

Audit

No. 20 of 1969

An Act relating to the Audit of Public Moneys and the Protection of Public Property.

[Assented to 4 June 1969]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1.—(1.) This Act may be cited as the *Audit Act 1969*.

(2.) The *Audit Act 1901–1968** is in this Act referred to as the Principal Act.

(3.) The Principal Act, as amended by this Act, may be cited as the *Audit Act 1901–1969*.

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Short title
and citation.

Commence-
ment.

* Act No. 4, 1901, as amended by No. 8, 1906; No. 4, 1909; No. 6, 1912; No. 32, 1917; No. 23, 1920; No. 34, 1924; No. 18, 1926; No. 45, 1934; No. 52, 1947; No. 60, 1948; No. 51, 1950; No. 79, 1952; No. 12, 1953; No. 29, 1954; No. 18, 1955; No. 39, 1957; No. 8, 1959; Nos. 17 and 77, 1960; No. 89, 1961; No. 74, 1962; No. 75, 1964; No. 126, 1965; No. 93, 1966; and No. 120, 1968.

3. Section 2 of the Principal Act is repealed and the following sections are inserted in its stead:—

“ 2. In this Act, unless the contrary intention appears—

Definitions.

‘ accounting officer ’ means a person who—

- (a) is charged with the duty of collecting, receiving or accounting for, or collects, receives or accounts for, public moneys;
- (b) is charged with the duty of disbursing, or disburses, public moneys; or
- (c) is charged with the receipt, custody or disposal of, or the accounting for, or receives, has in his custody, disposes of or accounts for, stores;

‘ Department ’ means a Department of State of the Commonwealth and includes—

- (a) a Department of the Parliament; and
- (b) a prescribed authority of the Commonwealth;

‘ public moneys ’ includes all revenue, loan, trust and other moneys, and all bonds, debentures and other securities, received by any person for or on behalf of the Commonwealth or referred to in this Act;

‘ stores ’ means chattels the property of, or in the possession or under the control of, the Commonwealth;

‘ the Commonwealth Public Account ’ includes moneys constituting the Consolidated Revenue Fund, the Loan Fund or the Trust Fund, and all other moneys received by any person for or on behalf of the Commonwealth.

“ 2AA.—(1.) This section applies in relation to the Consolidated Revenue Fund, the Loan Fund and the Trust Fund.

Amounts deducted or set off deemed to be received or paid.

“ (2.) Where an amount payable out of a Fund in relation to which this section applies has been lawfully deducted from, or set off against, an amount payable into the same or another Fund in relation to which this section applies, and, by reason of the deduction or set-off, an amount paid into the second-mentioned Fund is less than it would otherwise have been—

- (a) the amount paid into the second-mentioned Fund shall, for the purposes of this Act, be deemed to be the amount that, but for the deduction or set-off, would have been so paid; and
- (b) the amount deducted or set off shall, for the purposes of this Act, be deemed to have been paid out of the first-mentioned Fund for the purpose for which it was so deducted or set off and to have been so paid at the same time as the amount was paid into the second-mentioned Fund.

“ (3.) Where an amount payable into a Fund in relation to which this section applies has been lawfully deducted from, or set off against, an amount payable out of the same or another Fund in relation to which

this section applies and, by reason of the deduction or set-off, an amount paid out of the second-mentioned Fund is less than it would otherwise have been—

- (a) the amount paid out of the second-mentioned Fund shall, for the purposes of this Act, be deemed to be the amount that, but for the deduction or set-off, would have been so paid; and
- (b) the amount deducted or set off shall, for the purposes of this Act, be deemed to have been paid into the first-mentioned Fund for the purpose for which it was so deducted or set off and to have been so paid at the same time as the amount was paid out of the second-mentioned Fund.

“(4.) Where an amount payable out of or into a Fund in relation to which this section applies has been lawfully set off against an amount payable into or out of the same or another Fund in relation to which this section applies and, by reason of the set-off, no amounts are payable out of or into those Funds, the amounts that, but for the set-off, would have been paid out of or into those Funds shall, for the purposes of this Act, be deemed to have been so paid at the time when the set-off took place.”.

Auditor-
General to have
access to
accounts,
books, &c.

4. Section 14B of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ public moneys of the Commonwealth ” and inserting in their stead the words “ public moneys ”; and
- (b) by omitting from that sub-section the words “ belonging to the Commonwealth ”.

Accounting
officer's bank
account.

5. Section 18 of the Principal Act is amended by omitting the words “ or his deputy ”.

Commonwealth
Public Account.

6. Section 21 of the Principal Act is amended by omitting from sub-section (2.) the words “ His Majesty ” (wherever occurring) and inserting in their stead the words “ the Commonwealth ”.

Accounting
officers to
pay money into
Treasury or
bank, &c.

7. Section 22 of the Principal Act is amended by omitting from sub-section (1.) the words “ or his deputy ”.

Treasurer to
pay money
daily into
bank.

8. Section 23 of the Principal Act is amended by omitting the words “ or his deputy ” (wherever occurring).

Accounting
officers to
furnish
statements.

9. Section 24 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “ or his deputy ” (wherever occurring); and
- (b) by omitting from sub-section (2.) the words “ or his deputy ” and inserting in their stead the words “ or a person appointed by the Treasurer for the purposes of this sub-section ”.

The Money
Order Account.

10. Section 26 of the Principal Act is amended by omitting from sub-section (2.) the words “ His Majesty ” (wherever occurring) and inserting in their stead the words “ the Commonwealth ”.

11.—(1.) Sections 32 and 33 of the Principal Act are repealed and the following sections inserted in their stead:—

“ 32.—(1.) Where it appears to the Treasurer that an amount of money, being money lawfully available for expenditure by virtue of an appropriation of the Consolidated Revenue Fund or of the Loan Fund, will be required to be drawn from the Commonwealth Public Account for expenditure in respect of services or purposes for which that appropriation was made, he may notify the Auditor-General accordingly by instrument under his hand in accordance with Form 1 in the Second Schedule to this Act.

Warrant procedure in relation to moneys available by virtue of appropriation of Consolidated Revenue Fund or Loan Fund.

“ (2.) Upon receipt of the instrument, the Auditor-General shall consider whether the amount is lawfully available by virtue of that appropriation for expenditure in respect of those services or purposes.

“ (3.) If the Auditor-General is satisfied that the amount is so lawfully available, he shall—

- (a) give a certificate in relation to the amount by writing under his hand in accordance with Form 2 in the Second Schedule to this Act; and
- (b) return the instrument and certificate to the Treasurer.

“ (4.) If the Auditor-General is not so satisfied, he shall not give such a certificate but shall—

- (a) state in writing the amount or amounts considered by him to be not so lawfully available and the grounds on which he considers that amount or those amounts to be not so lawfully available; and
- (b) return the instrument and the statement to the Treasurer.

“ (5.) Where the Auditor-General has given a certificate under this section in relation to an amount specified, in relation to an appropriation, in an instrument prepared by the Treasurer under this section, the Governor-General may issue to the Treasurer a warrant under his hand in accordance with Form 3 in the Second Schedule to this Act authorizing the drawing of that amount from the Commonwealth Public Account for expenditure in accordance with that appropriation in respect of the services or purposes referred to in the instrument.

“ (6.) The Governor-General may issue a warrant to the Treasurer under the last preceding sub-section without obtaining the advice of the Executive Council.

“ (7.) Strict compliance with a form referred to in this section is not required and substantial compliance is sufficient.

“ (8.) A reference in this section to the Auditor-General shall, if the Auditor-General has, by instrument under his hand, appointed a person to act on his behalf for the purposes of this section, be read as a reference to the person so appointed.

Treasurer
on receipt of
warrant may
make payments.

“ 33.—(1.) When a warrant has been issued by the Governor-General under the last preceding section, the Treasurer may, subject to this section, make payments out of any bank account in which the Commonwealth Public Account is kept in respect of the services or purposes referred to in the warrant.

“ (2.) The sum of the amounts paid under the last preceding sub-section upon the authority of a warrant shall not exceed the amount specified in the warrant.

“ (3.) For the purposes of the last preceding sub-section, moneys or payments that, in pursuance of section thirty-six C of this Act, are taken in reduction of expenditure from an appropriation to which a warrant referred to in that sub-section relates shall also be taken in reduction of the sum of the amounts paid upon the authority of the warrant.

“ (4.) Where a payment is made out of a bank account in which the Commonwealth Public Account is kept, the bank is not required to ascertain whether the payment was made upon the authority of a warrant.

Warrant
procedure
to apply to
transfers
within
Commonwealth
Public Account.

“ 33A.—(1.) Subject to the next succeeding sub-section, a reference in section thirty-one, or sub-section (1.) of section thirty-two, of this Act to the drawing of money from the Commonwealth Public Account—

- (a) shall be read as including a reference to the payment of a cheque drawn on a bank account in which the Commonwealth Public Account is kept notwithstanding that the amount of the cheque is paid into another such bank account; and
- (b) shall be read as including a reference to the making (otherwise than in pursuance of the drawing or payment of a cheque) in the books of account kept for the purpose of recording transactions in relation to the Commonwealth Public Account of an entry debiting that Account notwithstanding that a corresponding entry is made crediting that Account.

“ (2.) The last preceding sub-section does not apply in relation to the payment of a cheque or the making of an entry where the payment or entry does not operate to reduce the amount available for expenditure by virtue of an appropriation.

Warrants not
required for
expenditure of
certain moneys
out of
Commonwealth
Public Account.

“ 33B. The last three preceding sections do not apply in relation to moneys in the Commonwealth Public Account that are available for expenditure by virtue of—

- (a) an appropriation of the Consolidated Revenue Fund that is to be deemed to be made by virtue of section thirty-five of this Act; or
- (b) an appropriation of the Trust Fund.”

(2.) Where, before the commencement of this Act, an instrument was prepared by the Treasurer, and completed by the signed certificate of the Auditor-General and an authority signed by the Governor-General, in accordance with section 32 of the Principal Act, that instrument as so completed has effect as if it were a warrant issued by the Governor-General in accordance with section 32 of the Principal Act as amended by this Act.

12. After section 34 of the Principal Act the following section is inserted:—

“ 35.—(1.) Where an amount that is, or the total of amounts that are, specified in an item, subdivision or division in a Schedule to an Appropriation Act for a financial year is expressed to be— Certain amounts to be deemed to have been appropriated.

- (a) less an amount to be provided from some other appropriation;
- (b) less an amount to be received from a head of the Trust Fund or from a Trust Account; or
- (c) less an amount to be received from some other source,

then—

- (d) an amount equal to the amount referred to in whichever of the preceding paragraphs is applicable shall be deemed to have been appropriated for the purposes and services referred to in that item, subdivision or division, as the case may be; and
- (e) the Treasurer is authorized to issue and apply the amount first-mentioned in the last preceding paragraph accordingly.

“ (2.) Where an amount that is, or the total of amounts that are, specified in an item, subdivision or division in a Schedule to an Appropriation Act for a financial year is expressed to be less amounts to be provided from more than one of the sources referred to in paragraphs (a), (b) and (c) of the last-preceding sub-section, then—

- (a) an amount equal to the total of the last-mentioned amounts shall be deemed to have been appropriated for the purposes and services referred to in that item, subdivision or division, as the case may be; and
- (b) the Treasurer is authorized to issue and apply an amount equal to that total accordingly.

“ (3.) Where it is provided by a Schedule to an Appropriation Act for a financial year that moneys of a specified description that are received may be credited to an item, subdivision or division in that Schedule—

- (a) an amount equal to the total of the moneys of that description received in that financial year shall be deemed to have been appropriated for the purposes and services referred to in that item, subdivision or division, as the case may be; and

(b) the Treasurer is authorized to issue and apply the amount first-mentioned in the last preceding paragraph accordingly.

“(4.) In this section, ‘Appropriation Act for a financial year’ means any Act appropriating a sum for the service of that year.”.

13. After section 37A of the Principal Act the following section is inserted in Part V.:—

“ 37B.—(1.) Where—

- (a) a person has died, whether before or after the commencement of this section; and
- (b) an amount was, or amounts were, owing by the Commonwealth to the deceased person at the time of his death, being an amount not exceeding, or amounts not exceeding in the aggregate, such amount as is prescribed,

the Treasurer may, in his discretion, without production of probate of the will, or letters of administration of the estate, of the deceased person, authorize payment of that amount or those amounts to the person to whom the Treasurer thinks it proper that the payment should be made.

“(2.) In determining the person to whom an amount is to be paid under this section, the Treasurer shall have regard to the persons who are entitled to the property of the deceased person under his will or under the law relating to the disposition of the property of deceased persons, as the case requires.

“(3.) Where an amount is paid in pursuance of this section, the Commonwealth is discharged from all further liability in respect of payment of that amount, but nothing in this section operates to relieve a person to whom any money is paid in pursuance of this section from liability to account for, or deal with, that money in accordance with law.”.

14. Section 38 of the Principal Act is repealed and the following section inserted in its stead:—

“ 38. The manager or other person in charge of a bank into which moneys forming part of the Commonwealth Public Account are paid shall—

- (a) at such times as the Treasurer by instrument in writing directs, send to the Treasurer, or to a person appointed by the Treasurer by instrument in writing for the purposes of this section, a statement showing the debits and credits to the account in which those moneys are kept, other than any debits or credits as to which a statement has previously been sent to the Treasurer or to a person so appointed, together with a certificate setting out the balance to the debit or credit of that account; and
- (b) at any time when he is requested to do so by instrument in writing by the Auditor-General or by a person appointed by the Auditor-General by instrument in writing for the purposes of this section,

Power of Treasurer to make certain payments without production of probate or letters of administration.

Banker to forward bank statements and certificates to Treasurer and Auditor-General.

send to the Auditor-General, or to the person so appointed, a statement showing the debits and credits to the account in which those moneys are kept, other than any debits or credits as to which a statement has previously been sent to the Auditor-General or to a person so appointed, together with a certificate setting out the balance to the debit or credit of that account.”.

15. Section 39 of the Principal Act is amended by omitting the words “several drafts or cheques which he shall have drawn” and inserting in their stead the words “payments made by him”.

Accounting officers to furnish statements.

16. Section 41 of the Principal Act is amended by omitting from paragraph (a) the words “legally available for, and applicable to,” and inserting in their stead the words “lawfully available for expenditure in respect of”.

Audit of returns, cash sheets and accounts.

17. Section 43 of the Principal Act is amended by omitting from sub-section (2.) the words “His Majesty” and inserting in their stead the words “the Commonwealth”.

Recovery by Treasurer of amount of surcharge.

18. Section 44 of the Principal Act is amended by omitting from sub-section (2.) the words “His Majesty” and inserting in their stead the words “the Commonwealth”.

Accounting officers to have right of appeal to the Governor-General.

19. Section 45 of the Principal Act is amended by omitting from sub-section (1.) the words “, and of any person charged with the custody or control of stores belonging to the Commonwealth”.

Inspection and audit of books and accounts.

20. Section 46 of the Principal Act is amended by omitting the words “His Majesty” and inserting in their stead the words “the Commonwealth”.

No sum to be allowed without voucher unless by order.

21. Section 48 of the Principal Act is amended by omitting from paragraph (a) of sub-section (1.) the words “His Majesty” and inserting in their stead the words “the Commonwealth”.

Recovery of moneys disallowed by reason of absence or imperfection of vouchers.

22. Section 51 of the Principal Act is amended—

- (a) by omitting from sub-section (1.) the words “such statement” (first occurring) and inserting in their stead the words “a statement transmitted to him under section fifty of this Act”; and
- (b) by omitting from paragraph (d) of sub-section (1.) the words “Two hundred dollars” and inserting in their stead the words “One thousand dollars”.

Auditor-General to audit and report.

23. Section 52 of the Principal Act is amended by omitting from paragraph (a) the words “Order in Council” and inserting in their stead the words “order under sub-section (1.) of section thirty-seven of this Act”.

Certain orders and legal opinions to be annexed to Auditor-General's report.

24. Section 55 of the Principal Act is amended by omitting from sub-section (2.) the words “Loan Acts” and inserting in their stead the word “Acts”.

Separate account to be kept of Loan Fund.

Provisions of Act to apply in relation to Trust Fund.

25. Section 62 of the Principal Act is amended by inserting after sub-section (1.) the following sub-section:—

“(1A.) The last preceding sub-section has effect subject to section thirty-three B of this Act.”.

Trust Accounts.

26. Section 62A of the Principal Act is amended by omitting from paragraph (b) of sub-section (5.) the word “ Commonwealth ”.

27. Section 64 of the Principal Act is repealed and the following section inserted in its stead:—

Misappropriation of public moneys or stores.

“ 64.—(1.) An accounting officer shall not—

(a) misapply, improperly dispose of, or improperly use, any public moneys or any stores; or

(b) pay any public moneys into his own private account at any bank.

Penalty: Imprisonment for seven years.

“(2.) An accounting officer shall not wilfully and unlawfully damage or destroy any stores.

Penalty: Imprisonment for two years.

“(3.) In a prosecution for an offence against paragraph (a) of sub-section (1.) of this section, it is not necessary to prove the misapplication, improper disposal or improper use of any specific sum of money or stores if there is proof of a general deficiency on the examination of the books of account or entries kept or made by the defendant or otherwise and the court or jury is satisfied that the defendant misapplied, improperly disposed of or improperly used all or any of the deficient moneys or all or any of the deficient stores.”.

Forging or uttering documents.

28. Section 65 of the Principal Act is amended—

(a) by omitting from sub-paragraph (1) of paragraph (a) the words “ belonging to His Majesty ”; and

(b) by omitting from paragraph (b) the words “ His Majesty ” and inserting in their stead the words “ the Commonwealth ”.

Second Schedule.

29. The Second Schedule to the Principal Act is repealed and the following Schedule inserted in its stead:—

“ SECOND SCHEDULE.

FORM 1

Section 32 (1.).

NOTIFICATION BY TREASURER

To the Auditor-General

I hereby notify you that it appears to me that the amount of _____ dollars and _____ cents, which is lawfully available for expenditure by virtue of the appropriation of the Consolidated Revenue Fund [or of the Loan Fund] made by [here specify the relevant provision of the Act by which the appropriation was made], will be required to be drawn from the Commonwealth Public Account for expenditure in respect of [here specify the services or purposes, or services and purposes, in respect of which the amount is required to be expended].

Dated this

day of

, 19 .

Treasurer.

FORM 2

Section 32 (3.).

CERTIFICATE OF AUDITOR-GENERAL

I certify that the amount specified in the within [or foregoing] notification by the Treasurer in relation to the appropriation of the Consolidated Revenue Fund [or of the Loan Fund] set out in the notification is lawfully available for expenditure by virtue of that appropriation in respect of the services [or purposes or services and purposes] referred to in the notification.

Dated this _____ day of _____, 19 ____ .
Auditor-General.

FORM 3

Section 32 (5.).

WARRANT OF GOVERNOR-GENERAL

To the Treasurer

You are hereby authorized to draw from the Commonwealth Public Account the amount of _____ dollars and _____ cents for expenditure in accordance with the appropriation of the Consolidated Revenue Fund [or the Loan Fund] set out in the within [or foregoing] notification in respect of the services [or purposes or services and purposes] referred to in the notification.

Given under my hand this _____ day of _____, 19 ____ .
Governor-General."

30. The Principal Act is amended as set out in the Schedule to this Act. Additional amendments.

THE SCHEDULE

Section 30.

 ADDITIONAL AMENDMENTS

1. Omit the heading appearing before section 1, insert the following heading:—

“ PART I.—PRELIMINARY.”.

2. Insert after section 1 the following section:—

“ 1A. This Act is divided into Parts, as follows:—

- Part I.—Preliminary (Sections 1–2A).
- Part II.—The Auditor-General (Sections 3–15).
- Part III.—Accounting Officers (Sections 16–19).
- Part IV.—Collection of Moneys (Sections 20–30).
- Part V.—Payment of Moneys (Sections 31–37B).
- Part VI.—Audit and Inspection (Sections 38–48).
- Part VII.—Statements and their Audit (Sections 49–54).
- Part VIII.—The Loan Fund (Sections 55–59).
- Part IX.—The Trust Fund (Sections 60–62B).
- Part X.—Moneys outside the Commonwealth (Section 63).
- Part XI.—Naval Expenditure (Section 63A).
- Part XII.—Penalties (Sections 64–70).
- Part XIII.—Miscellaneous (Sections 70A–71).”.

3. Omit the heading appearing before section 3, insert the following heading:—

“ PART II.—THE AUDITOR-GENERAL.”.

4. Omit the heading appearing before section 16, insert the following heading:—

“ PART III.—ACCOUNTING OFFICERS.”.

THE SCHEDULE—*continued*

5. Omit the heading appearing before section 20, insert the following heading:—
“ PART IV.—COLLECTION OF MONEYS.”
6. Omit the heading appearing before section 31, insert the following heading:—
“ PART V.—PAYMENT OF MONEYS.”
7. Omit the heading appearing before section 38, insert the following heading:—
“ PART VI.—AUDIT AND INSPECTION.”
8. Omit the heading appearing before section 49, insert the following heading:—
“ PART VII.—STATEMENTS AND THEIR AUDIT.”
9. Omit the heading appearing before section 55, insert the following heading:—
“ PART VIII.—THE LOAN FUND.”
10. Omit the heading appearing before section 60, insert the following heading:—
“ PART IX.—THE TRUST FUND.”
11. Omit the heading appearing before section 63, insert the following heading:—
“ PART X.—MONEYS OUTSIDE THE COMMONWEALTH.”
12. Omit the heading appearing before section 63A, insert the following heading:—
“ PART XI.—NAVAL EXPENDITURE.”
13. Omit the heading appearing before section 64, insert the following heading:—
“ PART XII.—PENALTIES.”
14. Omit the heading appearing before section 70A, insert the following heading:—
“ PART XIII.—MISCELLANEOUS.”
15. Omit the heading appearing before section 71.