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Reprints Act 1984 as at
1 July 1991.

WESTERN AUSTRALIA

FINANCIAL ADMINISTRATION AND AUDIT ACT 1985

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NOTES

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WESTERN AUSTRALIA

FINANCIAL ADMINISTRATION AND AUDIT ACT 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.

PART I — PRELIMINARY

Short title

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

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Commencement

2. The provisions of this Act shall come into operation on such day or days as is or are respectively fixed by proclamation¹.

Interpretation

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 chief executive officer 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;

“**affiliated body**”, in relation to a department or statutory authority, means —

(a) a body —

(i) that is formed or incorporated by an instrument under a written law or by administrative action;

(ii) that is financially dependent on the department or statutory authority;

(iii) that is not subject to the operational control of the department or statutory authority as a consequence of the independent exercise of control over its operations under authority provided for in the instrument that formed or created the body or by subsequent amendment of that instrument; and

(iv) that is not a subsidiary body or a related body of a department or statutory authority nor itself a department or statutory authority;

or

(b) a body that is determined by the Treasurer, by notice in writing served on the department or statutory authority, to be an affiliated body of the department or statutory authority;

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

“**bank**”, except in Division 7 of Part II, means —

(a) in relation to a bank in Australia —

(i) a bank as defined in section 5 of the *Banking Act 1959* of the Commonwealth;

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- (ii) R & I Bank of Western Australia Ltd; and
 - (iii) the Reserve Bank of Australia; and
- (b) in relation to a bank not in Australia, a bank approved by the Treasurer;

“certifying officer” means an officer appointed as a certifying officer under section 53 or 55;

“chief executive officer” means a chief executive officer of a department within the meaning given to that term in section 38 (1) of the *Public Service Act 1978*;

“Consolidated Revenue Fund” means the fund of that name established by section 64 of the *Constitution Act 1889* and referred to in section 6;

“department” means a department of the public service of the State established or deemed to have been established under the *Public Service Act 1978*, other than a department specified as a statutory authority in Schedule 1;

“Financial Agreement” means the agreement made between the Commonwealth and the States and approved by the *Financial Agreement Act 1928*, as varied from time to time;

“financially dependent”, when used concerning the relationship of a body to a department or statutory authority, means that the body receives more than half of its funding and resources from a department or statutory authority that is obliged to provide funding and resources to the body;

“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;

“moneys of a statutory authority” means moneys, negotiable instruments or securities of any kind collected, received or held by any person for or on behalf of a statutory authority;

“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,

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Ministerial, departmental or statutory authority decision, or otherwise and whether or not remuneration is payable to the person,

and who is —

(aa) charged with or performs any duty relating to the keeping of accounts of a department or statutory authority;

(bb) charged with or performs any duty relating to collecting, receiving, keeping in custody, banking or accounting for public moneys or other moneys or moneys of a statutory authority or collects, receives, keeps in custody, banks or accounts for public moneys or other moneys or moneys of a statutory authority;

(cc) charged with or performs any duty relating to disbursing public moneys or other moneys or moneys of a statutory authority or disburses those moneys;

or

(dd) charged with or performs any duty relating to the purchase, receipt, issue, sale, custody, control, management or disposal of or the accounting for public property or other property or purchases, receives, issues, sells, keeps in custody, controls, manages, disposes of or accounts for public property or other property;

“operational control”, when used concerning the relationship of a department or statutory authority to a body, means that the department or statutory authority has the capacity to exercise direction over the operation of the body;

“other moneys” means moneys, negotiable instruments or securities of any kind collected, received or held by the State or a statutory authority for or on behalf of a person other than the State or a statutory authority;

“other property” means property that is held by the State or a statutory authority for or on behalf of a person other than the State or a statutory authority;

“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, but does not include moneys of a statutory authority;

“public property” means all property, other than public moneys and moneys of a statutory authority, held for or on behalf of the State or a statutory authority;

“related body”, in relation to a department or statutory authority,
means —

(a) a body that is —

(i) formed or incorporated under a written law or by administrative action taken independently of the department or statutory authority;

(ii) financially dependent on the department or statutory authority;

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- (iii) subject to the operational control of the department or statutory authority; and
 - (iv) not a subsidiary body of a department or statutory authority nor itself a department or statutory authority; or
- (b) a body that is determined by the Treasurer, by notice in writing served on the department or statutory authority, to be a related body of the department or statutory authority;

“repealed Act” means the *Audit Act 1904*;

“Revenue Equalization Account” means the account of that name established under section 9 (2) (d);

“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;

“subsidiary body”, in relation to a department or statutory authority, means —

- (a) a body which is —
 - (i) a company or recognized company within the meaning of the *Companies (Western Australia) Code*²; or
 - (ii) formed or incorporated under equivalent laws of a place other than a State or Territory,

and in respect of which the department or statutory authority is in a position to —

- (iii) cast, or control the casting of, a majority of votes that might be cast at a general meeting of the body; or
- (iv) control the appointment of a majority of the members of the board of directors or other governing authority of the body; or
- (aa) a body that is declared under an Act to be a subsidiary of the department or statutory authority; or
- (b) a body that is determined by the Treasurer, by notice in writing served on the department or statutory authority, to be a subsidiary of the department or statutory authority;

“Treasurer” means the Treasurer of the State;

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

“Under Treasurer” means the chief executive officer of the department known as the Treasury.

(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;

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- (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.

(3) Notwithstanding the definitions of “**affiliated body**” and “**related body**” in subsection (1), the regulations may prescribe that for the purposes of this Act a specified body shall be taken not to be an affiliated body or a related body of a specified department or statutory authority.

(4) In subsection (3) “**specified**” means specified in the regulations.

[Section 3 amended by No. 3 of 1986 s.4; No. 5 of 1989 s.4; No. 73 of 1990 s.45; No. 92 of 1990 s.4.]

Application

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.

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

(3) Where regulations under this Act provide that an administration is deemed to constitute a department for the purposes of this Act, the provisions of this Act shall have effect in relation to that administration subject to the modifications provided for in Part I of Schedule 1A.

(4) The provisions of this Act shall have effect in relation to the Office of the Auditor General subject to the modifications provided for in Part II of Schedule 1A.

[Section 4 amended by No. 3 of 1986 s.4.]

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 and moneys of a statutory authority 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; and

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- (c) all moneys of a statutory authority except those —
 - (i) 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; or
 - (ii) permitted by this Act to be credited to a bank account opened under section 21 (1) or permitted by any other written law to be credited to a bank account entitled to be opened under that written law.

[Section 6 amended by No. 3 of 1986 s.6; No. 92 of 1990 s.5.]

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 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);
- (d) loan repayments; and
- (e) 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.

[Section 7 amended by No. 92 of 1990 s.6.]

Treasurer's Advance Account

8. (1) The Treasurer's Advance Account established by section 5 (c) 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.

(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,

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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.

[Section 8 amended by No. 92 of 1990 s.7.]

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;
- (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 or is to be met under parliamentary appropriation; or
 - (iv) suspense accounts for moneys received pending identification of the purposes for which those moneys were received or identification of where those moneys are to be credited or paid, subject to any conditions specified by the Treasurer; and
- (d) an account called the Revenue Equalization Account established for the purpose of holding moneys credited to that account under section 29A, 39 (b) or 41 (1) pending allocation and payment as required by section 29B (2), or as directed under section 14, or as determined under section 29B (1), 39 or 41.

[Section 9 amended by No. 92 of 1990 s.8.]

Trust statement

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 for the Treasurer's approval and after approval of the statement is given shall send a copy of the approved statement to the Auditor General.

[(2) repealed]

(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.

[Section 10 amended by No. 92 of 1990 s.9.]

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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.

Transfer of excess in Trust Fund

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.

Closure of accounts

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

(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

Departmental accounts subsidiary to the Treasurer's accounts

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.

Other departmental 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

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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 cause to be prepared and issued 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.

[Section 18 amended by No. 92 of 1990 s.10.]

Division 3 — Bank accounts

Public Bank Account

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.

Conduct of banking business of State

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

- (a) for the receipt, custody, payment and transmission of 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 this Division.

[Section 20 amended by No. 3 of 1986 s. 7.]

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Departments and statutory authorities may open and maintain bank accounts

21. (1) Where a department or statutory authority is not authorized to open and maintain a bank account under some other written law, the Treasurer may authorize the department or statutory authority to open and maintain a bank account for such purpose and subject to such terms and conditions as the Treasurer approves.

(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.

[Section 21 amended by No. 92 of 1990 s.11.]

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 the 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.

Transfer of appropriations on transfer of function

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.

(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.

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Transfer from central appropriations

25A. (1) In this section —

“**general purpose**” means a purpose described in the estimates in general terms being a purpose of a kind that is likely to require expenditure from 2 or more appropriation items to meet that purpose in a financial year.

(2) Where a sum is appropriated in an Appropriation Act for a financial year by way of a central appropriation for a general purpose the Treasurer may authorize and direct the transfer of a portion of the sum so appropriated to another appropriation item but only for the purpose of meeting all or part of the actual or estimated expenditure that accords with both the general purpose and the purpose of the item to which the transfer is made.

(3) Where, under subsection (2), portion of a sum is transferred from a central appropriation to another appropriation item, expenditure against that portion shall be regarded and treated as expenditure under that item and be recorded and reported under this Act accordingly.

[Section 25A inserted by No. 92 of 1990 s.12.]

Payment within 10 days after financial year

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.

Transfers to suspense account

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.

(2) The Treasurer may direct that such amounts as may be required to provide in a financial year for payment of salaries and wages for a 27th fortnightly and 53rd weekly pay period occurring in a future 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; and every 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.

[Section 27 amended by No. 92 of 1990 s.13.]

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

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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 4a — Revenue equalization

[Heading inserted by No. 92 of 1990 s.14.]

Transfer of CRF surplus

29A. The amount of any credit balance in the Consolidated Revenue Fund at the end of a financial year shall be credited to the Revenue Equalization Account.

[Section 29A inserted by No. 92 of 1990 s.14.]

Payments from Revenue Equalization Account

29B. (1) Without limiting section 14, 39 or 41 or subsection (2) moneys standing to the credit of the Revenue Equalization Account may be credited to the Consolidated Revenue Fund or the General Loan and Capital Works Fund as the Treasurer determines.

(2) Where at the end of a financial year there is a debit balance in the Consolidated Revenue Fund —

- (a) if the moneys then standing to the credit of the Revenue Equalization Account are equal to or less than the deficit, they shall be credited to the Consolidated Revenue Fund; or
- (b) if the moneys then standing to the credit of the Revenue Equalization Account are greater than the deficit, they shall be credited to the Consolidated Revenue Fund to the extent necessary to extinguish the deficit.

[Section 29B inserted by No. 92 of 1990 s.14.]

Division 5 — Payment or transfer of moneys

Manner of issue 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.

Warrants

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.

Payment to be authorized by law

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

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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.

Payments to be certified

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.

(1a) No payment shall be made from a bank account maintained by a department or statutory authority unless certified as correct by a certifying officer, but this subsection does not apply to the disbursement of a cash advance held in such a bank account.

(1b) Subsection (1a) does not apply to the disbursement of a cash advance held in a bank account maintained by a department or statutory authority unless the disbursement is of a kind specified in a written direction given, in the exercise of a discretion, by an accountable officer or accountable authority to certifying officers.

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

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

[(b) *deleted*]

(c) satisfied that such account is correct and the expenditure or transfer of moneys is correctly classified;

(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.

[Section 33 amended by No. 92 of 1990 s.15.]

Division 6 — Receipt of moneys

[Heading inserted by No. 3 of 1986 s. 8.]

Certain moneys to be paid to a bank account

34. (1) Every person who collects or receives public moneys, other than moneys that are cash advances drawn from the Treasurer's Advance Account, 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.

(2) Every person who collects or receives moneys of a statutory authority, other than moneys that are cash advances drawn from the Treasurer's Advance Account or the moneys of the statutory authority, shall daily, or at such other intervals as may be directed by the Treasurer, deposit those moneys to the credit of —

- (a) the Public Bank Account;
- (b) an account maintained in accordance with Division 3; or
- (c) a bank account established in accordance with any other written law.

[Section 34 amended by No. 3 of 1986 s.9; No. 92 of 1990 s.16.]

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Certain moneys to be credited to an account or fund

35. All 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.

[Section 35 amended by No. 3 of 1986 s. 10.]

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, service or employment under the State or a statutory authority, the person shall pay that money and act in respect of it in the same manner as officers are required to act in relation to public moneys or moneys of a statutory authority, as the case may require.

(2) Moneys to which this section applies shall be placed to the credit of the Trust Fund under such separate heads as the Treasurer may direct or held in a bank account opened and maintained in accordance with section 21 (1) subject to the approval of the Treasurer and in accordance with such terms and conditions as the Treasurer may direct in writing.

(2a) The appropriate accountable officer or accountable authority, as the case may be, shall cause a trust statement to be prepared for each bank account in which moneys are held under subsection (2) and shall send that statement to the Treasurer for the Treasurer's approval and after approval of the statement is given shall send a copy of the approved statement to the Auditor General.

(3) This section applies to —

- (a) any money which under any Act is directed to be paid into the Treasury or to the Treasurer for or on account of or for the use and benefit of any person; and
- (b) any money which by virtue of the office, service or employment of a person under the State or a statutory authority or by virtue of any legal process comes to the possession or control of such a person for or on account of or for the use and benefit of any other person,

but this section applies to the extent only to which it is consistent with the provisions of any other written law applicable to that money.

[Section 36 amended by No. 3 of 1986 s.11; No. 92 of 1990 s.17.]

Division 7 — Investment of public moneys

Interpretation

37. In this Division, unless the contrary intention appears —

“bank” means —

- (a) a bank as defined in section 5 of the *Banking Act 1959* of the Commonwealth; and
- (b) a bank authorized under an Act of a State to carry on banking business if —
 - (i) the liabilities of the bank are guaranteed by the Government of the State; or

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- (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.

Investment of public moneys in certain securities

38. (1) Notwithstanding section 31 or 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).

(2) An investment authorized by subsection (1) shall not be made otherwise than in one or more of the following ways —

- (a) in any securities in respect of which repayment of the amount secured and payment of interest on that amount is guaranteed by the Government of the Commonwealth or the Government of any State, whether or not those securities are to be held until maturity;
- (b) by placing the moneys on deposit with any bank;
- (c) in bank accepted or indorsed bills of exchange, whether or not those securities are to be held until maturity;
- (d) in negotiable, convertible or transferable certificates of deposit issued by a bank, whether or not those securities are to be held until maturity; or
- (e) by advancing moneys, on deposit in accordance with an offer and acceptance procedure approved by the Treasurer and against security (which may be required to be lodged and maintained with the Treasurer), to a registered dealer in the short term money market.

(3) The security that a registered dealer may be required to furnish under subsection (2) (e) in respect of advances made to that dealer shall comprise one or more of the following —

- (a) securities in respect of which repayment of the amount secured and payment of interest on that amount is guaranteed by the Government of the Commonwealth or the Government of any State;
- (b) negotiable, convertible or transferable certificates of deposit issued by a bank;
- (c) bank accepted or indorsed bills of exchange;

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(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 addresses 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.

[Section 38 amended by No. 3 of 1986 s. 12.]

Proceeds of investments

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

- (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, the General Loan and Capital Works Fund or the Revenue Equalization Account as the Treasurer determines.

[Section 39 amended by No. 92 of 1990 s.18.]

Division 8 — Investment of moneys of statutory authority and other moneys

[Heading inserted by No. 3 of 1986 s. 13.]

Investment of moneys of a statutory authority and other 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 —

- (a) invest any moneys of a statutory authority or other moneys in the same manner as public moneys standing to the credit of the Public Bank Account may be invested under section 38;

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- (b) authorize a statutory authority to invest moneys of the statutory authority and other moneys in the same manner as public moneys may be invested under section 38 or trust funds may be invested in accordance with Part III of the *Trustees Act 1962* and in accordance with such directions and conditions as the Treasurer may issue in writing, including directions concerning the application of revenue derived from investment.

[Section 40 inserted by No. 3 of 1986 s.13; amended by No. 92 of 1990 s.19.]

Revenue from moneys of a statutory authority and other moneys

41. (1) Subject to the terms of any written law concerning the distribution of the income of a particular trust fund or particular moneys and to the terms of the relevant trust statement, where the Treasurer invests moneys of a statutory authority or other moneys, the amount of revenue derived from that investment shall, subject to subsections (2) and (3), be credited to the Consolidated Revenue Fund, the General Loan and Capital Works Fund or the Revenue Equalization Account as the Treasurer determines.

- (2) Notwithstanding subsection (1), the Treasurer may —
 - (a) in respect of revenue derived from the investment of moneys of a statutory authority, pay an amount not greater than the amount of revenue so derived to the statutory authority; and
 - (b) in respect of revenue derived from the investment of other moneys, pay an amount not greater than the amount of revenue so derived to a person or to an account as the Treasurer determines.

(3) Notwithstanding subsections (1) and (2), the Treasurer may make agreements as to the payment of interest or revenue in respect of moneys of a statutory authority or other moneys and make payments in accordance with such agreements.

[Section 41 inserted by No. 3 of 1986 s.13; amended by No. 92 of 1990 s.20.]

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 not later than 2 months after the commencement of the financial year to which the estimates relate.

[Section 42 amended by No. 92 of 1990 s.21.]

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 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.

[Section 43 amended by No. 3 of 1986 s.14.]

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Accounting manuals

44. (1) The accountable authority of a statutory authority shall cause to be prepared and issued 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.

(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.

[Section 44 amended by No. 92 of 1990 s.22.]

Division 10 — Write-offs and recoveries

Write-offs

45. (1) Amounts in respect of public property held for or on behalf of the State 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.

(2) Amounts in respect of public property held for or on behalf of the State 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.

(3) Amounts in respect of public property held for or on behalf of a statutory authority and revenue and other debts due to a statutory authority may be written off —

- (a) by the accountable authority of that statutory authority subject to and in accordance with the limits prescribed by regulations; or
- (b) by the Minister responsible for that statutory authority.

(4) Subsection (3) applies in respect of a statutory authority subject to the terms of any written law applicable to that statutory authority.

[Section 45 amended by No. 92 of 1990 s.23.]

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;

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- (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.

(4) Where there occurs a loss of, or deficiency in, public moneys held by an officer by way of an advance, the officer is, subject to subsection (7), liable to pay to the State an amount equal to the amount of the loss or deficiency.

(5) Where a loss of, or a deficiency in, public moneys or other moneys occurs while the moneys are under the control of an officer as provided for by subsection (6), the officer is, subject to subsection (7), liable to pay to the State an amount equal to the amount of the loss or deficiency.

(6) For the purpose of subsection (5), public moneys or other moneys shall be taken to be under the control of an officer if the moneys have been collected or received by the officer but have not been paid to another person, or to the credit of a bank account, as required under a written law and applicable to those moneys.

(7) An officer is not liable to pay an amount to the State under subsection (4) or (5) in respect of a loss of, or deficiency in, public moneys or other moneys held by, or under the control of, the officer if the loss or deficiency occurred notwithstanding that the officer had taken such steps as it was reasonable, in all the circumstances, for him to take to prevent any loss of the moneys, or the occurrence of any deficiency in the moneys, as the case may be.

(8) Where —

(a) the loss or destruction of, or damage to, public property or other property occurs while the property is under the control of an officer as provided by subsection (10);

and

(b) when the property was delivered to the officer, the officer was informed, in writing, and acknowledged, in writing, that the 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,

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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.

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

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.

(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.

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(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.

Recovery of amount

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.

Burden of proof

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 section 46 (7) or (9) 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.

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

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.

(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.

Application to statutory authorities

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

- (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 moneys included references to moneys of a statutory authority.

[Section 51 amended by No. 3 of 1986 s. 15.]

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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 chief executive officer 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.

[Section 52 amended by No. 92 of 1990 s.24.]

Duties of accountable officer of department

53. An accountable officer shall be responsible in respect of the services for which he 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 or collected for the State;
- (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.

[Section 53 amended by No. 3 of 1986 s. 16.]

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.

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(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;
- (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 statutory authority;
- (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.

Principal accounting officer

56. (1) Each accountable officer and accountable authority shall designate in respect of the financial administration of the services under his or its control one position of principal accounting officer and shall advise the Auditor General of that designation.

(2) The principal accounting officer for a department or statutory authority shall be responsible to the accountable officer or the accountable authority, as the case may require, for the keeping of such accounting and financial management information systems as will allow confirmation that all departmental or statutory authority revenues and expenditures have been brought to account and for the day to day supervision of the accounting functions and the proper operation of the accounting systems of that department or statutory authority.

[Section 56 amended by No. 92 of 1990 s.25.]

Delegations and authorizations

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

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- (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 or conferred on the Under Treasurer by the Treasurer's Instructions, 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 subsection (1) or (2), that function may be performed by the delegate, or by a person authorized by the Under Treasurer under subsection (3), upon the opinion, belief or state of mind of the delegate or of the authorized person, as the case may be, in relation to that matter.

(7) The giving of an authorization under subsection (3) does not prevent the performance of a function by the Under Treasurer.

(8) Where a person purports to perform a function conferred or expressed to be conferred on the Treasurer under this Act, it shall be presumed, unless the contrary is established, that the

person is duly authorized by a delegation under subsection (1) or (2), or by an authorization under subsection (3) given pursuant to such a delegation, to perform the function.

(9) A document purporting to be signed for the purposes of this Act by a Minister, or an officer of the Treasury as a delegate of the Treasurer or the Minister shall be deemed, unless the contrary is established, to have been signed by him as such a delegate and to have been so signed pursuant to the performance of a function duly delegated by the Treasurer.

(10) A document purporting to be signed for the purposes of this Act by an officer of the Treasury authorized by the Under Treasurer to sign the document shall be deemed, unless the contrary is established, to have been signed by such an officer so authorized and to have been so signed pursuant to the performance of a function that he is duly authorized by the Under Treasurer to perform.

(11) Where the Treasurer has delegated a function to a person under this section —

- (a) the Treasurer may give directions to the delegate with respect to the performance of that function;
- (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

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- (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.

[Section 57 amended by No. 92 of 1990 s.26.]

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.

(2) Without limiting the generality of subsection (1), the Treasurer may issue instructions relating to —

- (a) the establishment and keeping of departmental accounts subsidiary to the Treasurer's accounts including accounts of subsidiary and related bodies and miscellaneous departmental accounts;
- (b) the establishment and keeping of the accounts of statutory authorities including accounts of subsidiary and related bodies;
- (c) the collection of and accounting for public moneys, moneys of a statutory authority and other moneys;

- (d) the accounting for payments of money;
 - (e) the purchase, receipt, issue, sale, custody, control, management and disposal of and accounting for public property and other property;
 - (f) the form and content of financial statements and reports on the operations of —
 - (i) statutory authorities and their subsidiary and related bodies, including information to be disclosed in respect of affiliated bodies; and
 - (ii) departments and their subsidiary and related bodies, including information to be disclosed in respect of affiliated bodies;
 - (fa) the form and content of financial statements and reports required under section 65A on the abolition of a department;
 - (g) the preparation of performance indicators of statutory authorities and their subsidiary and related bodies and departments and their subsidiary and related bodies;
 - (h) the preparation, issue or amendment of accounting manuals for departments and statutory authorities;
 - (i) controls for computer-based accounting systems;
 - (j) the control and management of appropriations;
 - (k) the printing, supply and use of monetary and other Treasury forms;
 - (l) the destruction of accounting documents and records;
- and

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(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.

[Section 58 amended by No. 3 of 1986 s.17; No. 92 of 1990 s.27.]

Division 11A — Miscellaneous powers and duties

[*Heading inserted by No. 92 of 1990 s.28.*]

Treasurer's power to require information

58A. The Treasurer may require any accountable officer, accountable authority or other officer of a department or statutory authority to furnish the Treasurer with such information as the Treasurer thinks necessary for the purposes of this Act and a person so required shall furnish the information to the Treasurer in such form and manner as the Treasurer directs.

[Section 58A inserted by No. 92 of 1990 s.28.]

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Act of grace payments

58B. (1) An accountable officer or accountable authority may request the Treasurer to approve a payment under this section to a person who —

- (a) has suffered damage, loss or injustice as a result of —
 - (i) an act or omission of the department or statutory authority or related body or affiliated body concerned; or
 - (ii) that person's employment by the department or statutory authority or related body or affiliated body; or
- (b) has become subject to a financial obligation of a kind that or in circumstances where the accountable officer or accountable authority considers payment by the department or statutory authority would be proper and fair.

(2) The Treasurer may approve a payment under this section notwithstanding that the department or statutory authority or related body or affiliated body concerned is not or may not be under a legal obligation to make payment.

(3) The Treasurer may approve payment to a person under this section of an amount considered fair in the circumstances by the Treasurer, but such amount shall not exceed the amount prescribed by regulations for the purposes of this section.

(4) With the approval of the Governor, the Treasurer may approve payment under this section of an amount exceeding that which the Treasurer may approve under subsection (3).

(5) This section is in addition to and does not affect any authority to make payments authorized under any other written law.

[Section 58B inserted by No. 92 of 1990 s.28.]

Secrecy of operations prohibited

58C. The Minister and the accountable officer of every department, and the Minister and the accountable authority of every statutory authority, shall ensure that —

- (a) no action is taken or omitted to be taken; and
- (b) no contractual or other obligation is entered into,

by or on behalf of the Minister, department or statutory authority that would prevent or inhibit the provision by the Minister to the Parliament of information concerning any conduct or operation of the department or statutory authority in such a manner and to such an extent as the Minister thinks reasonable and appropriate.

[Section 58C inserted by No. 92 of 1990 s.28.]

Division 12 — Treasurer's reports

Treasurer's quarterly statements

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 —

- (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

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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.

(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.

[Section 60 amended by No. 92 of 1990 s.29.]

Treasurer to advise both Houses of inability to table by 21 November

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 21 November 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.

[Section 61 amended by No. 92 of 1990 s.30.]

Division 13 — Reports of accountable officers of departments

Accountable officers of departments to report to Minister

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 —

- (a) financial statements of receipts and payments for the financial year;

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- (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 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.

(4) A department that has a subsidiary body shall exercise its control over that subsidiary body so as to ensure that the accountable officer of the department is provided with all the information relating to the subsidiary body that the accountable officer needs in order to comply with this section and the Treasurer's Instructions.

[Section 62 amended by No. 5 of 1989 s.5; No. 92 of 1990 s.31.]

**Accountable officers to send accounts, etc.
to Auditor General**

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

[Section 63 amended by No. 92 of 1990 s.32.]

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.

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(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.

Application for extension of time

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

(2) Application may be made by an accountable officer to the Minister at any time before 31 August —

- (a) for an extension of the period within which the accountable officer is required to comply with section 62;
- (b) for an extension to a day later than 31 August of the period within which the accountable officer is required to comply with section 63.

(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 (2) —

- (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.

[Section 65 amended by No. 92 of 1990 s.33.]

Final report on abolition of department

65A. (1) The purpose of this section is to secure proper accountability on the abolition of a department by providing for a final report that —

- (a) complies with the Treasurer's Instructions and with the requirements of this Act for annual reports as modified under subsection (6); and
- (b) is prepared and submitted by a reporting officer appointed by the Treasurer under subsection (2).

(2) On or before the abolition of a department the Treasurer shall appoint a person ("**the reporting officer**") to prepare and submit a report ("**the final report**") in respect of the department for the period from the expiry of the financial year of the department last reported on under this Act to the abolition of the department.

(3) The Treasurer may give the reporting officer written directions as to the preparation and submission of the final report.

(4) On appointment under subsection (2), the reporting officer has a duty to prepare and submit the final report.

(5) The final report —

- (a) shall include —
 - (i) financial statements of the kind referred to in section 62 (1) (a); and
 - (ii) information of the kind referred to in section 62 (1) (d); and
- (b) shall also include —
 - (i) information of the kind referred to in section 62 (1) (b); and

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- (ii) a report of the kind referred to in section 62 (1) (c),

to the extent that it is practicable for the reporting officer to include them.

(6) Directions given by the Treasurer for the purposes of this section may include directions —

- (a) specifying information to be included in the final report;
- (b) so far as is necessary to enable the purpose of this section to be achieved effectively and without delay, modifying the application of this Division and any related regulations to the final report;
- (c) concerning such supplementary and incidental matters as the Treasurer thinks desirable to ensure proper accountability in respect of the abolished department;
- (d) if the abolition of the department takes effect otherwise than on or at the end of 30 June in any year, specifying the dates that shall take effect in respect of the final report in place of those provided for in sections 62 (1), 63 and 65; and
- (e) if there is no Minister responsible or doubt exists whether a Minister is responsible, directing (after necessary consultations) which Minister shall be the Minister for the purposes of the application of sections 62 and 64 to the final report.

(7) The Treasurer may amend or cancel a direction given for the purposes of this section.

(8) For the purposes of this section, the reporting officer is entitled to be provided with reasonable assistance and facilities and to have full and free access at all reasonable times to all accounts and such other information, documents and records as the reporting officer considers necessary for the purposes of this section that is or are in the possession of any person; and the reporting officer may make copies of or take extracts from any of those accounts, documents and records and such other information.

(9) A person who has in his possession any accounts, information, documents or records of the kind referred to in subsection (8) shall at all reasonable times upon request by the reporting officer produce to the reporting officer such accounts, information, documents or records as are specified in the request.

Penalty: \$1 000.

(10) Subject to any directions given by the Treasurer for the purposes of this section, the reporting officer shall submit the financial statements prepared and information (if any) provided under subsection (5) (a) (i) and (b) (i) for the opinion of the Auditor General.

(11) Subject to any necessary modifications, this Act shall apply to the financial statements prepared and information (if any) provided under subsection (5) (a) (i) and (b) (i) in the same way as it applies to financial statements prepared and information provided under section 62 (1) (a) and (b), except that section 93 (1a) shall be taken to require the Auditor General to prepare and sign his opinion within 2 months of receiving the financial statements and information.

(12) Section 64 applies to the final report in the same way as it applies to annual reports referred to in section 62.

[Section 65A inserted by No. 92 of 1990 s.34.]

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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 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.

(4) A statutory authority that has a subsidiary body shall exercise its control over that subsidiary body so as to ensure that the accountable authority of the statutory authority is provided with all the information relating to the subsidiary body that the accountable authority needs in order to comply with this section, section 67 and the Treasurer's Instructions.

[Section 66 amended by No. 5 of 1989 s.6; No. 92 of 1990 s.35.]

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.

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**Accountable authorities to send accounts, etc.
to Auditor General**

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).

Minister to table accountable authority's report

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.

(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

Appointment of Auditor General

71. (1) The Governor shall appoint an appropriately qualified 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 chief executive officer of the Office of the Auditor General.

[Section 71 amended by No. 113 of 1987 s.32.]

Salary and entitlements

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.

(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*.

Rights of officers preserved

73. Where a person, immediately prior to appointment as Auditor General —

- (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;

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- (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.

Declaration by Auditor General

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.

Acting appointments

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

- (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.

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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.

Audits of subsidiary bodies

78A. (1) Where a department or statutory authority has a local subsidiary that has power to appoint an auditor the department or statutory authority shall exercise its control over the local subsidiary so as to ensure that the local subsidiary appoints the Auditor General as its auditor.

(2) For the purposes of carrying out an audit of a local subsidiary referred to in subsection (1) the Auditor General shall have the powers and duties conferred and imposed by this Division (including the power conferred by section 82), and those powers and duties shall be in addition to the powers and duties conferred and imposed by the *Companies (Western Australia) Code*² or any other written law in relation to the audit.

(3) Where a department or statutory authority has a foreign subsidiary that has power to appoint an auditor —

- (a) the department or statutory authority shall exercise its control over the foreign subsidiary so as to ensure that —
 - (i) the foreign subsidiary appoints as its auditor a person nominated by the Auditor General; and
 - (ii) the person appointed as auditor performs such audits and examinations, and makes such reports to the accountable officer or accountable authority of the department or statutory authority, as the Auditor General requests; and
- (b) the accountable officer or accountable authority of the department or statutory authority shall transmit any report received under paragraph (a) (ii) to the Auditor General.

(4) In this section —

“foreign subsidiary” means a subsidiary body that is a recognized company within the meaning of the *Companies (Western Australia) Code*² or is otherwise formed or incorporated under the law of another State or a Territory or of a place other than a State or Territory;

“local subsidiary” means any subsidiary body that is not a foreign subsidiary.

[Section 78A inserted by No. 5 of 1989 s. 7.]

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Duties of Auditor General as to audits

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.

(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.

Power to investigate

80. The Auditor General may at any time —

- (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*² 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.

[Section 81 amended by No. 3 of 1986 s.18.]

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,

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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.

Bank or other financial institution to furnish information

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.

Power to require 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.

(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.

Power to call for persons and papers

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

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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.

Power to administer and examine on oath

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 obtain opinion

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.

Communication with Treasurer

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.

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.

Information 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.

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Division 3 — Auditor General's opinions and reports

Opinion on financial statements

93. (1) The Auditor General shall, within the periods specified in subsection (1a), prepare and sign an opinion on the audit of the Treasurer's annual statements, each department's financial statements and performance indicators and each statutory authority's financial statements and performance indicators, and shall state whether in his opinion —

- (a) the financial statements are based on proper accounts and records;
- (b) the financial statements have been properly drawn up so as to present fairly the transactions for the period under review and, as the case may require, the financial position at the end of that period;
- (c) the controls exercised by departments or statutory authorities or the department or statutory authority, as the case may require, are sufficiently adequate to provide reasonable assurance that the receipt, expenditure and investment of moneys and the acquisition and disposal of public property or other property and incurring of liabilities have been in accordance with legislative provisions; and
- (d) the performance indicators are relevant and appropriate having regard to their purpose and fairly represent indicated performance.

(1a) The Auditor General shall prepare and sign the opinions referred to in subsection (1) —

- (a) in the case of the Treasurer's annual statements prepared in accordance with section 60 (1) and (2), by 31 October;

- (b) in the case of a department's financial statements and information prepared in accordance with section 62 (1) (a) and (b), by 15 October or if the statements and information are received after 15 August, within 2 months of receiving them; and
- (c) in the case of a statutory authority's financial statements and information prepared in accordance with section 66 (1) (a) and (b), within 5 months of the end of the statutory authority's financial year or if the statements and information are received later than 2 months after the end of that financial year, within 3 months of receiving them.

(2) The Auditor General shall within the periods specified in subsection (1a) transmit his opinions prepared and signed under that subsection —

- (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.

[Section 93 amended by No. 92 of 1990 s.36.]

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;

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- (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.

Report of Auditor General

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 —

- (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

Regulations

96. (1) 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 —

- (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 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;
- (fa) the disposal of public property;
- (g) procedures for conferring on officers the powers necessary to enable them to inspect accounts and related records.

(2) Regulations may be made under subsection (1) (fa) to provide that, in circumstances prescribed in those regulations, proceeds of the disposal of public property may be dealt with

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otherwise than by payment to the Consolidated Revenue Fund, and regulations so made have effect notwithstanding section 64 of the *Constitution Act 1889*.

[Section 96 amended by No. 3 of 1986 s.19; No. 92 of 1990 s.37.]

Repeal

97. [Section 97 omitted under *Reprints Act 1984* s.7(4)(f).]

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 and 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
Authority for Intellectually Handicapped Persons

Building and Construction Industry Training Board
Bunbury Port Authority
Bunbury Water Board
Busselton Water Board

Coal Industry Superannuation Board
Coal Mines Accident Relief Fund Trust
Commissioner of Main Roads
Construction Industry Long Service Leave Payments Board
Country High School Hostels Authority
Curtin University of Technology

Dairy Industry Authority of Western Australia
Dampier Port Authority
Dried Fruits Board

Edith Cowan University
Esperance Port Authority

Fremantle Cemetery Board
Fremantle Port Authority
Fruit Fly Foliage Baiting Committees

Gaming Commission of Western Australia
Geraldton Mid-West Development Authority
Geraldton Port Authority
Gold Corporation
Goldfields-Esperance Development Authority
Government Domain Reserve Board
Government Employees' Housing Authority
Government Employees Superannuation Board
Great Southern Development Authority

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Schedule 1

Hedland College
Herd Improvement Service of Western Australia
Heritage Council of Western Australia
Honey Pool of Western Australia
Horticultural Produce Commission
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
Legal Costs Committee
Local Government Superannuation Board
Local Health Authorities Analytical Committee
Lotteries Commission

Metropolitan Cemeteries Board
Metropolitan (Perth) Passenger Transport Trust
Minerals and Energy Research Institute of Western Australia
Murdoch University

Official Corruption Commission

Parliamentary Reserve Board
Parliamentary Superannuation Board
Perth Market Authority
Perth Theatre Trust
Port Hedland Port Authority
Public Trustee

R & I Holdings
Racecourse Development Trust
Racing Penalties Appeal Tribunal of Western Australia
Real Estate and Business Agents Supervisory Board

Recreation Camps and Reserve Board
Rottnest Island Authority
Rural Adjustment and Finance Corporation of Western Australia
Rural Housing Authority

Secondary Education Authority
Secret Harbour Management Trust
Settlement Agents Supervisory Board
Small Business Development Corporation
South West Development Authority
State Employment and Skills Development Authority
State Government Insurance Commission
State Government Insurance Corporation
State Planning Commission
Swan River Trust

Taxi Control Board
The Aboriginal Affairs Planning Authority
The Agriculture Protection Board of Western Australia
The Anzac Day Trust
The Board of the Art Gallery of Western Australia
The Burswood Park Board
The Carnarvon Banana Industry Compensation Committee
The Coal Miner's Welfare Board of Western Australia
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 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 State Energy Commission of Western Australia
The State Housing Commission
The University of Western Australia
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 Public Education Endowment

Financial Administration and Audit Act 1985

Schedule 1

Water Authority of Western Australia
Waterways Commission
Western Australian Alcohol and Drug Authority
Western Australian Boxing Commission
Western Australian Building Authority
Western Australian Coastal Shipping Commission
Western Australian Development Corporation
Western Australian Exim Corporation
Western Australian Fire Brigades Board
Western Australian Fire Brigades Disablement Benefits Board
Western Australian Fire Brigades Superannuation Board
Western Australian Greyhound Racing Association
Western Australian Health Promotion Foundation
Western Australian Heritage Committee
Western Australian Institute of Sport
Western Australian Meat Commission
Western Australian Meat Marketing Corporation
Western Australian Potato Marketing Authority
Western Australian Sports Centre Trust
Western Australian Tourism Commission
Western Australian Treasury Corporation
Western Australian Water Resources Council
Workers' Compensation and Rehabilitation Commission

Zoological Gardens Board

[Schedule 1 amended by No. 3 of 1986 s.20; No. 16 of 1986 s.26; No. 39 of 1986 s.35; No. 51 of 1986 s.46(2); No. 94 of 1986 s.39; No. 101 of 1986 s.22; No. 2 of 1987 s.65; No. 9 of 1987 s.35; No. 32 of 1987 s.36; No. 65 of 1987 s.44; No. 88 of 1987 s.21; No. 89 of 1987 s.41; No. 91 of 1987 s.51; No. 99 of 1987 s.79; No. 113 of 1987 s.32; No. 4 of 1988 s.34; No. 19 of 1988 s.9; No. 21 of 1988 s.34; No. 52 of 1988 s.13(2); No. 5 of 1989 s.8; No. 28 of 1989 s.33; No. 31 of 1989 s.20; No. 48 of 1989 s.24; No. 6 of 1990 s.13; No. 10 of 1990 s.36; No. 39 of 1990 s.36; No. 40 of 1990 s.47; No. 46 of 1990 s.28; No. 73 of 1990 s.45; No. 76 of 1990 s.33; No. 97 of 1990 s.3; No. 104 of 1990 s.36; and amended in Gazettes 6 February 1987 p. 292; 30 June 1987 p. 2546; 25 September 1987 p. 3717; 4 December 1987 p. 4326; 8 April 1988 p. 1108; 16 December 1988 p. 4869; 9 June 1989 p. 1662; 30 June 1989 p. 1896; 30 March 1990 p. 1666; 5 October 1990 p. 5163; 8 March 1991 p. 1070; 10 May 1991 p. 2402.]

SCHEDULE 1A

(Section 4)

MODIFICATIONS APPLICABLE IN SPECIAL CASES

PART I

Administrations deemed to be departments

The provisions of this Act specified in column 1 are modified and shall have effect for the purposes of section 4 (3) (which refers to an administration deemed to be a department for the purposes of this Act) as if they were in the form set out opposite in column 2.

Column 1	Column 2
<i>Section</i>	<i>Modification</i>
45	<p>45. (1) Amounts in respect of public property held for or on behalf of the State and revenue and other debts due to the State may be written off by an accountable officer subject to and in accordance with the limits prescribed by regulations.</p> <p>(2) Amounts in respect of public property held for or on behalf of the State 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 accountable officer with the prior approval of the Governor.</p>
52	<p>52. (1) There shall be an accountable officer for each department who shall be responsible for the financial administration of the services under the control of the department.</p>

Financial Administration and Audit Act 1985

Schedule 1A

(2) The Treasurer shall appoint a person to be the accountable officer for each department and shall make the appointment in writing signed by him.

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

- (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; and
- (c) a report on the operations of the department during the financial year.

63 63. The accountable officer of a department shall by 31 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).

64 64. (1) The accountable officer shall transmit copies of each annual report referred to in section 62 together with a copy of the opinion of the Auditor General to both Houses of Parliament within 21 days of receiving the Auditor General's opinion if the Parliament is then in session and sitting.

(2) The accountable officer shall, within 21 days of receiving the opinion of the Auditor General referred to in subsection (1), if the Parliament is not then in session and sitting, transmit copies of his annual report referred to in section 62 together with a copy of the opinion of the Auditor General to the Clerk of the Legislative Assembly and the Clerk of the Legislative Council and make the report and the opinion available to the public.

- 65 65. If the accountable officer is not able to cause to be prepared by 31 August in a year an annual report as required by section 62 (1), the accountable officer shall by that date inform both Houses of Parliament of his inability to do so and the reasons for that inability.
- 93(2)(b) (b) in the case of a department's financial statements, to the accountable officer of the department and a copy to the Treasurer; and
- 94(1)(b) (b) in the case of a department's financial statements, to the accountable officer of the department and a copy to the Treasurer; and
- 94(2) (2) In a case to which subsection (1) (b) applies, the accountable officer shall transmit copies of the Auditor General's interim report to both Houses of Parliament within 7 sitting days of receiving that report.

PART II

Office of the Auditor General

The provisions of this Act specified in column 1 are modified and shall have effect for the purposes of section 4 (4) (which refers to the Office of the Auditor General) as if they were in the form set out opposite in column 2.

Column 1	Column 2
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<i>Section</i>	<i>Modification</i>
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- 45 45. (1) Amounts in respect of public property held for or on behalf of the State and revenue and other debts due to the State may be written off by the accountable officer of the Office of the Auditor General subject to and in accordance with the limits prescribed by regulations.

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Schedule 1A

(2) Amounts in respect of public property held for or on behalf of the State 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 accountable officer of the Office of the Auditor General with the prior approval of the Governor.

52 52. (1) The accountable officer for the Office of the Auditor General shall be responsible for the financial administration of the services under the control of the department.

(2) The chief executive officer of the Office of the Auditor General shall be the accountable officer for that department.

62(1) 62. (1) The accountable officer of the Office of the Auditor General shall by 31 August in each year cause to be prepared an annual report containing —

- (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; and
- (c) a report on the operations of the Office of the Auditor General during the financial year.

63 63. The accountable officer of the Office of the Auditor General shall by 31 August in each year cause to be submitted to the auditor appointed under section 81 (2) and the Treasurer a copy of the financial statements and the information referred to in section 62 (1) (a) and (b).

64 64. (1) The accountable officer of the Office of the Auditor General shall transmit copies of his annual report referred to in section 62 together with a copy of the opinion of the auditor appointed in accordance with section 81 (2) to both Houses of Parliament within 21 days of receiving the auditor's opinion if the Parliament is then in session and sitting.

(2) The accountable officer of the Office of the Auditor General shall, within 21 days of receiving the auditor's opinion referred to in subsection (1), if the Parliament is not then in session and sitting, transmit copies of his annual report referred to in section 62 together with a copy of the opinion of the auditor to the Clerk of the Legislative Assembly and the Clerk of the Legislative Council and make the report and the opinion available to the public.

(3) The annual report of the accountable officer of the Office of the Auditor General and the auditor's opinion may be attached to a report prepared and submitted under section 95 or submitted separately.

65. If the accountable officer of the Office of the Auditor General is not able to cause to be prepared by 31 August in a year an annual report as required by section 62 (1), the accountable officer shall by that date inform both Houses of Parliament of his inability to do so and the reasons for that inability.

[Schedule 1A inserted by No. 3 of 1986 s.21; amended by No. 92 of 1990 s.38.]

Financial Administration and Audit Act 1985

Schedule 2

SCHEDULE 2

(Sections 76 and 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

Auditor General under repealed Act

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.

Trust statements for existing accounts

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.

(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.

Agreement with bank

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.

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.

Schedule 3

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

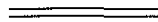
7. This Act shall not apply in respect of a financial year of a statutory authority that has commenced but has not ended before Division 9 or 14 of Part II comes into operation.

Transitional application to 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 appointments 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.



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NOTES

¹This reprint is a compilation as at 1 July 1991 of the *Financial Administration and Audit Act 1985* and includes all amendments effected by the other Acts referred to in Part 1 of the following Table³ and by the regulations referred to in Part 2 of the following Table.

Table of Acts and Regulations

PART 1 — ACTS

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Financial Administration and Audit Act 1985</i>	117 of 1985	30 December 1985	1 July 1986 (see <i>Gazette</i> 30 June 1986 p.2255)	
<i>Financial Administration and Audit Amendment Act 1986</i>	3 of 1986	27 June 1986	1 July 1986 (see section 2)	
<i>Western Australian Treasury Corporation Act 1986, section 26</i>	16 of 1986	25 July 1986	Deemed to operate from 1 July 1986 (see section 2)	
<i>Perth Mint Amendment Act 1986, Part IV</i>	39 of 1986	1 August 1986	1 October 1986 (see <i>Gazette</i> 30 September 1986 p.3769)	
<i>State Government Insurance Commission Act 1986, Schedule 3</i>	51 of 1986	5 August 1986	1 January 1987 (see <i>Gazette</i> 19 December 1986 p.4859)	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Western Australian Exim Corporation Act 1986, section 39</i>	94 of 1986	10 December 1986	Act (except section 42 and Schedule 2): 6 February 1987 (see <i>Gazette</i> p.287)	Section 39 operative from 31 March 1987 (see section 6 (2) and <i>Gazette</i> 27 March 1987 p.999)
<i>Western Australian Sports Centre Trust Act 1986, section 22</i>	101 of 1986	12 December 1986	24 December 1986 (see <i>Gazette</i> 24 December 1986 p.4963)	
<i>Boxing Control Act 1987, section 65</i>	2 of 1987	29 May 1987	22 February 1991 (see <i>Gazette</i> 22 February 1991 p.867)	
<i>Great Southern Development Authority Act 1987, section 35</i>	9 of 1987	11 June 1987	29 April 1988 (see <i>Gazette</i> 29 April 1988 p.1292)	
<i>Technology Development Amendment Act 1987, section 36</i>	32 of 1987	29 June 1987	30 June 1987 (see <i>Gazette</i> 30 June 1987 p.2545)	
<i>Acts Amendment (Legal Practitioners, Costs and Taxation) Act 1987, Part XVII</i>	65 of 1987	1 December 1987	Sections 5, 7 to 20 and 22 to 45: 12 February 1988 (see <i>Gazette</i> 12 February 1988 p.397); balance: 1 December 1987	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Solar Energy Research Amendment Act 1987</i> , section 21	88 of 1987	9 December 1987	30 June 1988 (see section 3 and <i>Gazette</i> 30 June 1988 p.2135)	
<i>Minerals and Energy Research Act 1987</i> , Part VIII	89 of 1987	9 December 1987	1 February 1988 (see <i>Gazette</i> 15 January 1988 p.67)	
<i>Rottneest Island Authority Act 1987</i> , section 51	91 of 1987	9 December 1987	30 May 1988 (see <i>Gazette</i> 30 May 1988 p.1823)	
<i>Gold Banking Corporation Act 1987</i> , section 79	99 of 1987	18 December 1987	1 July 1987 (see clause 1 (2) of Schedule 3)	
<i>Acts Amendment (Public Service) Act 1987</i>	113 of 1987	31 December 1987	16 March 1988 (see <i>Gazette</i> 16 March 1988 p.813)	
<i>Geraldton Mid-West Development Authority Act 1988</i> , section 34	4 of 1988	30 June 1988	22 July 1988 (see <i>Gazette</i> 22 July 1988 p.2479)	
<i>State Engineering Works Repeal Act 1988</i> , section 9	19 of 1988	9 September 1988	30 September 1988 (see <i>Gazette</i> 30 September 1988 p.3967)	
<i>Acts Amendment (Swan River Trust) Amendment Act 1988</i> , Part II	21 of 1988	5 October 1988	1 March 1989 (see section 2 and <i>Gazette</i> 27 January 1989 p.264)	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Official Corruption Commission Act 1988, section 13 (2)</i>	52 of 1988	8 December 1988	11 August 1989 (see <i>Gazette</i> 11 August 1989 p.2693)	
<i>Acts Amendment (Accountability) Act 1989, Part 2</i>	5 of 1989	26 April 1989	Part 2: Part, other than section 8, 1 July 1989 (see <i>Gazette</i> 30 June 1989 p.1893); section 8: 1 October 1989 (see <i>Gazette</i> 22 September 1989 p.3453)	
<i>Coal Industry Superannuation Act 1989, Part 5</i>	28 of 1989	12 December 1989	1 July 1990 (see <i>Gazette</i> 22 June 1990 p.3027)	
<i>Acts Amendment (Parliamentary Superannuation) Act 1989, Part 6</i>	31 of 1989	15 December 1989	15 December 1989	
<i>Acts Amendment and Repeal (Post- Secondary Education) Act 1989, Part 9</i>	48 of 1989	9 January 1990	1 January 1990 (see section 2)	
<i>Acts Amendment (Perth Market Authority) Act 1990, Part 4</i>	6 of 1990	12 July 1990	1 January 1991 (see <i>Gazette</i> 21 December 1990 p.6211)	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Gold Banking Corporation) Act 1990, Part 3</i>	10 of 1990	31 July 1990	28 September 1990 (see <i>Gazette</i> 28 September 1990 p.4981)	
<i>Goldfields- Esperance Development Act 1990, section 36</i>	39 of 1990	8 November 1990	7 December 1990 (see <i>Gazette</i> 7 December 1990 p.5979)	
<i>State Employment and Skills Development Authority Act 1990, section 47</i>	40 of 1990	26 November 1990	22 March 1991 (see <i>Gazette</i> 22 March 1991 p.1029)	
<i>Racing Penalties (Appeals) Act 1990, section 28</i>	46 of 1990	26 November 1990	15 April 1991 (see <i>Gazette</i> 12 April 1991 p.1597)	
<i>R & I Bank Act 1990, section 45</i>	73 of 1990	20 December 1990	1 January 1991 (see <i>Gazette</i> 28 December 1990 p.6369)	
<i>Building and Construction Industry Training Fund and Levy Collection Act 1990, section 33</i>	76 of 1990	20 December 1990	1 July 1991 (see section 2 and <i>Gazette</i> 28 June 1991 p.3101)	
<i>Financial Administration and Audit Amendment Act 1990</i>	92 of 1990	20 December 1990	8 March 1991 (see <i>Gazette</i> 8 March 1991 p.1029)	

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Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Acts Amendment (Heritage Council) Act 1990, Part 2, Division 1</i>	97 of 1990	22 December 1990	25 February 1991 (see <i>Gazette</i> 22 February 1991 p.868)	
<i>Tobacco Control Act 1990, Part 6</i>	104 of 1990	2 January 1991	8 February 1991 (see <i>Gazette</i> 8 February 1991 p.575)	

PART 2 — REGULATIONS

Regulations	Gazettal	Commencement
<i>Financial Administration and Audit Act (Designation of Statutory Authorities - No. 1) Regulations 1987</i>	6 February 1987 p.292	6 February 1987
<i>Financial Administration and Audit Act (Designation of Statutory Authorities - No. 2) Regulations 1987</i>	30 June 1987 p.2546	30 June 1987
<i>Financial Administration and Audit Act (Designation of Statutory Authorities - No. 3) Regulations 1987</i>	25 September 1987 p.3717	25 September 1987
<i>Financial Administration and Audit Act (Designation of Statutory Authorities - No. 4) Regulations 1987</i>	4 December 1987 p.4326	4 December 1987

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Regulations	Gazettal	Commencement
<i>Financial Administration and Audit Act (Designation of Statutory Authorities - No. 1) Regulations 1988</i>	8 April 1988 p.1108	8 April 1988
<i>Financial Administration and Audit Act (Designation of Statutory Authorities - No. 2) Regulations 1988</i>	16 December 1988 p.4869	16 December 1988
<i>Financial Administration and Audit (Designation of Statutory Authorities) Regulations 1989</i>	9 June 1989 p.1662	9 June 1989
<i>Financial Administration and Audit (Designation of Statutory Authorities - No. 2) Regulations 1989</i>	30 June 1989 p.1896	30 June 1989
<i>Financial Administration and Audit (Designation of Statutory Authorities) Regulations 1990</i>	30 March 1990 p.1666	30 March 1990
<i>Financial Administration and Audit (Designation of Statutory Authorities - No. 2) Regulations 1990</i>	5 October 1990 p.5163	5 October 1990
<i>Financial Administration and Audit (Designation of Statutory Authorities) Regulations 1991</i>	8 March 1991 p.1070	8 March 1991
<i>Financial Administration and Audit (Designation of Statutory Authorities - No. 2) Regulations 1991</i>	10 May 1991 p.2402	10 May 1991

² In respect of matters arising after 1 January 1991, the operation of the *Companies (Western Australia) Code* is subject to the provisions in Division 2 of Part 13 of the *Corporations (Western Australia) Act 1990*.

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³ As at the date of this reprint —

- (a) section 17 of the *Soil and Land Conservation Amendment Act 1990*;
 - (b) section 35 of the *State Supply Commission Act 1991*; and
 - (c) section 57 of the *Conservation and Land Management Amendment Act 1991*,
- were not in operation.