

**AUDIT (PUBLIC ACCOUNTS COMMITTEE) AMENDMENT
ACT, 1982, No. 125**

New South Wales



ANNO TRICESIMO PRIMO

ELIZABETHÆ II REGINÆ

Act No. 125, 1982.

An Act to amend the Audit Act, 1902, in relation to the Public Accounts Committee of the Legislative Assembly. [Assented to, 10th December, 1982.]

See also Parliamentary Remuneration Tribunal (Public Accounts Committee) Amendment Act, 1982.

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

Short title.

1. This Act may be cited as the "Audit (Public Accounts Committee) Amendment Act, 1982".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the *Gazette*.

Amendment of Act No. 26, 1902.

3. The Audit Act, 1902, is amended in the manner set forth in Schedule 1.

Savings provisions.

4. (1) The persons who were members of the Public Accounts Committee, and the person who was Chairman of that Committee, pursuant to section 16 of the Audit Act, 1902, immediately before the day appointed and notified under section 2 (2) shall be deemed to have been appointed, on that day, as members of the Public Accounts Committee or elected as Chairman of that Committee, as the case may be, pursuant to that Act, as amended by this Act.

(2) Any question which was, pursuant to section 16 (1) (a) of the Audit Act, 1902, referred to the Public Accounts Committee as constituted immediately before the day appointed and notified under section 2 (2), and

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upon which that Committee has not reported to the Legislative Assembly before that day shall be deemed to have been referred to that Committee, on that day, pursuant to section 16D (1) (f) of the Audit Act, 1902, as amended by this Act.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE AUDIT ACT, 1902.

(1) Section 2—

Omit the matter relating to Part II, insert instead:—

PART II.—THE AUDITOR-GENERAL—ss. 6–15.

PART IIA.—THE PUBLIC ACCOUNTS COMMITTEE—ss. 16–16E.

(2) Part II, heading—

Omit “AND PUBLIC ACCOUNTS COMMITTEE”.

(3) Part IIA—

Omit section 16, insert instead:—

PART IIA.

THE PUBLIC ACCOUNTS COMMITTEE.

Interpretation: Pt. IIA.

16. In this Part—

“authority of the State” means—

- (a) a statutory body representing the Crown; or

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SCHEDULE 1—*continued.*

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- (b) a body constituted by or under an Act the accounts of which are by law required or authorised to be audited by the Auditor-General or to be laid before the Legislative Assembly;

“Chairman” means the Chairman of the Committee;

“Committee” means the Public Accounts Committee for the time being constituted under this Part;

“Vice-Chairman” means the Vice-Chairman of the Committee.

Constitution of Public Accounts Committee.

16A. (1) As soon as practicable after the commencement of the first session of each Parliament, a committee of members of the Legislative Assembly, to be known as the Public Accounts Committee, shall be appointed.

(2) The Committee shall consist of 5 members.

(3) The appointment of members of the Committee shall be in accordance with the practice of the Legislative Assembly with respect to the appointment of members to serve on select committees of the Legislative Assembly.

(4) A member of the Legislative Assembly is not eligible for appointment as a member of the Committee if he is a Minister of the Crown or a Parliamentary Secretary.

(5) A member of the Committee ceases to hold office—

- (a) when the Legislative Assembly is dissolved or expires by the effluxion of time;
- (b) if he becomes a Minister of the Crown or a Parliamentary Secretary;

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- (c) if he ceases to be a member of the Legislative Assembly;
- (d) if he resigns his office by writing under his hand addressed to the Speaker of the Legislative Assembly; or
- (e) if he is discharged from his office by the Legislative Assembly.

(6) The Legislative Assembly may appoint one of its members (not being a Minister of the Crown or a Parliamentary Secretary) to fill a vacancy in the office of a member of the Committee.

(7) Any act or proceeding of the Committee is, notwithstanding that at the time when the act or proceeding was done, taken or commenced there was—

- (a) a vacancy in the office of a member of the Committee; or
- (b) any defect in the appointment, or any disqualification, of a member of the Committee,

as valid as if the vacancy, defect or disqualification did not exist and the Committee were fully and properly constituted.

Chairman and Vice-Chairman of Committee.

16B. (1) There shall be a Chairman and a Vice-Chairman of the Committee who shall be elected by and from the members of the Committee.

(2) A member of the Committee ceases to hold his office as Chairman or Vice-Chairman if—

- (a) he ceases to be a member of the Committee;
- (b) he resigns that office by writing under his hand presented to a meeting of the Committee; or
- (c) he is discharged from that office by the Committee.

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AMENDMENTS TO THE AUDIT ACT, 1902—*continued.*

(3) At any time when the Chairman is absent from New South Wales or is, for any reason, unable to perform the duties of his office or there is a vacancy in the office of Chairman, the Vice-Chairman may exercise the powers of the Chairman under this Act or under the Parliamentary Evidence Act, 1901.

Procedure of Committee.

16c. (1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings shall, subject to this Part, be as determined by the Committee.

(2) The Clerk of the Legislative Assembly shall call the first meeting of the Committee in each Parliament in such manner as he thinks fit.

(3) At a meeting of the Committee, 3 members constitute a quorum.

(4) The Chairman or, in the absence of the Chairman, the Vice-Chairman or, in the absence of both the Chairman and Vice-Chairman, a member of the Committee elected as chairman for the meeting by the members present shall preside at a meeting of the Committee.

(5) The Vice-Chairman or other member presiding at a meeting of the Committee shall, in relation to the meeting, have all the functions and powers of the Chairman.

(6) The Chairman, Vice-Chairman or other member presiding at a meeting of the Committee shall have a deliberative vote and, in the event of an equality of votes, shall also have a casting vote.

(7) A question arising at a meeting of the Committee shall be determined by a majority of the votes of the members present and voting.

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(8) The Committee may sit and transact business notwithstanding any prorogation or adjournment of the Legislative Assembly.

(9) The Committee shall not sit or transact business on a sitting day of the Legislative Assembly during the time of the sitting, except by leave of the Legislative Assembly.

Functions of Committee.

16D. (1) The functions of the Committee are—

- (a) to examine the public accounts transmitted to the Legislative Assembly by the Auditor-General;
- (b) to examine the accounts of authorities of the State, being accounts that have been—
 - (i) audited by the Auditor-General; or
 - (ii) laid before the Legislative Assembly by a Minister of the Crown;
- (c) to examine the reports of the Auditor-General transmitted with the public accounts or laid before the Legislative Assembly with the accounts of an authority of the State (including any documents annexed or appended to those reports);
- (d) to report to the Legislative Assembly from time to time upon any item in, or any circumstances connected with, those accounts, reports or documents which the Committee considers ought to be brought to the notice of the Legislative Assembly;

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- (e) to report to the Legislative Assembly from time to time any alteration which the Committee thinks desirable in the form of those accounts or in the method of keeping them or in the method of receipt, expenditure or control of money relating to those accounts;
- (f) to inquire into, and report to the Legislative Assembly upon, any question in connection with those accounts which is referred to it by the Legislative Assembly, a Minister of the Crown or the Auditor-General; and
- (g) to inquire into expenditure by a Minister of the Crown made without Parliamentary sanction or appropriation and report to the Legislative Assembly from time to time upon any matter connected with that expenditure which the Committee considers ought to be brought to the notice of the Legislative Assembly.

(2) The functions of the Committee extend to an examination of, inquiry into or report upon a matter of Government policy if and only if the matter has been specifically referred to the Committee under subsection (1) (f) by the Legislative Assembly or a Minister of the Crown.

(3) The functions of the Committee do not extend to an examination of, inquiry into or report upon the estimates of any proposed expenditure by the State or by an authority of the State.

Evidence.

16E. (1) Subject to this section, the Committee shall take all evidence in public.

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(2) Where, in the opinion of the Committee, any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced in evidence to, the Committee relates to a secret or confidential matter, the Committee may, and at the request of the witness giving the evidence or producing the document shall—

- (a) take the evidence in private; or
- (b) direct that the document, or the part of the document, be treated as confidential.

(3) Where a direction under subsection (2) is applicable in respect of a document, or a part of a document, produced in evidence to the Committee, the contents of the document or part shall, for the purposes of this section, be deemed to be evidence given by the person producing the document and taken by the Committee in private.

(4) Where, at the request of a witness, evidence is taken by the Committee in private—

- (a) the Committee shall not, without the consent in writing of the witness; and
- (b) a person (including a member of the Committee) shall not, without the consent in writing of the witness and the authority of the Committee under subsection (6).

disclose or publish the whole or a part of that evidence.

Penalty: \$500 or imprisonment for a term not exceeding 3 months.

(5) Where evidence is taken by the Committee in private otherwise than at the request of a witness, a person (including a member of the Committee) shall not, without the authority of the Committee under subsection (6), disclose or publish the whole or a part of that evidence.

Penalty: \$500 or imprisonment for a term not exceeding 3 months.

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(6) The Committee may, in its discretion, disclose or publish or, by writing under the hand of the Chairman, authorise the disclosure or publication of evidence taken in private by the Committee, but this subsection does not operate so as to affect the necessity for the consent of a witness under subsection (4).

(7) Nothing in this section prohibits—

- (a) the disclosure or publication of evidence that has already been lawfully published; or
- (b) the disclosure or publication by a person of a matter of which he has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Committee.

(8) This section has effect notwithstanding section 4 of the Parliamentary Papers (Supplementary Provisions) Act, 1975.

(9) Where evidence taken by the Committee in private is disclosed or published in accordance with this section—

- (a) sections 6 and 7 of the Parliamentary Papers (Supplementary Provisions) Act, 1975, apply to and in relation to the disclosure or publication as if it were a publication of that evidence under the authority of section 4 of that Act; and
- (b) Division 5 of Part III of, and Schedule 2 to, the Defamation Act, 1974, apply to and in relation to that evidence as if it were taken by the Committee in public.

(10) Where the Committee as constituted at any time has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the

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Committee as constituted at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken that evidence.

(11) The production of documents to the Committee shall be in accordance with the practice of the Legislative Assembly with respect to the production of documents to select committees of the Legislative Assembly.
