

PUBLIC FINANCE AND AUDIT (AMENDMENT) ACT 1992
No. 23

NEW SOUTH WALES



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SCHEDULE 1—AMENDMENTS

PUBLIC FINANCE AND AUDIT (AMENDMENT) ACT 1992
No. 23

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Act No. 23, 1992

An Act to amend the Public Finance and Audit Act 1983 with respect to the banking of public money, financial information concerning the budget sector, accounting and reporting requirements, and delegations. [Assented to 14 May 1992]

See also *Annual Reports Legislation (Amendment) Act 1992*.

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Public Finance and Audit (Amendment) Act 1992.

Commencement

2. This Act commences on a day to be appointed by proclamation, except as provided by this section.

(2) Schedule 1 (2), (7), (8), (9), (14) and (15), and section 3 in its application to those items, commence, or are taken to have commenced, on 1 July 1992.

Amendment of Public Finance and Audit Act 1983 No. 152

3. The Public Finance and Audit Act 1983 is amended in the manner set out in Schedule 1.

Unclaimed money

4. Money paid into the Special Deposits Account pursuant to section 14 (2) of the Public Finance and Audit Act 1983, as in force immediately before the commencement of Schedule 1 (6) is, after that commencement, to be paid into the Consolidated Fund.

Directions as to financial statements

5. A direction given by the Treasurer, which would have been valid if section 45E of the Public Finance and Audit Act 1983 (as amended by this Act) had been in force at the time the direction was given, is validated by this section.

Variation of requirements

6. An exemption, omission, modification or variation made by the Treasurer, which would have been valid if section 45EA of the Public Finance and Audit Act 1983 (as amended by this Act) had been in force at the time the exemption, omission, modification or variation was made, is validated by this section.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) Section 4 (Definitions):

After the definition of “bank” in section 4 (1), insert:

“budget sector” comprises, in relation to any financial year:

- (a) the programs specified in the Budget Estimates for that year; and
- (b) such programs created after the Budget Estimates for that year as the Treasurer considers would have been specified in those Estimates if the programs had been created before those Estimates were determined;

(2) Section 5 (Treasurer’s accounts):

(a) Omit “keep in the Treasury”, insert instead “cause to be kept”.

(b) At the end of section 5, insert:

(2) In spite of any other Act or law, the Treasurer is not required to cause any account in, or relating to, the Consolidated Fund or the Special Deposits Account to be kept in the Treasury.

(3) An account referred to in any Act or law relating to the Consolidated Fund or the Special Deposits Account, and in or at the Treasury immediately before the date of the commencement of this subsection, is from that date to be caused to be kept by the Treasurer in accordance with subsection (1), either in the Treasury or outside the Treasury.

(3) Section 6 (Preparation of the Public Accounts):

Omit section 6 (1) and (2), insert instead:

(1) As soon as practicable after the end of each financial year, the Treasurer is to prepare in relation to the budget sector a consolidated statement of its financial position as at 30 June in that year, together with a consolidated operating statement and a consolidated statement of cash flows.

(1A) Those statements are to include the following:

- (a) Consolidated Fund financial statements;
- (b) balances as at 30 June, summarised and distributed into cash and securities;

SCHEDULE 1—AMENDMENTS—*continued*

- (c) balances of trust money held as at that date;
- (d) annual interest as at that date and information as to the movement of loan liabilities to the Commonwealth under the Financial Agreement over the financial year;
- (e) the indebtedness as at that date which falls outside the Financial Agreement for the obtaining of financial accommodation;
- (f) details of advances which are repayable to the Treasurer as at that date;
- (g) details of such other matters as may be prescribed.

(2) A statement under subsection (1) may include amounts rounded to the nearest dollar or, if the Treasurer so determines, to the nearest one thousand or one hundred thousand dollars.

(4) Section 8:

Omit section 8, insert instead:

Periodic statements

8. (1) The Treasurer is to publish:

- (a) a monthly summary of the outlays, revenue and grants received by, and the financing transactions of, the budget sector; and
- (b) a monthly statement of the balance of cash and securities held by the Treasurer,

as soon as practicable after the month to which the summary and statement relate.

(2) The Treasurer is to publish in the Gazette:

- (a) a quarterly summary of the outlays, revenue and grants received by, and the financing transactions of, the budget sector, and a statement of the balances of trust money held by the budget sector, as at 30 September, 31 December and 31 March in each financial year; and
- (b) quarterly balances as at the same dates, summarised and distributed into cash and securities; and
- (c) a quarterly statement of such other matters as may be prescribed,

SCHEDULE 1—AMENDMENT—*continued*

as soon as practicable after the quarter to which the summary, balances and statement relate.

(3) The summaries referred to in subsections (1) and (2) are to be prepared so far as possible according to the principles utilised by the Australian Bureau of Statistics in compiling its Government Finance Statistics data, unless the Treasurer otherwise determines.

(4) The Treasurer is to present a copy of any determination given under subsection (3) to the Legislative Assembly on a day within 7 days after making the determination, if the Assembly is sitting on that day.

(5) If at the time when the Treasurer seeks to present a copy of a determination to the Legislative Assembly the Assembly is not sitting, the Treasurer is to present a copy of the determination to the Clerk of the Legislative Assembly to be dealt with in accordance with section 63C.

(5) Section 9 (**Treasurer's directions**):

Omit section 9 (2) (n), insert instead:

- (n) the form and content of financial statements and the accounting policies to be observed in preparing those statements;

(6) Section 14 (**Unclaimed money**):

- (a) From section 14 (2), omit "Special Deposits Account", insert instead "Consolidated Fund".
- (b) Omit section 14 (3).
- (c) From section 14 (4), omit "subsection (3)", insert instead "subsection (2)".

(7) Section 16:

Omit the section, insert instead:

Accounts to be kept in bank

16. Authorities may open such accounts in such banks and on such terms as the Treasurer determines for the banking of public money.

SCHEDULE 1—AMENDMENTS—*continued*

(8) Section 18:

Omit the section, insert instead:

Banking of public money

18. An accounting officer collecting or receiving public money is to bank the money collected or received in accordance with this Act, the regulations and any directions of the Treasurer.

(9) Section 20 (**Investment of funds**):

Omit “to invest money in the Consolidated Fund or other money to which section 16 applies”, insert instead “to invest public money”.

(10) Section 39 (**Application and interpretation**):

(a) Omit section 39 (1), insert instead:

(1) A reference in this Division to a statutory body is a reference to:

- (a) a person, group of persons or body specified in Schedule 2; and
- (b) a person, group of persons or body (not being a person, group of persons or body specified in Schedule 3) whose funds are held in an account within the Special Deposits Account.

(IA) A reference in this Division to a statutory body also includes a reference to an entity which is an entity for the purposes of Part 3.6 of the Corporations Law and which would, if the statutory body were a company for the purposes of that Part, be an entity controlled by the statutory body within the meaning of that Part.

(1B) A reference in this Division to a statutory body does not include a reference to a person, group of persons, body or entity who or which is, by a regulation made for the purposes of this subsection, declared not to be a statutory body for the purposes of this Division.

- (b) From section 39 (2A), omit “a corporation, partnership, joint venture, trust or other association referred to in subsection (1) (c), (d), (e) or (f)”, insert instead “an entity referred to in subsection (1A)”.

SCHEDULE 1—AMENDMENTS—*continued*(11) Section 41B (**Nature of financial statements**):

Omit section 41B (1) (c) (iv) and (v), insert instead:

- (iv) a statement of cash flows;
- (v) proper and adequate notes to the statements referred to in subparagraphs (i)–(iv);
- (va) a statement of all exemptions, omissions, modifications and variations made by the Treasurer under section 41BA which apply to the statutory body, and a summary of the reasons for them; and

(12) Section 41BA:

After section 41B, insert:

Variation of requirements

41BA. (1) If, after consulting the Auditor-General, the Treasurer is satisfied that compliance with a provision of this Act or the regulations which relates to the form or content of financial statements:

- (a) would render the financial statements of a statutory body misleading; or
- (b) would be inappropriate to the circumstances of a statutory body; or
- (c) would impose unreasonable burdens on a statutory body,

the Treasurer may, by notice in writing, exempt the statutory body from compliance with the provision or declare that the provision applies to it as if omitted, or modified or varied in a specified manner.

(2) An exemption, omission, modification or variation under this section:

- (a) may be specific or general; and
- (b) may be made in respect of a single statutory body or a class of them; and
- (c) may be made on such terms and conditions as the Treasurer thinks fit; and
- (d) may be revoked or varied by the Treasurer in relation to a statutory body by notice in writing.

SCHEDULE 1—AMENDMENT—*continued*(13) Section 45A (**Application and interpretation**):

Omit section 45A (1), insert instead:

(1) A reference in this Division to a Department is a reference to a person, group of persons or body specified in Column 1 of Schedule 3.

(1A) A reference in this Division to a Department also includes a reference to an entity which is an entity for the purposes of Part 3.6 of the Corporations Law and which would, if the Department (or an officer of, or the Minister responsible for, the Department) were a company for the purposes of that Part, be an entity controlled by the Department (or an officer of, or the Minister responsible for, the Department) within the meaning of that Part.

(1B) A reference in this Division to a Department does not include a reference to a person, group of persons, body or entity who or which is, by a regulation made for the purposes of this subsection, declared not to be a Department for the purposes of this Division.

(14) Section 45E:

Omit the section, insert instead:

Nature of financial statements

45E. (1) A Department's financial statements referred to in section 45D:

- (a) are to be prepared on an accrual accounting basis; and
- (b) are to comply with any written directions of the Treasurer as to form and content.

(2) Before giving a direction referred to in subsection (1) (b), the Treasurer is to consult the Auditor-General.

(3) Such a direction may be given subject to conditions.

Variation of requirements

45EA. (1) If, after consulting the Auditor-General, the Treasurer is satisfied that compliance with a provision of this Act or the regulations which relates to the form or content of financial statements:

- (a) would render the financial statements of a Department misleading; or

SCHEDULE 1—AMENDMENTS—*continued*

(b) would be inappropriate to the circumstances of a Department; or

(c) would impose unreasonable burdens on a Department, the Treasurer may, by notice in writing, exempt the Department from compliance with the provision or declare that the provision applies to it as if omitted, or modified or varied in a specified manner.

(2) An exemption, omission, modification or variation under this section:

(a) may be specific or general; and

(b) may be made in respect of a single Department or a class of them; and

(c) may be made on such terms and conditions as the Treasurer thinks fit; and

(d) may be revoked or varied by the Treasurer in relation to a Department by notice in writing.

(15) Section 45F (**Auditing etc. of financial statements**):

Before section 45F (2), insert:

(1B) An opinion in relation to the financial statements of a Department is not to be furnished under subsection (1A) unless the Auditor-General has received a statement as to whether, in the opinion of the Department Head, the financial statements exhibit a true and fair view of the financial position and transactions of the Department.

(1C) The statement is to be signed by the Department Head.

(16) Section 63B:

Omit the section, insert:

Notification of controlled entities

63B. (1) Within 1 month after an entity becomes an entity referred to in section 45A (1A), the appropriate Department Head must notify the Auditor-General and the Treasurer in writing of that fact.

SCHEDULE 1—AMENDMENTS—*continued*

(2) Within 1 month after an entity becomes an entity referred to in section 39 (1 A), the appropriate statutory body must notify the Auditor-General and the Treasurer in writing of that fact.

(3) A Department or statutory body must take such steps as are appropriate to ensure that an entity referred to in section 45A (1A) or 39 (1A) which is controlled by the Department or statutory body is audited by the Auditor-General.

(17) Section 63E:

Before section 64, insert:

Delegation of Treasurer's functions

63E. (1) The Treasurer may delegate to an authorised person any of the functions of the Treasurer under this Act, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by the Treasurer under this section if the delegate is authorised in writing to do so by the Treasurer.

(3) In this section, “**authorised person**” means a member of the staff of the Treasury or a person of a class prescribed by the regulations or approved by the Treasurer.

*[Minister's second reading speech made in—
Legislative Assembly on 26 March 1992
Legislative Council on 5 May 1992]*