

Public Account (Further Amendment) Bill

No.

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SCHEDULE

New Schedule inserted in **Public Account Act 1958**

LEGISLATIVE ASSEMBLY

Read 1° 14 November 1991

(Brought in by Mr A. Sheehan and Mr Roper)

A BILL

to amend the **Public Account Act 1958** and the **Audit Act 1958** and for other purposes.

Public Account (Further Amendment) Act 1991

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The purposes of this Act are—

- 5 (a) to improve financial administration;
- (b) to make better provision for the accountability of the public sector.

2. *Commencement*

10 This Act comes into operation on a day or days to be proclaimed.

Section headings appear in bold italics and are not part of the Act (see **Interpretation of Legislation Act 1984**).

N . 6345.
R printed to
No. 9921 and
subsequ ntly
am nd d by
Nos 10045,
55/1987.

3. Principal Act

In this Act, the **Public Account Act 1958** is called the Principal Act.

PART 2—AMENDMENT OF PUBLIC ACCOUNT ACT 1958

4. Amendment of introductory provisions 5

In the Principal Act—

(a) before section 1 insert—

“PART 1—PRELIMINARY”;

(b) section 2 is repealed.

5. New section 3 substituted 10

For section 3 of the Principal Act substitute—

“3. Definitions

In this Act—

“**accountable officer**”, in relation to an authority, means the accountable officer for that authority as determined under section 12F; 15

“**accounting records**” includes—

(a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry; and 20

(b) such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up; 25

“**administrative unit**” has the same meaning as in section 2 of the **Annual Reporting Act 1983**;

“authority” means—

- (a) an administrative unit;
- (b) a public body;

“chief finance and accounting officer”, in relation to an authority, means the person designated as that officer for the purposes of section 12H;

“public body” means—

- (a) a public statutory authority; or
- (b) a person or body prescribed for the purposes of this definition.

3A. Delegation

The Minister may, by instrument, delegate to any person or class of persons employed in the administration of this Act any power of the Minister under this Act or the regulations, other than this power of delegation.

3B. Directions

(1) The regulations may—

(a) authorise the Minister to give to an authority, an accountable officer or a chief finance and accounting officer directions for or in relation to any of the matters for and in relation to which regulations may be made under this Act;

(b) provide that a contravention of a direction is a contravention of the regulations.

(2) Directions referred to in sub-section (1) must not be inconsistent with the regulations.”

6. Part 2

For the heading preceding section 4 of the Principal Act substitute—

“PART 2—THE CONSOLIDATED FUND”.**7. *The Consolidated Fund***

5

In section 4 of the Principal Act—

(a) in sub-section (2), paragraphs (b) and (c) are **repealed**;

(b) after sub-section (2) (d) **insert—**

“(e) all other money which by or under any Act is payable to a person holding any office or place in the public service and which is not, by or under any Act required to be paid to the Trust Fund or any other fund.”;

10

(c) sub-section (5) is **repealed**.

15

8. *New sections 4B and 4C inserted*

After section 4A of the Principal Act **insert—**

“4B. *Appropriations in respect of swap contracts*

(1) In this section, “swap contract” means an agreement entered into by the Minister, on behalf of the State, with any person, either within or outside Victoria and whether before or after the commencement of the **Public Account (Further Amendment) Act 1991**, under which—

20

(a) the State undertakes to make payments in any currency to, or to the account of, the other party to the agreement; and

25

(b) the other party undertakes to make payments to, or to the account of, the State, in the same or another currency.

30

(2) The Minister has, and the Minister and the Treasurer are to be taken always to have had, power to enter into swap contracts.

5 (3) Any money payable by the State under a swap contract and any expenditure incurred in connection with the negotiation, management or service of, or a repayment under, a swap contract, shall be paid out of the Consolidated Fund, which is hereby to the necessary extent
10 appropriated accordingly.

4c. *Appropriation for borrowing against future appropriation*

15 (1) The Governor in Council, on the recommendation of the Minister, may by Order published in the Government Gazette approve the allocation to an authority of amounts in addition to the amount appropriated to the recurrent services and works and purposes of that authority in the annual appropriation.

20 (2) The Minister must not recommend an allocation under this section unless satisfied that it is for the purpose of expenditure considered prudent and necessary in the current financial year and that the benefit of that expenditure will accrue, or
25 continue, in the next financial year.

30 (3) An amount approved for allocation to an authority in a financial year must not exceed an amount equal to 3 per centum of the amount appropriated to the recurrent services and works and purposes of the authority in the annual appropriation for that year.

35 (4) The Minister may issue out of the Consolidated Fund amounts approved by the Governor in Council under this section not exceeding in a financial year a total amount equal to one half of one per centum of the annual appropriation for that year.”.

9. New section 4D inserted

In the Principal Act, before the heading “Works and Services Account” insert—

“4D. Annotations

If it is provided by a Table to an Appropriation Act for a financial year that money of a specified description that is received may be credited to a program or item in that Table—

- (a) an amount equal to the total of money of that description received in that financial year shall be deemed to have been appropriated for the purposes and services referred to in that program or item; and
- (b) the Minister may issue the amount first-mentioned in paragraph (a) out of the Consolidated Fund and apply it accordingly.”.

10. Part 4

For the heading preceding section 5 of the Principal Act substitute—

“PART 4—WORKS AND SERVICES ACCOUNT”

11. Part 5

For the heading preceding section 7 of the Principal Act substitute—

“PART 5—THE CASH MANAGEMENT ACCOUNT”

12. Part 6

For the heading preceding section 7D of the Principal Act substitute—

“PART 6—THE STATE DEVELOPMENT ACCOUNT”

13. *Part 7*

For the heading preceding section 7G of the Principal Act **substitute—**

“PART 7—THE VICTORIAN DEVELOPMENT FUND”

5 14. *Part 8*

For the heading preceding section 8 of the Principal Act **substitute—**

“PART 8—THE TRUST FUND”

15. *New Part 9 inserted*

10 After section 12 of the Principal Act **insert—**

“PART 9—PUBLIC MONEY

12A. *Public ledger*

The Minister must establish and maintain a ledger to record—

- 15
- (a) all cash transactions on the Public Account; and
 - (b) such other transactions on the Public Account and such account balances as the Minister determines.

20 **12B. *Public Bank Account***

The Minister must open and maintain the Public Bank Account with such bank or banks as the Minister determines.

12C. *Bank accounts of authorities*

- 25
- (1) An authority may, with the approval in writing of the Minister, and in accordance with such

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terms and conditions as the Minister determines, open and maintain a bank account with a bank or banks.

- (2) Unless the Minister otherwise determines in writing, a bank account opened under this section does not form part of the Public Account. 5
- (3) Money must not be withdrawn from a bank account opened under this section except in accordance with the regulations and directions.

12D. *Receipt of public money* 10

A person who collects or receives public money must, in accordance with the regulations and directions, daily or at such intervals as the Minister determines, pay the money into the Public Bank Account or a bank account opened under section 12C. 15

Penalty: 5 penalty units.

12E. *Drawing money from Consolidated Fund*

- (1) Money in the Consolidated Fund may be withdrawn only in accordance with a warrant under this section. 20
- (2) The Minister, as often as necessary during a financial year—
 - (a) must calculate the amount of public money likely to become due and payable out of the Consolidated Fund during that financial year; 25
 - (b) must prepare an instrument in or to the effect of the form in Schedule 1 specifying the amount and classifying and arranging it under the same programs and subdivisions of programs as have been used in the appropriation; 30
 - (c) must sign the instrument and give it to the Governor. 35

- (3) An instrument under this section signed by the Minister and approved and signed by the Governor is a warrant for the issue of money from the Consolidated Fund.

5 **12F. *Accountable officer***

- (1) There must be an accountable officer for each authority.

- (2) Unless the Minister administering this section otherwise determines—

- 10 (a) the accountable officer for an administrative unit is the chief administrator of that unit; and
 (b) the accountable officer for a public body is the chief executive officer, by whatever name called, of that body.
- 15

12G. *Duties of accountable officers*

Each accountable officer must maintain such accounting records and systems and other records as are prescribed or required under directions of the Minister.”.

20

12H. *Chief finance and accounting officer and other officers*

- (1) Each accountable officer must designate, in respect of the financial administration of the services under the officer’s control—
- 25

- (a) a position of chief finance and accounting officer;
(b) officers whose duty it is to receive money;
(c) officers whose duty it is to make payments—
- 30

and must advise the Minister administering this section of the designation of the chief finance and accounting officer.

(2) The chief finance and accounting officer is responsible to the accountable officer for ensuring that proper accounting records and systems and other records are maintained in accordance with the regulations and directions.”. 5

16. Part 10

For the heading preceding section 13 of the Principal Act **substitute—**

“PART 10—SPECIAL APPLICATIONS FROM PUBLIC ACCOUNT” 10

17. Repeal of sections 13 and 14

Sections 13 and 14 of the Principal Act are **repealed**.

18. Amendment of section 15

In section 15 (1) of the Principal Act, **omit** “Government Departments and” (where twice occurring”. 15

19. New section 15A inserted

After section 15 of the Principal Act **insert—**

“15A. Temporary applications

(1) There may be issued and applied temporarily out of the Public Account— 20

(a) money required for payment by the Minister by agreement with or on account of any other Government;

(b) money required for payment by the Minister to or on account of an authority— 25

pending repayment by the Government or authority.

(2) If the Minister so determines, interest must be paid by an authority on money issued and applied to it under this section—

- 5 (a) at such rate or rates calculated on such basis or bases as are determined by the Minister from time to time; and
- (b) when the sums are refunded and paid into the Public Account.

20. *Amendment of section 16*

10 (1) In section 16 (1) of the Principal Act for “any sum or sums (not exceeding in all \$30 000 000)” **substitute** “in a financial year any sum or sums (not exceeding in all one half of one per centum of the total amount appropriated out of the Consolidated Fund by the annual appropriation for that year)”.

15

(2) In section 16 (3) of the Principal Act, for the Proviso, **substitute—**

“**(4) If—**

- 20 (a) Parliamentary sanction has not been obtained for the expenditure under this section during a financial year; and
- (b) the Minister considers it is necessary or expedient to carry forward any part of that expenditure to the accounts of the next financial year—
- 25

the Minister must include a statement of the reasons for carrying it forward in the annual statement of financial operations of the Minister under section 22B.”.

30 **21. *Repeal of section 18***

Section 18 of the Principal Act is **repealed**.

22. *Amendment of section 21*

(1) In section 21 (1) of the Principal Act, for “the Governor in Council may authorize the Treasurer in such manner

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and subject to such terms and limitations as the Treasurer thinks fit to” **substitute** “the Minister may”.

- (2) In section 21 (3) of the Principal Act, for “Governor in Council” **substitute** “Minister”.

23. Part 11 5

For the heading preceding section 21A of the Principal Act **substitute**—

“PART 11—UNCLAIMED PROPERTY”

24. Part 12

For the heading preceding section 22 of the Principal Act **substitute**— 10

“PART 12—GENERAL”

25. New sections 22, 22A and 22B substituted

For sections 22 and 22A of the Principal Act **substitute**—

“22. Writing off 15

An amount in respect of a loss or deficiency in a public account or account of an authority, or an amount of revenue or a debt may be written off by the Minister administering this section in accordance with the regulations. 20

22A. Liability in respect of loss or damage

- (1) In this section—

“**officer**” means a person employed in the service of an authority but does not include a person who has ceased to be so employed. 25

- (2) An officer who, by misconduct or by performing any duties in a grossly negligent manner, causes or contributes to a loss or deficiency in public

5 money or the loss or destruction of or damage to other property of the State is liable to pay to the State an amount equal to the amount of the loss or deficiency or the value of the property lost or destroyed.

10 (3) If an accountable officer, or the chief finance and accounting officer, of an authority is satisfied that an officer of the authority is liable for a loss, deficiency, destruction or damage under sub-section (1), the accountable officer or chief finance and accounting officer must direct that an investigation be held.

15 (4) An investigation for the purposes of sub-section (3) must be conducted in accordance with, and by a person appointed under, the regulations.

(5) After considering the report of an investigation under this section, the accountable officer or chief finance and accounting officer—

20 (a) must determine that an amount specified in the report of the investigation is to be recovered from the officer; or

(b) must declare that the amount is not to be so recovered.

25 (6) If an amount is to be recovered from an officer as a result of a determination under sub-section (5), the amount is recoverable from the officer as a debt due to the State.

22B. *Annual statement of financial operations*

30 (1) The Minister must cause a statement of financial operations for each financial year to be laid before each House of the Parliament on or before 31 October in that year or, if the House is not sitting on 31 October, on the next sitting of the House after that day.

35 (2) The statement—

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- (a) must be prepared in the manner and form required approved by the Minister;
- (b) must present fairly the financial transactions of the Public Bank Account for the financial year; 5
- (c) must include details of swap contracts entered into under section 4B during the financial year;
- (d) must include details of money of a specified description received or credited under section 4D to a program or item in a Table to the Appropriation Act for that financial year; 10
- (e) may contain such other information as the Minister considers appropriate; and 15
- (f) must be audited by the Auditor-General.”.

26. *Repeal of section 23*

Section 23 of the Principal Act is **repealed**.

27. *New section 24 substituted*

For section 24 of the Principal Act **substitute—** 20

“24. *Regulations*

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) the collection, receipt, custody, issue, expenditure, recording, accounting and management of all public money; 25
 - (b) prescribing the methods of calculation and payment of salaries and wages;
 - (c) the issue, control and disbursement of money applied temporarily from the Public Account; 30

- 5
- (d) the recording, examination, inspection and checking of receipts and expenditure and the keeping of accounting records;
- (e) prescribing forms for the purposes of this Act or the regulations;
- 10 (f) the method of dealing with and accounting for securities coming into the possession of an accountable officer or other person;
- (g) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.
- (2) The regulations—
- 15 (a) may be of a general or limited application;
- (b) may differ according to differences in time, place or circumstances;
- (c) may confer a discretionary authority or impose a duty on a specified person or class of person;
- 20 (d) may provide in a specified case or class of case for the exemption of persons or things or class of persons or things from any of the provisions of the regulations, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified;
- 25 (e) may impose a penalty not exceeding 5 penalty units for a contravention of the regulations.”.

30 **28. *New Schedule substituted***

For the Schedule to the Principal Act, **substitute** Schedule 1 set out in the Schedule to this Act.

29. Amendment of references to Treasurer

For “Treasurer” (wherever occurring) in the following provisions of the Principal Act **substitute** “Minister”:

Sections 4 (2) (d), (3), (4), 5 (2), (3), (4), (4A), (5), (6), 6, 7 (3), (4), (5), (6), (7), 7A (1), (3), (4), 7B (1), (2), (3), (4), 5 (5), 7D (2), (3), (4), 7E (1), (3), (4), 7F (1), (2), (3), 7G (2), (4), (5), 8 (1), (4), (5), 9 (1), (2), (3), (4), 10, 12, 15 (1), (2), 16 (1), 20 (1), 21 (1), 21A (1), (2), (3).

PART 3—AMENDMENT OF AUDIT ACT 1958

N . 6203.
R print d t
No. 16/1986
and
subsequ ntly
amend d by
Nos 110/1986,
97/1987,
19/1989,
57/1989 and
44/1990.

30. Repeal of provisions 10

In the **Audit Act 1958**—

- (a) sections 7, 8, 9 and 10 are **repealed**;
- (b) Parts II and III are **repealed**;
- (c) sections 27, 28, 29, 30, 34, 35, 36, 37, 37A, 38, 38A, 46 and 47 are **repealed**;
- (d) the Schedules, except the First Schedule and the Sixteenth Schedule, are **repealed**.

PART 4—MISCELLANEOUS**31. Transitional provisions**

- (1) Sections 46 and 47 of the **Audit Act 1958** continue to apply in respect of the financial year ending on 30 June 1992 as if the **Audit Act 1958** had not been amended by this Act. 20
- (2) A person who, immediately before the commencement of this section, was a receiver of revenue under the Principal Act continues, until his or her appointment is revoked by the Minister, to be a person whose duty it is to receive public money. 25

32. References to receiver of revenue

5 A reference in an Act or in regulations under an Act to a receiver of revenue is to be taken to be a reference to a person, or person included in a class of persons declared by order of the Treasurer published in the Government Gazette to be an officer whose duty it is to receive payment of fees by way of money or to otherwise collect public money.

33. Consequential amendments

- 10 (1) In section 4 (4) of the **Administrative Arrangements Act 1983**, for “**Audit Act 1958** or the regulations made under that Act” substitute “**Public Account Act 1958** or regulations or directions under that Act”.
- 15 (2) In section 11 of the **Disposal of Uncollected Goods Act 1961**—
- (a) in sub-section (2), for “receiver of revenue in Melbourne” substitute “Registrar of Unclaimed Moneys”;
- 20 (b) in sub-sections (3) and (4), for “receiver of revenue” (wherever occurring) substitute “Registrar of Unclaimed Moneys”.
- (3) In section 62 (14) of the **Environment Protection Act 1970**, for “Receiver of Revenue at the Treasury in Melbourne to be placed to the credit of the Unclaimed Moneys Fund” substitute “Registrar of Unclaimed Moneys”.
- 25 (4) In the **Land Act 1958**—
- (a) in section 370 (1), for “Collector of Imposts” substitute “Minister”;
- 30 (b) in section 370 (2), omit “and of the Collector of Imposts”;
- (c) in section 371 (2), for “Collector of Imposts’ receipt” substitute “Minister’s receipt”.
- 35 (5) In section 4 (4) of the **Land Conservation Act 1970**, for “**Audit Act 1958**” substitute “**Public Account Act 1958**”.

- (6) In section 42D (1) of the **Landlord and Tenant Act 1958**, for “receiver of revenue in Melbourne” substitute “Registrar of Unclaimed Moneys”.
- (7) In the **Legal Profession Practice Act 1958**—
- (a) in section 40A (1), for “receiver of revenue in Melbourne” substitute “Registrar of Unclaimed Moneys”; 5
- (b) in section 40A (4), for “receiver of revenue” substitute “Registrar of Unclaimed Moneys”;
- (c) in section 104P (5), for “receiver of revenue in Melbourne” substitute “Registrar of Unclaimed Moneys”; 10
- (d) in section 104P (6), for “receiver of revenue” substitute “Registrar of Unclaimed Moneys”.
- (8) In section 13 (6) of the **Marketing of Primary Products Act 1958**, for “receiver of revenue in Melbourne” substitute “Registrar of Unclaimed Moneys”. 15
- (9) In section 26 (3) (c) (ii) of the **Pounds Act 1958**, for “a receiver of revenue” substitute “the Minister”.
- (10) In the **Stamps Act 1958**— 20
- (a) in section 7 (2) (a), for “Receiver of Revenue under the **Audit Act 1958**” substitute “person, or person included in a class of persons, declared by order of the Treasurer published in the Government Gazette to be an officer whose duty it is to receive payment of fees by way of money,”; 25
- (b) in section 8 (1), for “Receiver of Revenue under the **Audit Act 1958**” substitute “by a person to whom a declaration under section 7 (2) (a) applies”.
- (11) For section 127 of the **Supreme Court Act 1986** substitute— 30

“127. Court officials subject to audit for receipt of public money

The accounts of the Senior Master, the Sheriff, the Prothonotary and the Registrar of Probates relating to the collection of public money must 35

be audited by the Auditor-General or a person authorised by the Auditor-General.”

(12) In the **Unclaimed Moneys Act 1962**—

- 5 (a) in section 5, for “Receiver of Revenue in Melbourne” **substitute** “Registrar of Unclaimed Moneys”;
- (b) in section 11 (4), **omit** “at the Treasury in Melbourne”;
- 10 (c) in section 11 (7), for “receiver of revenue” **substitute** “Registrar”;
- (d) in section 12 (1), for “receiver of revenue at the Treasury in Melbourne” **substitute** “Registrar”;
- (e) in section 12 (3) and (4), for “Receiver of Revenue” **substitute** “Registrar”;
- 15 (f) in section 13A (1) for “Receiver of Revenue at the Treasury in Melbourne to be placed to the credit of the Unclaimed Moneys Fund” **substitute** “Registrar”;
- (g) in section 15 (1)—
- 20 (a) for “Receiver of Revenue in Melbourne” **substitute** “Registrar”;
- (b) for “Receiver of Revenue” **substitute** “Registrar”.

(13) In the **Warehousemen’s Liens Act 1958**—

- 25 (a) in section 10 (3) for “receiver of revenue in Melbourne” **substitute** “Registrar of Unclaimed Moneys”;
- (b) in section 10 (4) and (7), for “receiver of revenue” **substitute** “Registrar of Unclaimed Moneys”;
- 30 (c) in section 11 (1) (f), for “receiver of revenue” **substitute** “Registrar of Unclaimed Moneys”.

Sch.

Public Account (Further Amendment)

SCHEDULE

s. 28

New Schedule 1 inserted in **Public Account Act 1958**

“SCHEDULE 1

Warrant

To the Governor

The amount of public moneys likely to become due and payable out of the Public Account during _____ is _____ dollars and the services and purposes for which the same will be required are as follows:

<i>From Consolidated Fund</i>		<i>Amount</i>
<i>Program</i>	<i>Sub-division of Program</i>	
		\$

<i>Total</i>		<i>\$</i>
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Dated this _____ day of _____ 19____

A.B.
Minister

To the Minister.

You are hereby authorised to issue out of the Public Account the amount above set forth, and for so doing this shall be your sufficient warrant.

Given under my hand the
day of _____

C.D.
Governor.”.