

# Financial Management and Audit Acts (Amendment) Bill

## EXPLANATORY MEMORANDUM

### PART 1—PRELIMINARY

*Clause 1* states the purpose of the Act.

*Clause 2* states the commencement dates of the various provisions of the Act.

*Clause 3* refers to the **Financial Management Act 1994** as the Principal Act.

### PART 2—AMENDMENT OF THE FINANCIAL MANAGEMENT ACT 1994

*Clause 4* substitutes new sections 45, 46 and 47 for those sections in the Principal Act. Sections 45, 46 and 47 now relate to both departments and public bodies as follows:

*Section 45* Requires a report of operations and financial statements to be prepared as soon as practicable after the end of each financial year and the financial statements to be submitted to the Auditor-General within 8 weeks after the end of the financial year.

*Section 46* Requires the report of operations and audited financial statements to be laid before each House of Parliament on or before 31 October or, if a House is not sitting, the first sitting day after 31 October.

*Section 47* Allows the Minister to grant exemptions as to the reporting requirements.

*Clause 5* states that the new sections 45, 46 and 47 apply in respect of each financial year ending after 1 January 1996, except new section 45 (4), which applies immediately so that the Environment Protection Authority will prepare independent financial statements for the current financial year.

*Clause 6* provides for annual reports of State-owned corporations and other bodies with a public function to be tabled in Parliament. The clause will allow the continuance of reporting to Parliament by, for example, denominational hospitals.

*Clause 7* (1) provides for amendments to the Principal Act as follows:

- (a) Widens the definition of “public body” to include State bodies.
- (b) Extends the definition of “relevant Minister” to the entire Act.
- (c) Allows the Governor in Council to declare a Minister to be the “relevant Minister” for the entire Act as a consequence of the change in definition.
- (d) Extends the scope of liabilities that are to be included in the Statement of Financial Operations to those of the State and allows prescribed assets and prescribed liabilities of prescribed bodies to be included also.

- (e) Paragraphs (e) to (i) amend sections 29 to 31 so that those sections can apply to interim appropriation Acts as well as annual appropriation Acts. Section 29 allows the crediting of certain receipts against items of departmental expenditure set out in an appropriation Act. Section 30 allows amounts to be transferred between items of departmental expenditure set out in an appropriation Act. Section 31 provides similarly with respect to appropriation Acts for the Parliament.
- (j) Makes a consequential amendment to section 48 as a result of clause 4.
- (k) Makes a consequential amendment to section 49 as a result of clause 4.
- (l) Makes a consequential amendment to section 51 as a result of clause 4.
- (m) Repeals section 52 (1) which is no longer necessary as reports are required to be submitted to the Auditor-General within 8 weeks by new section 45.
- (n) Provides for the chief finance and accounting officer, accountable officer or relevant Minister to write off public money in accordance with the regulations.
- (o) Redefines references to “Minister” as the relevant Minister in section 56 (5) and (6), thereby allowing the relevant Minister (rather than the Minister for Finance) to make decisions in relation to the recovery of overpayments to officers.
- (p) Repeals section 59 (4) and (5) as they relate to provisions now found in the **Subordinate Legislation Act 1994**.
- (q) Repeals section 64 which is no longer required as it merely repealed other Acts and is now spent.

*Sub-clause (2)* amends items 7 and 29 in Schedule 2 to the Principal Act by changing a reference to the Unclaimed Moneys Fund to the Consolidated Fund because of prior amendments to the **Unclaimed Moneys Act 1962** and by correcting a reference to the **Victorian Prison Industries Commission Act 1983**.

### **PART 3—GUARANTEES AND FINANCIAL ACCOMMODATION**

*Clause 8* inserts a definition of financial accommodation in the Principal Act.

*Clause 9* inserts new Parts 6B and 6C into the Principal Act.

*Part 6B* inserts provisions enabling the imposition of Guarantee Charges into the Principal Act as follows:

*Section 40i* defines a “State guarantee” as a guarantee executed by the Treasurer or given pursuant to an Act.

*Section 40j* provides that Part 6B does not apply to financial accommodation obtained before the commencement of that section.

*Section 40k* Sub-clause (1) provides that the Treasurer may determine that a guarantee charge is payable at an annual percentage rate not exceeding the difference between the cost of the financial accommodation with the guarantee as compared with the estimated cost of the financial accommodation without the guarantee.

*Sub-clause (2)* provides that a person required to pay a guarantee charge must pay to the Treasurer:

- annually, an amount determined by multiplying the rate determined under sub-clause (1) by the amount of financial accommodation subject to guarantee at the end of each financial year; or
- where financial accommodation is obtained and repaid within a financial year, an amount determined by multiplying the rate referred to in sub-clause (1) by the limit of the guarantee.

*Section 40L* requires a person who is required to pay a guarantee charge to provide information for the purpose of determining the annual charge.

*Part 6c* inserts provisions into the Principal Act enabling the imposition of financial accommodation levies as follows:

*Section 40M* defines a “leviable authority” as a public authority declared by Order in Council published in the Government Gazette as a leviable authority for the purposes of Part 6c.

*Section 40N* Sub-clause (1) provides that a leviable authority must pay to the Treasurer a levy in respect of all or a portion of its financial accommodation, as determined by the Treasurer, in respect of a leviable period.

*Sub-clause (2)* provides for the levy to be determined by multiplying the liabilities of the leviable authority at the end of the leviable period by a rate determined annually by the Treasurer or a person authorised by the Treasurer not exceeding the difference between the cost of the financial accommodation and the estimated cost of the financial accommodation if the leviable authority was not a public authority.

*Sub-clause (3)* provides the Treasurer or authorised person may have regard to such matters as the Treasurer or person determines in determining the levy.

*Sub-clause (4)* provides that the levy is payable at such times and in such manner as the Treasurer determines and may be recovered as a debt due to the State.

*Sub-clause (5)* defines “leviable period” as a financial year or such shorter period as the Treasurer determines in relation to a particular leviable authority.

*Section 40o* provides that a leviable authority subject to a financial accommodation levy is not liable to pay a guarantee charge.

*Clause 10* repeals section 87A of the **State Owned Enterprises Act 1992** which provided for the imposition of a levy on state owned enterprises.

#### **PART 4—AMENDMENT OF THE AUDIT ACT 1994**

*Clause 11* widens the definition of “public body” to include State bodies.

*Clause 12* requires the Auditor-General to make a report on each annual audit within 4 weeks of receiving the relevant financial statements.

*Clause 13* extends the references to departments in sections 10 (2), 16 (7) and 16 (8) to include public bodies. Payment for performance audits of public bodies, like departments,

will be made from money appropriated to the Parliament (previously the public bodies were required to make the payment). Further the conduct of performance audits of public bodies, like performance audits of departments, will be determined by the Auditor-General in consultation with the Public Accounts and Estimates Committee of the Parliament (previously this Committee did not consider issues relating to performance audits of public bodies).

*Clause 14* repeals sections 21 (2) and (3) which are no longer necessary as they relate to provisions now found in the **Subordinate Legislation Act 1994**. This clause also repeals Part 7 which merely amended or repealed other Acts and is now spent.

### **PART 5—AMENDMENT OF OTHER ACTS**

*Clause 15* omits the words “out of moneys made available by Parliament for the purpose” from the **Co-operative Housing Societies Act 1958** to allow for further global appropriations.

*Clause 16* repeals paragraph (b) of section 15 (9) of the **Crown Land (Reserves) Act 1978** as provision for the Auditor-General to audit the financial statements of committees of management is provided for in the **Audit Act 1994**.

*Clause 17* repeals section 18 of the **Dried Fruits Act 1958** as accounting, auditing and reporting are now included in the **Financial Management Act 1994** and the **Audit Act 1994**. This also changes the financial year of the Dried Fruits Board to the year ending 30 June (formerly it was the year ending 31 December). Section 16 is also amended to allow the Board to pay from its Fund audit fees as required by section 10 of the **Audit Act 1994**.

*Clause 18* repeals a redundant section in the **Film Victoria Act 1981** as a result of altered appropriation arrangements.

*Clause 19* amends Schedules 1 and 2 of the **Financial Management (Consequential Amendments) Act 1994** to correct incorrect references.

*Clause 20* amends section 53 of the **Legal Profession Practice Act 1958** to enable money to be paid out of the Solicitors’ Guarantee Fund to defray the Auditor-General’s costs of auditing the accounts of the Fund. This section previously referred to the **Annual Reporting Act 1983** which has since been repealed.

*Clause 21* inserts section 56 of the **Legal Profession Practice Act 1958** to enable the Auditor-General to audit the accounts of the Solicitors’ Guarantee Fund.

*Clause 22* amends section 91 of the **Medical Practice Act 1994** by substituting references to the **Financial Management Act 1994** for the **Public Account Act 1970**.

*Clause 23* amends the **Project Development and Construction Management Act 1994** as follows:

- (a) section 3 (1) to correct a printing error in the definition of public body;
- (b) section 18 (2) to correct a reference to “the **Crown Land (Reserves) Act 1978**”;
- (c) section 44 to correct the numbering contained in that section;
- (d) section 58 (2)—corrects a reference to “ULA land “ to “ULA property”.

*Clause 24* amends the heading of Part II of the **Unclaimed Moneys Act 1962** from “Companies and Firms” to “Businesses”, consistent with other recent amendments to that Act.

