Auditor General.

Access to
accounts.

83. (1) For the purpose of any audit performed under this Act, the Auditor General, or a person appointed by writing signed by him, is entitled to full and free access at all reasonable times to—

- (a) all accounts and such other information, documents and records which the Auditor General considers necessary for the purpose of this Act;

(b) public moneys, other moneys or moneys of a statutory authority;

(c) public property or other property,

that is or are in the possession of any person and the Auditor General, or a person so appointed, may make copies of or extracts from any of those accounts, documents and records and such other information.

(2) A person who has in his possession any accounts, information, documents or records of the kind referred to in subsection (1), public moneys or other moneys or moneys of a statutory authority or public property or other property shall at all reasonable times upon request by the Auditor General or a person appointed by him under subsection (1), produce to the Auditor General or person such accounts, information, documents, records, moneys or property as are specified in the request.

Penalty: \$1 000.

84. Whenever requested to do so by the Auditor General, the manager or person in charge of or responsible for an account held by a bank or other financial institution in which public moneys or other moneys or moneys of a statutory authority have been deposited shall provide the Auditor General with such statements, certificates and information regarding any account relating to such moneys as the Auditor General specifies.

Bank or other financial institution to furnish information.

85. (1) The Auditor General may require any accountable officer, accountable authority or other officer of a department or statutory authority to furnish him with such information or explanation as he thinks necessary for the purposes of any audit performed under this Act and a person so required shall furnish the information or explanation.

Power to require information.

(2) The Auditor General may require any person to furnish him with such information or explanation as he thinks necessary for the purposes of any audit

performed under section 78 (3) and a person so required shall furnish the information or explanation.

(3) A person who is required to furnish information or an explanation under subsection (1) or (2) shall not without reasonable excuse fail to comply with that requirement within 14 days of receiving notification of it.

Penalty: \$1 000.

(4) In this section—

“officer” in relation to a department or a statutory authority, means a person who is—

- (a) employed under the Public Service Act 1978 or any other written law;
- (b) employed by a Minister;
- (c) employed under the provisions of any industrial award or agreement;
- (d) engaged by a department or a statutory authority as a consultant or is an employee of such a consultant; or
- (e) appointed to be a member of a statutory authority or a member of a body (by whatever name called) established by written law, cabinet decision, Ministerial, departmental or statutory authority decision, or otherwise and whether or not remuneration is payable to the person.

86. (1) The Auditor General may, by notice in writing signed by him, require a person named in the notice to appear personally before the Auditor General at a time and place to be named in writing

and to answer fully any question that may be put to that person and to produce to the Auditor General such accounts, records, books, vouchers, documents, and papers in his possession or control as shall appear to the Auditor General to be necessary for the purposes of an audit required to be carried out by the Auditor General under this Act.

(2) The Auditor General may cause a search to be made in, and extracts to be taken from, any book, document, system or record in the custody of the Treasurer or in any public office or office of a statutory authority, without paying any fee for the same.

(3) A person of whom a requirement is made under subsection (1) shall not without reasonable excuse fail to comply with the requirement.

Penalty: \$1 000.

87. The Auditor General may examine upon oath or affirmation (which oath or affirmation he is hereby empowered to administer) all persons whom he shall think fit to examine respecting all matters and things whatever necessary for the due performance and exercise of the duties and powers vested in him.

Power to
administer
and examine
on oath.

88. 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 or a question of law relating to any audit and the Crown Solicitor shall give him a written opinion on such case.

Power to
obtain
opinion.

89. The Auditor General shall draw to the attention of the Treasurer all matters arising out of the exercise of his powers and the performance of his duties under this Act or the regulations that are, in the opinion of the Auditor General, of sufficient importance to justify doing so.

Communica-
tion with
Treasurer.

Protection
from
liability.

90. No action or claim for damages shall lie against the Auditor General or any person acting on his behalf and with his authority for or on account of anything done, or ordered or authorized to be done, which purports to be done for the purpose of carrying out the provisions of this Act unless it is proved that the act was done, or ordered or authorized to be done, maliciously and without reasonable and probable cause.

Informa-
tion
confidential.

91. The Auditor General and each person employed in the Office of the Auditor General or appointed to assist the Auditor General in respect of a particular matter shall preserve secrecy with respect to all matters that come to his knowledge in the course of his employment or duties under this Act and shall not communicate any such matters to any person, except as may be required in connection with the administration of this Act or any proceedings under this Act or under The Criminal Code.

Penalty: \$2 500.

Audit fees.

92. (1) Subject to subsection (2), the Auditor General shall determine whether a fee is to be charged for an audit and the amount of that fee.

(2) No fee shall be payable by any department or authority that operates directly on the Consolidated Revenue Fund or is substantially financed from that Fund except with the approval of the Treasurer.

*Division 3.—Auditor General's opinions
and reports.*

Opinion on
financial
statements.

93. (1) The Auditor General shall—

- (a) within 2 months of receiving the Treasurer's annual statements prepared in accordance with section 60 (1) and (2);

(2) The Auditor General shall within the period referred to in subsection (1) transmit his opinions prepared and signed under that subsection—

- (a) in the case of the Treasurer's annual statements, to the Treasurer; and
- (b) in the case of a department's financial statements, to the Minister and a copy to the Treasurer and the accountable officer of the department; and
- (c) in the case of a statutory authority's financial statements, to the Minister and a copy to the accountable authority of the statutory authority.

Interim
reports.

94. (1) If for any reason the Auditor General is unable to issue an opinion required by section 93 within the period provided by that section, he shall within that period prepare and sign an interim report on the audit of the statements concerned and transmit that interim report—

- (a) in the case of the Treasurer's annual statements, to the Treasurer;
- (b) in the case of a department's financial statements, to the Minister and a copy to the Treasurer and the accountable officer of the department; and
- (c) in the case of a statutory authority's financial statements, to the Minister and a copy to the accountable authority of the statutory authority.

(2) In a case to which subsection (1) (a) applies, the Treasurer, and in a case to which subsection (1) (b) or (c) applies, the Minister, shall cause copies of the Auditor General's interim report to be laid before both Houses of Parliament within 7 sitting days of receiving that report.

95. (1) The Auditor General shall, at least once in each year, prepare and submit a report to both Houses of Parliament on such matters arising from his powers, duties and functions under this Act that in his opinion are of such significance as to require reporting in such manner and, without limiting the generality of this provision, the Auditor General shall in that report—

Report of
Auditor
General.

- (a) draw attention to any case in which the functions of accountable officers or accountable authorities were not adequately and properly performed; and
- (b) include particulars of any major change made by him in the extent or character of the audit.

(2) The Auditor General shall, within 14 days after making and signing a report referred to in subsection (1), transmit it to both Houses of Parliament if the Parliament is then in session and sitting.

(3) The Auditor General shall, within 14 days after making and signing the report referred to in subsection (1), if the Parliament is not then in session and sitting, transmit a copy of the report to the Clerk of the Legislative Assembly and the Clerk of the Legislative Council and make the report available to the public.

PART IV.—MISCELLANEOUS.

96. The Governor may make regulations prescribing all matters and things that by this Act are required or permitted to be prescribed or that are necessary or convenient to be prescribed for giving effect to this Act and in particular for and with respect to—

Regulations.

- (a) the preparation of annual estimates of receipts and payments in respect of the Consolidated Revenue Fund and the General Loan and Capital Works Fund;
- (b) the quarterly and annual statements required to be prepared under this Act;

- (c) the supplementation of appropriations;
- (d) the preparation of and practice in relation to warrants required by this Act;
- (e) the arrangements made with banks for the banking business of the Government and the procedures to be followed in relation to bank accounts;
- (f) the purchase and control of Government stores and public property and other property;
- (g) procedures for conferring on officers the powers necessary to enable them to inspect accounts and related records.

Repeal. 97. The Audit Act 1904 is repealed.

Transitional and savings. 98. (1) Schedule 3 has effect.

(2) Except as otherwise provided in Schedule 3, nothing in that schedule affects any saving provided by the Interpretation Act 1984.

SCHEDULE 1. (Sections 3 & 4)

List of statutory authorities.

Aboriginal Material Preservation Fund.
Administrator of the Coal Mining Industry Long Service Leave Trust Fund.
Albany Port Authority.
Animal Resources Authority.

Bunbury Port Authority.
Bunbury Water Board.
Busselton Water Board.

Casino Control Committee.
Coal Mines Accident Relief Fund Trust.
Coal Mine Workers' Pensions Tribunal.
Commissioner of Main Roads.
Commissioner of Transport.
Country High School Hostels Authority.

Dairy Industry Authority of Western Australia.
Distressed Persons Relief Trust.
Dried Fruits Board.

Esperance Port Authority.

Fremantle Port Authority.

Fruit Fly Foliage Baiting Committees.

Geraldton Port Authority.

Government Domain Reserve Board.

Government Employees' Housing Authority.

Harvey Water Board.

Hedland College.

Herd Improvement Service of Western Australia.

Honey Pool of Western Australia.

Hospital Boards constituted under section 15 of the Hospitals Act 1927 and the Minister in relation to any public hospital controlled by him under section 7 of that Act.

Industrial and Commercial Employees' Housing Authority.

Industrial Lands Development Authority.

Joondalup Development Corporation.

Kalgoorlie College.

Karratha College.

Keep Australia Beautiful Council (W.A.).

Law Reform Commission of Western Australia.

Legal Aid Commission of Western Australia.

Legal Contribution Trust.

Local Government Superannuation Board.

Local Health Authorities Analytical Committee.

Lotteries Commission.

Metropolitan Market Trust.

Metropolitan (Perth) Passenger Transport Trust.

Murdoch University.

Parliamentary Reserve Board.

Perth Theatre Trust.

Port Hedland Port Authority.

Public Trustee.

Racecourse Development Trust.

Real Estate and Business Agents Supervisory Board.

Recreation Camps and Reserve Board.

Rottneet Island Board.

Rural Adjustment and Finance Corporation of Western Australia.

Rural Housing Authority.

Rural Youth Movement Council.

Secondary Education Authority.

Secret Harbour Management Trust.

Settlement Agents Supervisory Board.

Small Business Development Corporation.

Solar Energy Research Institute of Western Australia.

South West Development Authority.

State Engineering Works of Western Australia.

Taxi Control Board.
The Aboriginal Affairs Planning Authority.
The Agriculture Protection Board of Western Australia.
The Anzac Day Trust.
The Carnarvon Banana Industry Compensation Committee.
The Charcoal Iron and Steel Industry Board of Management.
The Coal Miner's Welfare Board of Western Australia.
The Director of the Perth Mint.
The Eastern Goldfields Transport Board.
The Fruit Growing Industry Trust Fund Committee.
The Grain Pool of W.A.
The King's Park Board.
The Library Board of Western Australia.
The Metropolitan Region Planning Authority.
The Motor Vehicle Insurance Trust.
The National Trust of Australia (W.A.).
The Potato Growing Industry Trust Fund Advisory
Committee.
The Poultry Industry Trust Fund Committee.
The Queen Elizabeth II Medical Centre Trust.
The Rural and Industries Bank of Western Australia.
The State Energy Commission of Western Australia.
The State Government Insurance Office.
The State Housing Commission.
The Superannuation Board.
The Trustees of the Parliamentary Superannuation Fund.
The University of Western Australia.
The Western Australia Art Gallery Board.
The Western Australian Egg Marketing Board.
The Western Australian Film Council.
The Western Australian Government Railways Commission.
The Western Australian Museum.
Totalisator Agency Board.
Trustees of the Karrakatta Cemetery.
Trustees of the Pinnaroo Valley Memorial Park Cemetery.
Trustees of the Public Education Endowment.

Water Authority of Western Australia.
Waterways Commission.
Western Australian Alcohol and Drug Authority.
Western Australian Arts Council.
Western Australian Building Authority.
Western Australian Coastal Shipping Commission.
Western Australian College of Advanced Education.
Western Australian Fire Brigades Board.
Western Australian Greyhound Racing Association.
Western Australian Heritage Committee.
Western Australian Institute of Sport.
Western Australian Institute of Technology.
Western Australian Lamb Marketing Board.
Western Australian Meat Commission.
Western Australian Mining and Petroleum Research
Institute.
Western Australian Overseas Projects Authority.

Western Australian Post-Secondary Education Commission.
Western Australian Potato Marketing Board.
Western Australian Technology Development Authority.
Western Australian Tourism Commission.
Western Australian Urban Lands Council (Interim).
Western Australian Water Resources Council.
Workers' Assistance Commission.

Zoological Gardens Board.

SCHEDULE 2. (Sections 76 & 77)

Form of declaration.

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.

.....

SCHEDULE 3. (Section 98)

Transitional and savings provisions.

1. The person holding the office of Auditor General under the repealed Act immediately before the commencement of Part III shall continue to hold the office of Auditor General under and subject to this Act and shall be deemed to have been appointed under section 71.

Auditor
General
under
repealed Act.

2. (1) The accountable officer or accountable authority responsible for the administration of an account that immediately before the commencement of Division 1 of Part II formed part of the Trust Fund under the repealed Act shall, before the expiry of 12 months after the commencement of that Division, prepare for the purposes of this Act and subject to the satisfaction of the Under Treasurer, a Trust Statement in accordance with section 10 in respect of that account.

Trust
statements
for existing
accounts.

(2) A copy of the Trust Statement for each account referred to in subclause (1) shall be included in the Treasurer's statements for the financial year first ending after the commencement of Division 1 of Part II.

3. An agreement made under section 21 of the repealed Act and in force immediately before the commencement of Division 3 of Part II of this Act shall be deemed to have been made under section 20 (1) of this Act.

Agreement
with bank.

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Audit.

Bank
accounts.

4. (1) An account kept under section 19 of the repealed Act with a bank immediately before the commencement of Division 3 of Part II of this Act shall on that day be deemed to have been opened with the approval of the Treasurer under section 21 of this Act.

(2) An overdraft existing immediately before the commencement of Division 3 of Part II of this Act and authorized under the repealed Act shall on that day be deemed to be an overdraft in respect of which the Treasurer has given prior approval under section 22 of this Act.

Transitional
approval of
dealers.

5. Upon the coming into operation of Division 7 of Part II—

(a) the persons approved and registered as dealers for the purposes of the Public Moneys Investment Act 1961 immediately prior to the repeal of that Act shall be deemed to be approved and registered as dealers for the purposes of Division 7 of Part II; and

(b) the Register compiled and maintained under section 3 (5) of the Public Moneys Investment Act 1961 shall thereupon be the register compiled for the purposes of Division 7 of Part II.

Application
to completed
financial
years.

6. This Act shall not apply in respect of a financial year of a department or statutory authority that has ended before any section of this Act comes into operation and the repealed Act shall continue to apply in respect of such a financial year as if it had not been repealed.

Transitional
application
to statutory
authorities.

7. This Act shall not apply in respect of a financial year of a statutory authority that has commenced but has not ended before Division 9 or 14 of Part II comes into operation.

Transitional
application
of section 42.

8. If any part of Part II comes into operation on the first day of the financial year of a statutory authority, section 42 does not apply to any such statutory authority in respect of that financial year.

Savings of
appoint-
ments
of persons
to audit.

9. An appointment made under a written law or by the Auditor General under the repealed Act, and subsisting immediately before the commencement of Part III, of a person to carry out all or part of any audit that the Auditor General is required by this Act or by any other Act or by arrangement to carry out shall be deemed to have been made by the Auditor General under section 82.