

Version No. 021
Financial Management Act 1994

Act No. 18/1994

Version incorporating amendments as at 1 July 1997

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purposes*

The purposes of this Act are—

- (a) to improve financial administration of the public sector;
- (b) to make better provision for the accountability of the public sector;
- (c) to provide for annual reporting to the Parliament by departments and public sector bodies.

2. *Commencement*

- (1) Part 1 and sections 60 and 61 come into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act come into operation on 1 July 1994.

3. *Definitions*

In this Act—

S. 3 def. of
"accountable
officer"
amended by
No. 75/1994
s. 5(1)(a)(i)(ii).

"**accountable officer**", in relation to a department or public body, means the accountable officer for that department or public body as determined under section 42;

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

"authority" means—

- (a) a department; or
- (b) a person or body prescribed as an authority for the purposes of this Act;

"Board" means the Victorian Government Purchasing Board established by section 54A;

S. 3 def. of "Board" inserted by No. 75/1994 s. 5(1)(b).

"chief finance and accounting officer", in relation to an authority or public body, means the person designated as that officer for the purposes of section 43;

"department" means—

- (a) department within the meaning of section 4 of the **Public Sector Management Act 1992**; or
- (b) an office specified in section 17(1) of that Act;

"enactment" means a rule, regulation, by-law, order, Order in Council, proclamation or other instrument of a legislative character;

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S. 3 def. of
"financial
accommoda-
tion" inserted
by No.
43/1995 s. 8.

"financial accommodation" has the same
meaning as in the **Borrowing and
Investment Powers Act 1987**;

S. 3 def. of
"financial
year"
amended by
No. 75/1994
s. 5(1)(c).

"financial year" means—

- (a) in relation to a public body—
 - (i) if the Minister has made a determination under section 6 with respect to the financial year of that public body, the period referred to in the determination;
 - (ii) if a period is determined by or under any other Act to be the financial year for that public body, that period;
- (b) in any other case, the period of 12 months ending at midnight on 30 June;

S. 3 def. of
"public body"
amended by
Nos 75/1994
s. 5(1)(d)(i)(ii),
43/1995
s. 7(1)(a).

"public body" means—

- (a) a public statutory authority;
- (b) a State business corporation or State body within the meaning of the **State Owned Enterprises Act 1992**;
- (c) a body, office or trust body—
 - (i) established by or under an Act or enactment; or
 - (ii) established by the Governor in Council or a Minister—

and that is declared by the Minister, by notice published in the Government Gazette, to be a body or office to which Part 7 applies;

"services", in relation to a department, includes recurrent services and works and services;

"the relevant Minister" means—

- (a) in relation to a department, the Minister or Ministers for the time being responsible for any part of that department;
- (b) in relation to a public body established by or under a provision of an Act or enactment, the Minister or Ministers for the time being administering that provision or enactment;
- (c) in relation to any other public body, the Minister declared by Order under section 5 to be the relevant Minister;
- (d) in relation to a body to which section 53A applies, the Minister declared by notice under section 53A(3) to be the relevant Minister in relation to the body for the purposes of section 53A;

S. 3 def. of "the relevant Minister" substituted by Nos 75/1994 s. 5(1)(e), 43/1995 s. 7(1)(b).

"trust body" means a body (including a trustee or trustees) who or which, or any office the holder of which, is charged with the control or management of any trust, fund, account or superannuation scheme which is established by an Act or enactment or by the Governor in Council or a Minister.

* * * * *

S. 4 repealed by No. 75/1994 s. 5(2).

5. Relevant Minister

The Governor in Council may, by Order, declare a Minister to be the relevant Minister in relation to a public body for the purposes of this Act.

S. 5 amended by No. 43/1995 s. 7(1)(c).

S. 6
substituted by
No. 75/1994
s. 6,
amended by
No. 100/1995
s. 26(1).

6. Declaration of financial year

- (1) The Minister may determine in writing that a period, other than the period of 12 months ending at midnight on 30 June or the period determined by or under any other Act, is the financial year for a public body for the purposes of its first or final report of operations and financial statements under Part 7.
- (2) Unless inconsistent with another Act, the Minister may, in relation to a public body or class of public bodies, in writing determine that a period, other than the period of 12 months ending at midnight on 30 June, is the financial year for that public body or public bodies of that class for the purposes of Part 7.

S. 6(2)
inserted by
No. 100/1995
s. 26(2).

7. 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.

8. Directions

- (1) The regulations may authorise the Minister to give to an authority or public body, an accountable officer or a chief finance and accounting officer directions in writing for or in relation to any of the matters for and in relation to which regulations may be made under this Act.
- (2) Directions referred to in sub-section (1) must not be inconsistent with this Act or the regulations.

PART 2—THE CONSOLIDATED FUND

9. *The Consolidated Fund*

- (1) There shall be established and kept an account to be known as the Consolidated Fund.
- (2) There shall be credited to the Consolidated Fund—
 - (a) all money forming part of the Consolidated Revenue under the **Constitution Act 1975**;
 - (b) all money—
 - (i) raised by or on behalf of or received by the State; or
 - (ii) which by or under an Act is payable to a person holding an office or place in the public service—

and which is not, by or under an Act, required or authorised to be paid to the Trust Fund, or an account in the Trust Fund, or to any other fund.
- (3) If the purpose for which money must be applied is defined by the Commonwealth, the Minister may accept the money and credit it to a suitable account in the Trust Fund and, without any other authority than this Act, authorise the disbursement of the money for that purpose.

10. *Appropriation of Commonwealth grants etc.*

If, under an Act of the Commonwealth or an arrangement between the Commonwealth and the State, money is or will be made available by the Commonwealth to the State by way of grant or otherwise, the Minister may, with approval of the Governor in Council, issue out of the Consolidated Fund such amount as is required to be expended in pursuance of the Act of the

Commonwealth or the arrangement and the Consolidated Fund is to the necessary extent appropriated accordingly.

11. *Liability under guarantees*

If any borrowing or other contract or agreement or the performance of any other contract or agreement is by any Act declared to be guaranteed by the Government of Victoria, any sums required by the Minister or the Treasurer for fulfilling any such guarantee shall be paid out of the Consolidated Fund (which is to the necessary extent appropriated accordingly) and any sums received or recovered by the Minister or the Treasurer in respect of any sum so paid by the Minister or the Treasurer shall be paid into the Consolidated Fund.

12. *Loans from Consolidated Fund*

Despite anything in any Act, if a payment is made by way of a loan from the Consolidated Fund, the Minister may determine from time to time the terms and conditions of the loan.

PART 3—PUBLIC ACCOUNT

13. *Public ledger*

The Minister must establish and maintain a ledger to record—

- (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.

14. *Public Account*

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

15. *Bank accounts of departments*

- (1) A department may, with the approval in writing of the Minister, and in accordance with such 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.
- (3) Money must not be withdrawn from a bank account opened under this section except in accordance with the regulations and directions.

16. *Receipt of public money*

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 Account or a bank account opened under section 15.

17. *How money is to be issued*

- (1) Public money forming part of the Consolidated Fund may be drawn from the Public Account only in accordance with this section.
- (2) The Minister, as often as occasion may require during a financial year, must—
 - (a) calculate the amount of public money likely to become due and payable out of the Public Account during that financial year; and
 - (b) must prepare an instrument in the form in Schedule 1 or to the like effect specifying that amount; and
 - (c) must sign the instrument and give it to the Auditor-General.
- (3) The instrument, when countersigned by the Auditor-General and approved by the Governor, is the warrant enabling the Minister to order the drawing of money from the Public Account.
- (4) Before countersigning the instrument, the Auditor-General must ascertain that the sums mentioned in it are then legally available and, after countersigning the instrument, the Auditor-General must return it to the Minister, who must submit it to the Governor for approval and signature, and then file the instrument.

18. *Investment of money in Public Account*

- (1) Any money standing to the credit of the Public Account may be invested by the Minister in any manner in which trust funds may be invested under the **Trustee Act 1958**.

S. 18(1)
amended by
No. 104/1995
s. 6(Sch. 1
item 8(a)).

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s. 18

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- (2) Except where otherwise expressly provided, interest received from the investment of any money under sub-section (1) shall be credited to the Consolidated Fund.
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PART 4—THE TRUST FUND

19. *The Trust Fund*

- (1) The Minister may establish Trust Accounts in the Trust Fund and define the purposes for which they are established.
- (2) Subject to this section, Trust Accounts existing immediately before the commencement of this section (whether or not established by an Act) continue as Trust Accounts under this section.
- (3) All money standing to the credit of an account which is a Trust Account for the purposes of this section is deemed to be money standing to the credit of the Trust Fund.
- (4) The Minister may direct that a Trust Account be closed and, after all liabilities of the Trust Account have been met, the Trust Account must be closed accordingly.
- (5) The Minister may direct that—
 - (a) any money standing to the credit of a Trust Account which is not required for the purposes of the Trust Account; and
 - (b) the balance of money standing to the credit of a Trust Account closed under this section—

be credited to the Consolidated Fund.

20. *Deposits in Trust Fund*

The Minister may—

- (a) accept deposits and credit the deposits to an appropriate Trust Account in the Trust Fund; and
 - (b) allow interest on the deposits at such rates as are from time to time prescribed.
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21. *Investment of money in Trust Account*

The Minister may invest money standing to the credit of a Trust Account in any manner in which trust funds may be invested under the **Trustee Act 1958**.

S. 21
amended by
No. 104/1995
s. 6(Sch. 1
item 8(b)).

22. *Expenditure of money in Trust Fund*

The Minister must not expend any money standing to the credit of a Trust Account in the Trust Fund except for the purposes of that Account or under the authority of this or another Act.

23. *Departmental Working Accounts*

- (1) The Minister may establish a Trust Account in the Trust Fund as a Working Account for each nominated department.
- (2) There shall be paid into the Working Account of a nominated department amounts equal to amounts received from the provision of services by the nominated department to the extent, and on the conditions, agreed between the Minister administering this section and the Minister responsible for the nominated department.
- (3) For the purposes of the payment of an amount of money into a Working Account under sub-section (2)—
 - (a) an amount equal to that amount of money is deemed to have been appropriated to that Account; and
 - (b) the Minister may issue the amount out of the Consolidated Fund and apply it for the purpose of that Account.
- (4) Money in the Working Account of a nominated department may be expended for the provision of such services by the nominated department, and

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on

such conditions, as are agreed between the Minister administering this section and the Minister responsible for the nominated department.

- (5) In this section, "**nominated department**" means a department, or part of a department, that—
- (a) provides services to the public or an authority or public body; and
 - (b) receives fees for those services that, in the opinion of the Minister, are not less than the cost of providing the services; and
 - (c) is declared by the Minister to be a nominated department for the purposes of this section.
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Pt 5 (Heading)
substituted by
No. 42/1997
s. 4(1).

S. 24
amended by
No. 42/1997
s. 4(2)(a).

S. 25
amended by
No. 42/1997
s. 4(2)(b).

PART 5—ANNUAL FINANCIAL STATEMENT

24. *Minister to prepare statement*

The Minister must, in respect of each financial year, cause a financial statement to be prepared.

25. *Form and contents of statement*

A financial statement under section 24—

- (a) must be prepared in a manner and form approved by the Minister;
- (b) must present fairly the financial transactions in the Public Account for the financial year;
- (c) must include details of amounts paid into Working Accounts under section 23;
- (d) must include details of amounts allocated to departments during the financial year under section 28;
- (e) must include details of money received and credited under section 29 to an item in a Schedule to an appropriation Act for that financial year;
- (f) must include particulars of amounts transferred in accordance with determinations under section 30 or 31;
- (g) must include particulars of—
 - (i) amounts paid to a Trust Account in accordance with a determination under section 32;
 - (ii) amounts appropriated for the services of the financial year as a result of a determination under that section in the preceding financial year;

- (iii) the expenditure during the financial year of amounts to which any such determination applies;
- (h) must include details, as at the end of the financial year, of—
 - (i) the liabilities (including contingent liabilities under guarantees and indemnities or in respect of superannuation payments and all other contingent liabilities) and prescribed assets of the State; and
 - (ii) prescribed assets and prescribed liabilities of prescribed bodies;
- (i) may include such other information as the Minister considers appropriate;
- (j) must be audited by the Auditor-General.

S. 25(h)
amended by
No. 75/1994
s. 7(1)(a),
substituted by
No. 43/1995
s. 7(1)(d).

26. Auditor-General's report

- (1) The Minister must cause a copy of the annual financial statement to be given to the Auditor-General on or before 8 September next following the year to which it relates.
- (2) The Auditor-General must make a report on the annual financial statement within 2 weeks after receiving the statement under sub-section (1) and may include in the report recommendations—
 - (a) for the more effective and efficient management of public money; and
 - (b) for the keeping of proper accounts and records of the transactions relating to public money.
- (3) The Auditor-General must, at least 7 days before the report is made, give a copy of the report to the Minister.

S. 26(1)
amended by
No. 42/1997
s. 4(2)(c)(d).

S. 26(2)
amended by
No. 42/1997
s. 4(2)(e).

S. 26(3)
amended by
No. 42/1997
s. 4(2)(f).

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s. 27

S. 26(4)
amended by
No. 42/1997
s. 4(2)(g).

(4) The Minister may make submissions or comment to the Auditor-General on the copy of the report within 5 days after the copy is given to the Minister.

S. 26(5)
amended by
No. 42/1997
s. 4(2)(g).

(5) The Auditor-General must include in the report any submissions or comment made by the Minister within 5 days after the copy is given to the Minister.

S. 27
substituted by
No. 42/1997
s. 5.

27. *Tabling of report*

The Minister must cause a copy of the annual financial statement for a financial year, together with a copy of the Auditor-General's report on that statement, to be laid before each House of the Parliament within 7 sitting days of the House after 30 September next following that year.

PART 6—BUDGET MANAGEMENT

28. *Appropriation for borrowing against future appropriation*

- (1) The Governor in Council, on the recommendation of the Minister, may by Order published in the Government Gazette approve the allocation to a department of amounts in addition to the amounts appropriated to the recurrent services and works and purposes of that department in the annual appropriation.
- (2) The Minister must not recommend an allocation under this section unless satisfied—
 - (a) that it is for the purpose of expenditure considered prudent and advantageous in the current financial year; and
 - (b) that the benefit of that expenditure will accrue, or continue, in the next financial year.
- (3) An amount approved for allocation to a department in a financial year must not exceed an amount equal to 3 per centum of the amount appropriated to the services of the department in the annual appropriation for that year.
- (4) The Minister may issue out of the Consolidated Fund amounts not exceeding in a financial year a total amount equal to one half of one per centum of the annual appropriation for that year and the Consolidated Fund is appropriated accordingly.

29. *Appropriation of certain receipts*

If it is provided by a Schedule to an appropriation Act that this section applies in relation to an item of expenditure of a department set out in the Schedule, money received—

S. 29
amended by
No. 43/1995
s. 7(1)(e).

S. 29(b)
amended by
No. 75/1994
s. 7(1)(b).

S. 29(ba)
inserted by
No. 75/1994
s. 7(1)(b).

- (a) from the provision of services by that department; or
- (b) by way of specific purpose payment by the Commonwealth; or

- (ba) by way of specific purpose payment by a municipal council—
may be credited to that item to the extent, and on the conditions, agreed between the Minister administering this section and the Minister responsible for the administration of that item, and for that purpose—
- (c) an amount equal to the amount so credited is deemed to have been appropriated for the purposes of that item; and
- (d) the Minister may issue that amount out of the Consolidated Fund and apply it accordingly.

30. *Alteration of items of departmental expenditure*

S. 30(1)
amended by
No. 43/1995
s. 7(1)(f)(i)(ii).

- (1) The relevant Minister may determine that an amount, or any part of an amount, assigned to an item of recurrent expenditure of a department under an appropriation Act be transferred to another item of recurrent expenditure of that department under that Act.

S. 30(2)
amended by
No. 43/1995
s. 7(1)(g)(i)(ii).

- (2) The relevant Minister may determine that an amount, or any part of an amount, assigned to an item of works and services expenditure of a department under an appropriation Act be transferred to another item of works and services expenditure of that department under that Act.
- (3) The relevant Minister must be of the opinion, before making a determination under sub-section (1) or (2), that—

-
- (a) the amount to be transferred from an item is not required for the purposes of that item; and
 - (b) the amount assigned to the item to which the amount is to be transferred is insufficient for the purposes of that item.
- (4) A relevant Minister (other than the Minister administering this section) who authorises a transfer under sub-section (1) or (2) must ensure that particulars of the transfer are given to the Minister administering this section as soon as possible.
- (5) For the purposes of this section, the Minister may, in writing, authorise a Minister, or 2 or more Ministers acting jointly, to make determinations under sub-section (1) or (2) of a specified class in relation to an item of expenditure of the department.
- (6) In this section, "**relevant Minister**" means—
- (a) in relation to any item of expenditure, the Minister administering this section;
 - (b) if sub-section (5) applies in relation to an item of expenditure, the Minister or Ministers acting as authorised under that sub-section.

31. *Alteration of items of Parliamentary expenditure*

- (1) The Presiding Officer of a House of the Parliament or the Minister may determine that an amount, or any part of an amount, assigned under an appropriation Act for the Parliament—
- (a) to an item of recurrent expenditure of that House be transferred to another item of recurrent expenditure of that House under that Act; or

S. 31(1)
amended by
No. 43/1995
s. 7(1)(h)(i).

S. 31(1)(a)
amended by
No. 43/1995
s. 7(1)(h)(ii).

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S. 31(1)(b)
amended by
No. 43/1995
s. 7(1)(h)(ii).

(b) to an item of works and services expenditure of that House be transferred to another item of works and services expenditure of that House under that Act.

S. 31(2)
amended by
No. 43/1995
s. 7(1)(i)(i).

(2) The Presiding Officers acting jointly or the Minister may determine that an amount, or any part of an amount, assigned under an appropriation Act for the Parliament—

S. 31(2)(a)
amended by
No. 43/1995
s. 7(1)(i)(ii).

(a) to an item of recurrent expenditure of a House of the Parliament or of the Parliament be transferred to an item of recurrent expenditure of the other House or of the Parliament under that Act; or

S. 31(2)(b)
amended by
No. 43/1995
s. 7(1)(i)(ii).

(b) to an item of works and services expenditure of a House of the Parliament or of the Parliament be transferred to an item of works and services expenditure of the other House or of the Parliament under that Act.

(3) The Presiding Officer, or the Presiding Officers acting jointly, or the Minister, must be of the opinion before making a determination under subsection (1) or (2) that—

(a) the amount to be transferred from an item is not required for the purposes of that item; and

(b) the amount assigned to the item to which the amount is to be transferred is insufficient for the purposes of that item.

(4) If the Presiding Officer, or the Presiding Officers acting jointly, authorise a transfer under subsection (1) or (2), that Officer, or those Officers, must ensure that particulars of the transfer are given to the Minister as soon as practicable.

(5) In this section—

"Presiding Officer" means—

- (a) in relation to an item of expenditure of the Legislative Council, the President of the Legislative Council;
- (b) in relation to an item of expenditure of the Legislative Assembly, the Speaker of the Legislative Assembly;

"Presiding Officers acting jointly" means the President of the Legislative Council and the Speaker of the Legislative Assembly acting jointly.

32. *Unspent appropriation*

- (1) If an amount appropriated in a financial year for services of an authority, a House of the Parliament or the Parliament is not spent, or is not likely to be spent, in that year, the Minister may, before the end of that year, determine that the amount, or such part of the amount as the Minister determines—
 - (a) be paid to a Trust Account in the Trust Fund established for the purposes of this section;
or
 - (b) may not be spent in that financial year but may be spent for the services of the authority, the House or the Parliament, as the case requires, in the next financial year.
- (2) An amount paid to a Trust Account in the Trust Fund in accordance with sub-section (1)(a) may be expended for the services of the authority, the House of the Parliament or the Parliament for which it was appropriated before the next following 31 December and, if not so expended, shall be paid into the Consolidated Fund.

- (3) If the Minister makes a determination under subsection (1)(b), the amount appropriated for the services of the authority, the House of the Parliament or the Parliament, as the case requires, in the next financial year is deemed to have been increased accordingly.
- (4) An amount to which a determination under subsection (1) applies must be shown in the statement of proposed expenditure prepared under section 40 for the next financial year.

33. *Payments to be made during year of appropriation*

Except as otherwise provided in this Act, money appropriated from the Consolidated Fund for the service of a financial year must not be issued or applied except for services and purposes for which payment is made during that year in accordance with that appropriation.

34. *Payments to suspense account in Trust Fund*

If the Minister considers it expedient, a sum necessary to meet any services and purposes that remain unpaid at the end of the financial year may be transferred from the Consolidated Fund to an appropriate suspense account within the Trust Fund for those services and purposes and the transfer shall be deemed to have been a payment from the Consolidated Fund in that financial year.

35. *Temporary advances*

- (1) There may be issued and applied temporarily out of the Public Account 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) required to be provided for advances to

the Minister to enable the Minister to meet urgent claims that may arise before Parliamentary sanction is obtained for them.

- (2) An amount issued and applied under this section shall be refunded and paid back into the Public Account immediately upon Parliamentary sanction being obtained.
- (3) All expenditure met and paid out of moneys issued and applied under this section shall be included in the expenditure of the financial year in respect of which the advances were made.
- (4) If—
 - (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—

the Minister must include a statement of the reasons for carrying it forward in the annual statement of financial operations of the Minister under Part 5.

36. *Temporary advances to authorities*

- (1) There may be issued and applied temporarily out of the Public Account any sum or sums required to provide—
 - (a) advances to authorities not exceeding at any one time an amount estimated by the Minister to be sufficient to meet one month's expenditure, but no such advances shall be made unless Parliamentary sanction has been obtained (whether under this or any other Act) for the expenditure;

- (b) special advances to such authorities of specific sums for specific purposes pending adjustment when actual expenditure is made.
- (2) Every sum issued and applied under this section shall, out of moneys provided to meet the expenditure, be refunded and paid back into the Public Account in the financial year in which the money is provided unless otherwise sanctioned by the Minister.

37. *Temporary applications*

S. 37(1)
amended by
No. 75/1994
s. 7(1)(c).

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

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

S. 37(1)(b)
amended by
No. 75/1994
s. 7(1)(c).

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

pending repayment by the Government or authority or public body.

S. 37(2)
amended by
No. 75/1994
s. 7(1)(c).

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

(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.

38. *Application of money in Public Account to meet appropriations*

- (1) If at any time the money in the Consolidated Fund is insufficient to meet appropriations authorised by any Act, the Minister may apply other moneys in the Public Account to meet the appropriations.

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- (2) Moneys applied under sub-section (1) shall be deemed to be a temporary advance and shall be refunded and paid back into the Public Account immediately upon receipt of moneys under section 39 but in any case within the financial year in which the advances are made.

39. Arrangements for temporary advances

- (1) If at any time the Minister is of the opinion that the money in the Consolidated Fund is likely to be insufficient to meet appropriations authorised by any Act, the Governor in Council, on the recommendation of the Minister, may authorise the Minister to make arrangements for obtaining temporary advances.
- (2) Advances arranged under sub-section (1) shall be deemed to be money legally available to meet appropriations from the Consolidated Fund authorised by any Act.
- (3) Subject to sub-section (5), money raised by temporary advance during any financial year under this section—
- (a) must be credited to a special account in the Trust Fund; and
 - (b) must be issued and applied solely for the purposes for which the Consolidated Fund has been appropriated by any Act; and
 - (c) must be repaid with interest during the financial year in which the temporary advance is obtained.
- (4) The interest on a temporary advance under this section shall be at a rate not exceeding that for the time being fixed by order of the Minister and shall be chargeable upon the Consolidated Fund, which is to the necessary extent appropriated accordingly.

- (5) If, in a financial year, money received in the Consolidated Fund is insufficient to provide for the repayment of a temporary advance in whole or in part during that year, the temporary advance or part not repaid shall be repaid out of money received into the Consolidated Fund during a succeeding financial year.

40. Annual budget estimates

- (1) The Minister must prepare, in association with the annual appropriation Bills, a statement of information under departmental headings setting out—
- (a) a description of the goods and services to be produced or provided by each department during the period to which the statement relates, together with comparative information for the preceding financial year;
 - (b) a description of the money available or to be available to each department during the period to which the statement relates, whether appropriated by the Parliament for that purpose or otherwise received or to be received by the department, together with comparative figures for the preceding financial year;
 - (c) the estimated amount of the receipts of each department during the period to which the statement relates, together with comparative figures for the preceding financial year;
 - (d) any other information required by this Act to be included in the statement;
 - (e) such other information as the Minister determines.
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- (2) The Minister must cause the statement to be laid before each House of the Parliament when the annual appropriation Bills are before the House.
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Pt 6A
(Heading and
ss 40A–40H)
inserted by
No. 110/1994
s. 43.

PART 6A—INDEMNITIES

S. 40A
inserted by
No. 110/1994
s. 43.

40A. Definitions

In this Part—

"company" has the same meaning as in the Corporations Law of Victoria;

"eligible director" means an officer of a State company or statutory authority;

"officer", in relation to a statutory authority or State company, means director or member of the board of management of the authority or company or secretary, executive officer or person concerned in, or who takes part in, the management of the authority or company;

"State company" means a company—

(a) a majority of the shares in which are held by, or on behalf of, the State or a statutory authority; or

(b) a majority of the directors of which is appointed by, or by a person acting on behalf of, the State or a statutory authority;

"statutory authority" includes a State body within the meaning of the **State Owned Enterprises Act 1992**.

S. 40B
inserted by
No. 110/1994
s. 43.

40B. Provisions of this Part in addition to all other powers

The provisions of this Part are in addition to, and do not in any way restrict or limit, and must not be taken to restrict or limit, any other powers

(whether under an Act or otherwise) of the Treasurer or the State to give, or authorise the giving of, indemnities.

40C. *Indemnity for directors*

The Treasurer may, on behalf of the Government of Victoria, give an indemnity to a person who is or has been an eligible director, on such terms and conditions as the Treasurer determines, and, despite anything to the contrary in any Act, against such liabilities as the Treasurer determines, being liabilities that by law may attach to the person as an officer, or former officer, of a statutory authority or State company.

S. 40C
inserted by
No. 110/1994
s. 43,
amended by
No. 73/1996
s. 24(a)(b).

40D. *Indemnity for statutory authorities and State companies*

The Treasurer may, on behalf of the Government of Victoria, give an indemnity to a statutory authority or State company, on such terms and conditions as the Treasurer determines, against such liabilities as the Treasurer determines, being liabilities that by law may attach to the authority or company in carrying out or purporting to carry out its functions and powers.

S. 40D
inserted by
No. 110/1994
s. 43.

40E. *Indemnity for owner of goods*

The Treasurer may, on behalf of the Government of Victoria, give an indemnity, on such terms and conditions as the Treasurer determines, to the owner of goods that are lent for temporary exhibition or are otherwise made available for a limited period to the State or to a statutory authority or an agency or instrumentality of the State against such loss or damage to the goods as the Treasurer determines.

S. 40E
inserted by
No. 110/1994
s. 43.

40F. *Charge for indemnities*

The Treasurer, as a condition of giving an

S. 40F
inserted by
No. 110/1994
s. 43.

indemnity under this Part, may require the payment to the Treasurer of an amount determined by the Treasurer for payment into a trust account in the Trust Fund established under section 19.

S. 40G
inserted by
No. 110/1994
s. 43.

40G. Confirmation of certain indemnities

- (1) This section applies to an indemnity given by the Treasurer before the commencement of this section to—
 - (a) an officer of an electricity corporation, Victorian Power Exchange or distribution company within the meaning of the **Electricity Industry Act 1993**;
 - (b) the Administrator for the restructuring of the electricity supply industry appointed under section 48 of the **Electricity Industry Act 1993**;
 - (c) a person in respect of his or her position as an officer of the Totalizator Agency Board established under the **Racing Act 1958**;
 - (d) a person in respect of his or her position as an officer of TABCORP Holdings Limited, A.C.N. 063 780 709.
- (2) If a person to whom an indemnity to which this section applies was given makes a written request to the Treasurer for a certificate under this section confirming the indemnity, the Treasurer may issue such a certificate, and upon the giving of the certificate, the indemnity has effect for the purposes of section 40H as if it had been given under this Part.

S. 40H
inserted by
No. 110/1994
s. 43.

40H. Appropriation

- (1) Any sums required by the Treasurer in fulfilling any liability arising under an indemnity given by the Treasurer under this Part shall be paid out of
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the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly).

- (2) Any sums received or recovered by the Treasurer from a person who is or has been an eligible director or from a statutory authority, State company or any other person or otherwise in respect of any sums paid by the Treasurer under an indemnity given under this Part shall be paid into the Consolidated Fund.

Pt 6B
(Heading and
ss 40I–40L)
inserted by
No. 43/1995
s. 9.

PART 6B—GUARANTEE CHARGE

S. 40I
inserted by
No. 43/1995
s. 9.

40I. Definitions

In this Part—

"State guarantee" means—

- (a) a guarantee under an Act; or
- (b) a guarantee executed by the
Treasurer—

guaranteeing the due satisfaction of amounts
payable in respect of financial
accommodation.

S. 40J
inserted by
No. 43/1995
s. 9.

40J. Application of Part

This Part does not apply in relation to financial
accommodation obtained before the
commencement of this section.

S. 40K
inserted by
No. 43/1995
s. 9.

40K. Guarantee charge

- (1) The Treasurer may determine, before financial
accommodation to which a State guarantee is to
apply is provided to a person, that an annual
guarantee charge is payable by that person in
respect of the financial accommodation at an
annual percentage rate specified in the
determination, being a rate that, in the opinion of
the Treasurer, does not exceed the difference
between—
 - (a) the annual interest or discount rate and other
costs of the financial accommodation; and

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- (b) the estimated annual interest or discount rate and other costs of the financial accommodation that would apply if the State guarantee did not apply.
- (2) A person who is required to pay a guarantee charge in respect of financial accommodation must pay to the Treasurer, for payment into the Consolidated Fund—
- (a) if the financial accommodation is provided for less than 12 months, an amount determined—
- (i) if the guarantee is under an Act, by multiplying the amount of the financial accommodation by the rate referred to in sub-section (1); or
- (ii) if the guarantee is executed by the Treasurer, by multiplying the amount of the limit of the guarantee by the rate referred to in sub-section (1); or
- (b) if the financial accommodation is provided for 12 months or more, an amount in respect of each financial year during which the guarantee is in force determined by multiplying the sum of the person's liabilities in respect of the financial accommodation as at the end of that financial year by the rate referred to in sub-section (1).
- (3) A guarantee charge is payable on or before 31 December next following the financial year, or part of a financial year, to which it relates and may be recovered as a debt due to the State.

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s. 40L

S. 40L
inserted by
No. 43/1995
s. 9.

40L. *Information to be supplied*

A person who is required to pay a guarantee charge must give to the Treasurer, or a person authorised by the Treasurer, such information as the Treasurer or authorised person reasonably requires for the purpose of determining the amount of the charge in respect of a financial year.

PART 6C—FINANCIAL ACCOMMODATION LEVY

Pt 6C
(Heading and
ss 40M–40O)
inserted by
No. 43/1995
s. 9.

40M. *Leviable authority*

S. 40M
inserted by
No. 43/1995
s. 9.

- (1) In this Part, "**leviable authority**" means an authority in respect of which an Order under subsection (2) is in force.
- (2) The Governor in Council may, by Order published in the Government Gazette, declare a public authority within the meaning of the **Treasury Corporation of Victoria Act 1992** to be a leviable authority for the purposes of this Part.

40N. *Financial accommodation levy*

S. 40N
inserted by
No. 43/1995
s. 9.

- (1) A leviable authority must pay to the Treasurer for payment into the Consolidated Fund a levy, in respect of each leviable period, in respect of financial accommodation provided to the authority, or in respect of such part of that accommodation as the Treasurer determines from time to time.
- (2) The levy payable by a leviable authority in respect of each leviable period is determined by multiplying the liabilities of the authority in respect of the financial accommodation to which the levy relates as at the end of that leviable period by a percentage rate determined in relation to that authority by the Treasurer, or a person authorised by the Treasurer, in respect of the financial year in which the leviable period falls, being a rate that, in the opinion of the Treasurer or authorised person, does not exceed the difference between—

- (a) the annual interest or discount rate and other costs of the financial accommodation; and
 - (b) the estimated annual interest or discount rate and other costs of the financial accommodation that would apply if the leviable authority were not a public authority.
- (3) The Treasurer or authorised person may, in determining the levy in accordance with subsection (1), have regard to such matters as the Treasurer or person determines.
- (4) 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.
- (5) In this section, "**leviable period**", in relation to a leviable authority, means a financial year or such shorter period as the Treasurer determines from time to time in relation to that authority.

S. 400
inserted by
No. 43/1995
s. 9.

400. *Leviable authority not liable to pay guarantee charge*

A leviable authority that is liable to pay a financial accommodation levy under this Part in respect of financial accommodation is not liable to pay a guarantee charge under Part 6B in respect of that financial accommodation.

PART 7—ACCOUNTABILITY AND REPORTING

41. *Part to bind the Crown*

This Part binds the Crown not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

42. *Accountable officer*

- (1) For the purposes of this Act, there must be an accountable officer for each department and public body.
- (2) Unless the Minister otherwise determines—
 - (a) the accountable officer for a department is the department head of that department; and
 - (b) the accountable officer for a public body is the chief executive officer, by whatever name called, of that body.

S. 42(1)
amended by
No. 75/1994
s. 7(1)(d).

43. *Chief finance and accounting officer and other officers*

- (1) The accountable officer of a department or public body must designate, in respect of the financial administration of the department or public body—
 - (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.
- (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.

44. *Accounts to be kept*

The accountable officer of a department or public body must ensure that there are kept proper accounts and records of the transactions and affairs of the department or public body and such other records as sufficiently explain the financial operations and financial position of the department or public body.

S. 45
amended by
No. 75/1994
s. 7(2),
substituted by
No. 43/1995
s. 4.

45. *Report of operations and financial statements to be prepared¹*

- (1) As soon as practicable after the end of each financial year—
 - (a) the relevant Minister of a department must cause to be prepared, in accordance with this Part, a report of the operations of the department during the financial year;
 - (b) a public body must cause to be prepared, in accordance with this Part, a report of its operations during the financial year;
 - (c) the accountable officer of each department and public body must cause to be prepared, in accordance with this Part, financial statements of the department or public body for the financial year.
 - (2) The accountable officer of each department and public body must submit the financial statements of the department or public body to the Auditor-General within 8 weeks after the end of the financial year.
 - (3) Sub-section (2) does not apply to a public body that is not required under the **Audit Act 1994** or any other Act to have its financial statements or accounts audited by the Auditor-General.
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- (4) ²The financial statements of an Administrative Office specified in column 3 of an item in Schedule 1 to the **Public Sector Management Act 1992** (other than the Environment Protection Authority) must be incorporated in and consolidated with the financial statements for that financial year of the department in column 1 of that item.

46. *Tabling requirements*³

S. 46
amended by
No. 75/1994
s. 7(3),
substituted by
No. 43/1995
s. 4.

- (1) Subject to sub-sections (2) and (3), the relevant Minister of a department or public body must cause the report of operations and audited financial statements of the department or public body for a financial year to be laid before each House of the Parliament after the end of that financial year and before the end of the next following fourth month of the year or on the first sitting day of the House after the end of that month.
- (2) If it appears to the relevant Minister from the financial statements of the department or public body that the cash payments from all sources made by the department or public body in the financial year do not exceed \$5 000 000, the relevant Minister—
- (a) must report to each House of the Parliament the receipt by him or her of the report of operations and financial statements of the department or public body; and
 - (b) if a member of either House of the Parliament so requests, must cause the report of operations and financial statements to be

S. 46(1)
substituted by
No. 42/1997
s. 6.

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laid

before each House of the Parliament within 14 sitting days of that House after the request.

- (3) If the relevant Minister of a department or public body has not received the report of operations and financial statements of the department or public body in time for him or her to comply with sub-section (1), the relevant Minister—
- (a) must cause that fact and the reasons for it to be reported to each House of the Parliament; and
 - (b) must cause the report of operations and financial statements to be laid before each House of the Parliament as soon as practicable after they are received by him or her.

47. Minister may vary reporting requirements⁴

- (1) Subject to sub-section (2), the Minister, in writing, may grant an exemption to the accountable officer of a department or public body from any provision of this Part relating to the contents, form or preparation of the financial statements of that department or public body.
- (2) The Minister must not grant an exemption from the requirement to cause financial statements to be prepared and submitted to the Auditor-General, but may extend the period within which they must be so submitted.
- (3) An exemption under this section continues to apply in relation to an accountable officer until the Minister advises the accountable officer in writing that it no longer applies.
- (4) An accountable officer must include in financial statements particulars of any exemption given under this section in respect of those statements.

S. 47
substituted by
No. 43/1995
s. 4.

S. 48
amended by
No. 43/1995
s. 7(1)(j).

48. Report of operations

A report of operations referred to in section 45—

- (a) must be in a form and contain information determined by the accountable officer to be appropriate; and
- (b) must contain any other information required by the Minister.

S. 49
amended by
No. 43/1995
s. 7(1)(k).

49. Financial statements

The financial statements referred to in section 45—

- (a) must contain such information as is required by the Minister; and
- (b) must be prepared in a manner and form approved by the Minister; and
- (c) must present fairly the financial transactions of the department or public body during the financial year to which they relate; and
- (d) must present fairly the financial position of the department or public body as at the end of that year; and
- (e) must be certified by the accountable officer for the department or public body in the manner approved by the Minister.

50. Information

Information that may be prescribed or required under or for the purposes of section 48 or 49 extends to information relating to previous financial years and to proposals and forecasts for future years.

S. 51
amended by
No. 43/1995
s. 7(1)(l).

51. Relevant Minister may require additional information

The relevant Minister may in writing direct a public body to include in a report of operations or

financial statements such additional information as he or she considers necessary or appropriate in the public interest.

52. Minister may direct public body to submit financial statements

* * * * *

S. 52(1) repealed by No. 43/1995 s. 7(1)(m).

- (2) If the Minister considers it necessary or appropriate in the public interest, he or she may in writing direct a public body to prepare and submit within 4 weeks after the date of the direction financial statements in respect of any part of a financial year of the public body together with such further information as he or she so directs.

53. Composite reports

- (1) If the Minister so determines, a Minister who is the relevant Minister in respect of 2 or more departments or public bodies or both may, in respect of those departments or public bodies or both, cause to be prepared in respect of a financial year, in addition to, or instead of, any other report required to be prepared under this Act or any other Act—

S. 53(1) amended by No. 75/1994 s. 7(4).

- (a) an annual report containing the reports of operations and financial statements of those departments or public bodies or both; or

S. 53(1)(a) amended by No. 75/1994 s. 7(4).

- (b) an annual report containing a report of operations and financial statements consolidating information provided by those departments or public bodies or both.

S. 53(1)(b) amended by No. 75/1994 s. 7(4).

- (2) The Minister administering this section may make a determination at the request of the relevant Minister or otherwise.

S. 53A
inserted by
No. 43/1995
s. 6.

53A. Annual reports of State-owned corporations and other bodies

- (1) This section applies to the following bodies—
 - (a) a corporation within the meaning of the Corporations Law (other than a State owned company within the meaning of the **State Owned Enterprises Act 1992**) all the shares in which are owned by or on behalf of the State or a statutory authority (whether or not a public statutory authority), whether directly or indirectly; and
 - (b) a body corporate declared by the Governor in Council under sub-section (2) to be a body to which this section applies.
- (2) The Governor in Council, by notice published in the Government Gazette, may declare a body corporate to be a body to which this section applies if—
 - (a) a member, or a member of the governing body, of the body corporate is appointed by the Governor in Council or a Minister; or
 - (b) the Governor in Council is satisfied that a primary object of the body corporate is to carry out a public function in relation to which it is registered, or holds a licence or other authority granted or issued, under an Act.
- (3) The Governor in Council, by notice published in the Government Gazette, must declare a Minister to be the relevant Minister in relation to a body to which this section applies for the purposes of this section.
- (4) A body to which this section applies must, as soon as practicable after the end of each financial year,

submit to the relevant Minister of that body its annual report, including its audited financial statements, in respect of that financial year.

- (5) Subject to sub-sections (6) and (7), the relevant Minister must cause the annual report to be laid before each House of the Parliament on or before 31 October each year or, if a House is not then sitting, on the first sitting day of that House after 31 October.
- (6) If it appears to the relevant Minister from the annual report that the cash payments from all sources made by the body in the financial year do not exceed \$5 000 000, the relevant Minister—
- (a) must report to each House of the Parliament the receipt by him or her of the annual report; and
 - (b) if a member of either House of the Parliament so requests, must cause the annual report to be laid before each House of the Parliament within 14 sitting days of that House after the request.
- (7) If the relevant Minister has not received the annual report in time for him or her to comply with sub-section (5), the relevant Minister—
- (a) must cause that fact and the reasons for it to be reported to each House of the Parliament; and
 - (b) must cause the annual report to be laid before each House of the Parliament as soon as practicable after it is received by him or her.

54. *Part to prevail*

If the provisions of an Act requiring a public body to keep or prepare accounts, or arrange the audit of accounts or to submit an annual report, or

**S. 54
amended by
No. 75/1994
s. 7(5).**

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requiring an annual report to be laid before the Legislative Assembly or the Legislative Council or both, are inconsistent with this Part, the provisions are void to the extent of the inconsistency.

PART 7A—SUPPLY MANAGEMENT

Pt 7A
(Heading and
ss 54A–54M)
inserted by
No. 75/1994
s. 4.

54A. *Establishment of Victorian Government Purchasing Board*

S. 54A
inserted by
No. 75/1994
s. 4.

- (1) The Victorian Government Purchasing Board is established.
- (2) The Board—
 - (a) is a body corporate with perpetual succession;
 - (b) has a common seal;
 - (c) may sue and be sued in its corporate name;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all things that a body corporate may, by law, do and suffer.
- (3) The common seal must be kept as directed by the Board and must not be used except as authorised by the Board.
- (4) All courts must take judicial notice of the common seal on a document and, until the contrary is proved, must presume that the seal was properly affixed.

54B. *Functions of Board*

S. 54B
inserted by
No. 75/1994
s. 4.

The Board has the following functions—

- (a) in relation to the supply of goods, works and services to departments and the management and disposal of goods by departments—
 - (i) to develop, implement and review policies and practices; and

- (ii) to provide advice, staff training and consultancy services;
- (b) to monitor departmental compliance with supply policies and Ministerial directions and to report irregularities to the relevant Minister and the Minister;
- (c) to foster improvements in the use and application of purchasing systems and electronic trading;
- (d) to establish and maintain a comprehensive data base of purchasing data of departments and supply markets for access by departments;
- (e) any other functions conferred on the Board by this Part.

S. 54C
inserted by
No. 75/1994
s. 4.

54C. Powers of Board

- (1) The Board has all the powers necessary to perform its functions.
- (2) Without limiting sub-section (1), the Board may—
 - (a) enter into contracts or arrangements on its own behalf, on behalf of the State or on behalf of departments;
 - (b) call and award tenders and advertise;
 - (c) consider and approve requisitions for the purchase of goods and services by departments;
 - (d) require accountable officers to audit departmental compliance with supply policies and Ministerial directions and provide audit reports to the Board;

- (e) require accountable officers to provide information and data relating to the supply of goods, works and services and the management and disposal of goods;
 - (f) exercise any other powers conferred on the Board by this Act or the regulations.
- (3) An accountable officer must provide to the Board on request—
- (a) audit reports referred to in sub-section (2)(d);
 - (b) information and data referred to in sub-section (2)(e).

54D. *Membership of Board and terms of office*

- (1) The Board consists of a chairperson and not less than 6 other members appointed by the Governor in Council.
- (2) A member of the Board holds office for the term, not exceeding 3 years, that is specified in the instrument of appointment and is eligible for re-appointment.
- (3) The **Public Sector Management Act 1992** (except Part 9) does not apply to a member in respect of the office of member.

S. 54D
inserted by
No. 75/1994
s. 4.

54E. *Payment of members*

- (1) A member of the Board, other than a member who is an officer or employee of the public service within the meaning of the **Public Sector Management Act 1992**, is entitled to receive the fees that are fixed from time to time by the Governor in Council.
- (2) Each member of the Board is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

S. 54E
inserted by
No. 75/1994
s. 4.

s. 54F

S. 54F
inserted by
No. 75/1994
s. 4.

54F. Procedure of Board

- (1) The chairperson of the Board, or in his or her absence a member elected by the members present, must preside at a meeting of the Board.
- (2) The quorum of the Board is 4 members.
- (3) The person presiding at a meeting of the Board has a deliberative vote only and if voting is equal the motion is lost.
- (4) Subject to this Part the Board may regulate its own proceedings.

S. 54G
inserted by
No. 75/1994
s. 4.

54G. Validity of Board decisions

An act or decision of the Board is not invalid by reason only—

- (a) of a vacancy in its membership; or
- (b) of a defect or irregularity in the appointment of any member.

S. 54H
inserted by
No. 75/1994
s. 4.

54H. Members' pecuniary interests

- (1) A member who has a pecuniary interest in a matter being considered or about to be considered by the Board must, as soon as practicable after the relevant facts have come to his or her knowledge, declare the nature of the interest at a meeting of the Board.

Penalty: 5 penalty units.

- (2) The person presiding at a meeting at which a declaration is made must cause a record of the declaration to be made in the minutes of the meeting.
- (3) After a declaration is made—
 - (a) unless the Board directs otherwise, the member must not be present during any deliberations on the matter; and

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- (b) the member is not entitled to vote on the matter; and
 - (c) if the member does vote, the vote must be disallowed.
- (4) For the purposes of this section, a member is not to be regarded as having a pecuniary interest in a contract or arrangement only because that contract or arrangement may benefit—
- (a) a department or public body in which the member is employed or of which he or she is a member;
 - (b) a company or other body in which the member has a beneficial interest that does not exceed 1% of the total nominal value of beneficial interests in that company or body.

54I. *Improper use of information*

A person who is, or has been, a member of the Board must not make improper use of any information acquired in the course of his or her duties to obtain directly or indirectly any pecuniary or other advantage for himself or herself or for any other person.

Penalty: 5 penalty units.

S. 54I
inserted by
No. 75/1994
s. 4.

54J. *Delegation*

The Board may delegate in writing to a member of the Board any of its powers except—

- (a) the power to require compliance audits to be undertaken under section 54C(2)(d);
- (b) the power to make, amend or revoke supply policies under section 54L;
- (c) this power of delegation.

S. 54J
inserted by
No. 75/1994
s. 4.

S. 54K
inserted by
No. 75/1994
s. 4.

54K. Minister's directions

- (1) The Minister may give directions in writing to the Board in relation to any of its functions or powers.
- (2) A copy of any direction must be included in the Board's annual report under section 54M.
- (3) The Board must comply with directions of the Minister.

S. 54L
inserted by
No. 75/1994
s. 4.

54L. Supply policies

- (1) The Board may prepare, make, amend and revoke instruments, to be known as "supply policies", with respect to policies and practices relating to the supply of goods, works and services to departments and the management and disposal of goods by departments.
- (2) A supply policy—
 - (a) must be consistent with directions under section 8 and the regulations;
 - (b) may be of general or limited application;
 - (c) may differ according to differences in time, place or circumstance;
 - (d) may confer a discretionary authority or impose a duty on a specified person or class of persons;
 - (e) may leave anything for the approval or satisfaction of a specified person or class of persons;
 - (f) may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person whether—
 - (i) wholly or partially or as amended by the policy; or

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- (ii) as formulated, issued, prescribed or published at the time the policy is made or at any time before then; or
 - (iii) as formulated, issued, prescribed or published from time to time;
 - (g) may provide in a specified case or class of cases for the exemption of departments, persons or things or classes of persons or things from any of the provisions of the policy, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.
- (3) The Board must cause notice of the making, amendment or revocation of supply policies to be published in the Government Gazette.
 - (4) All accountable officers and other members of staff of departments must comply with supply policies.

54M. *Annual report*

- (1) On or before 30 September each year the Board must give the Minister a report of its work and activities for the year ending on 30 June that year.
- (2) The report must also contain any information specifically requested by the Minister.
- (3) The Minister must cause each annual report of the Board to be laid before each House of Parliament before the expiration of the 7th sitting day of that House after the report is received by the Minister.

S. 54M
inserted by
No. 75/1994
s. 4.

Pt 7B
(Heading and
ss 54N–54P)
inserted by
No. 75/1994
s. 8.

**PART 7B—ACQUISITION, LEASING AND LICENSING OF
LAND AND PREMISES**

S. 54N
inserted by
No. 75/1994
s. 8.

54N. *Minister may acquire land*

- (1) The Minister may purchase by agreement or compulsorily acquire any land required for the construction, completion or extension of any public works or for any related purpose.
- (2) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—
 - (a) the **Financial Management Act 1994** is the special Act;
 - (b) the Minister is the Authority.

S. 54O
inserted by
No. 75/1994
s. 8.

54O. *Minister may lease land or premises for other Ministers*

In addition to all other powers of the Minister, the Minister may take on lease, on any terms and conditions the Minister thinks fit, any land or premises required for the purposes of any department or Minister.

S. 54P
inserted by
No. 75/1994
s. 8.

54P. *Minister may grant leases and licences of structures on Crown land*

Despite anything in the **Land Act 1958**, the Minister may grant any person, on any terms and conditions the Minister thinks fit—

- (a) a lease over; or
- (b) a licence to enter and use—

any building or other structure, or part of any building or other structure, on Crown land that is not required for the purposes of a department or a Minister or any other public purpose.

PART 8—GENERAL

S. 55
amended by
No. 43/1995
s. 7(1)(n).

55. *Writing off*

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 in accordance with the regulations by the chief finance and accounting officer, the accountable officer or the relevant Minister.

56. *Recovery of overpayments*

- (1) In this section, "**officer**" means a person who is or was employed in the service of the State or a department.
- (2) Despite any Act or rule of law to the contrary, an officer is liable to repay to the State any money paid to him or her by the State to which he or she was not entitled (in this section called "an overpayment").
- (3) Without limiting or affecting the right of the State to recover an overpayment by any legal or other process, the State may recover the overpayment from the officer by deduction or deductions from any amount due by the State to that officer.
- (4) A deduction under sub-section (3) from salary or wages due to the officer must not exceed one tenth of the salary or wages, before any deductions, whether under this section or otherwise, to which the officer is entitled.
- (5) If deductions are made under this section from the salary or wages of an officer—
 - (a) the officer may apply to the relevant Minister for the weekly amount of the deductions to be reduced; and

S. 56(5)(a)
amended by
No. 43/1995
s. 7(1)(o).

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Act No. 18/1994

s. 57

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- (b) the relevant Minister may give such directions as he or she thinks fit as to the amount of deductions to be made from the salary or wages of the officer. S. 56(5)(b) amended by No. 43/1995 s. 7(1)(o).
- (6) An officer may apply in writing to the relevant Minister to be relieved from all or any of the liability with respect to the repayment of an overpayment and the relevant Minister may at any time in his or her absolute discretion by writing relieve the officer from all or any of such liability. S. 56(6) amended by No. 43/1995 s. 7(1)(o).
- (7) Without derogating from the rights conferred on the State by this section, the State must before making any deduction under this section consider any proposal made by the officer with respect to the repayment of the overpayment.
- (8) Sub-section (4) does not apply to a deduction in respect of an overpayment that has not been repaid at the date the officer ceases for any reason to be employed in the service of the State or a department. S. 56(8) inserted by No. 75/1994 s. 9(1).

57. Liability in respect of loss or damage

- (1) In this section, "**officer**" means a person who is or was employed in the service of an authority.
- (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 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.
- (3) If an accountable officer, or the chief finance and accounting officer, of an authority is of the opinion that an officer of the authority may be liable for a loss, deficiency, destruction or damage

under sub-section (2), the accountable officer or chief finance and accounting officer may direct that an investigation be held.

- (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 must determine whether or not to seek to recover an amount specified in the report of the investigation from the officer.

58. Unclaimed property

- (1) If the Crown is entitled to any property whether real or personal as unclaimed property (otherwise than by reason of the **Unclaimed Moneys Act 1962**), the Minister on behalf of the Crown may, subject to and in accordance with sub-section (3), grant, convey, transfer, assign or deliver that property on such terms as the Minister thinks fit.
- (2) If any money or the proceeds of the realisation of any property has been paid into the Consolidated Fund as unclaimed property, the Minister may, subject to and in accordance with sub-section (3), authorise the payment of the whole or any part of the money out of the Consolidated Fund (which is to the necessary extent appropriated accordingly).
- (3) A grant, conveyance, transfer, assignment, delivery or payment of property under this section may be made by the Minister—
 - (a) if the Crown became entitled to the property as the result of the death of any person—
 - (i) to any person whether related to the deceased or not who was dependent upon the deceased; or

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- (ii) to any person for whom in the opinion of the Minister the deceased might reasonably have been expected to make provision; and
 - (b) in any other case to any person who in the opinion of the Minister has a just claim in relation to that property or money.

59. 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;
 - (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;
 - (d) the recording, examination, inspection and checking of receipts and expenditure and the keeping of accounting records;
 - (da) the form and content of reports of operations, financial statements and information required under Part 7;
 - (e) standards and controls for computerised accounting systems;
 - (f) the custody and disposal or writing off of assets other than money and the recording of and accounting for those assets;
 - (g) prescribing forms for the purposes of this Act or the regulations;

S. 59(1)(da)
inserted by
No. 75/1994
s. 9(2)(a).

S. 59(1)(i)
substituted by
No. 75/1994
s. 9(2)(b).

- (h) the method of dealing with and accounting for securities coming into the possession of an accountable officer or other person;
 - (i) systems and procedures for the purchase and supply of goods, works and services for or on behalf of the State;
 - (j) 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—
- (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;
 - (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;
 - (e) may impose a penalty not exceeding 5 penalty units for a contravention of the regulations.
- (3) Any regulation may adopt, apply or incorporate the whole or any part of any statement of accounting standards or statement of accounting practice issued at any time before the regulation is made by all or any of the following—
- (a) Australian Society of Certified Practising Accountants;
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s. 59

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- (b) Institute of Chartered Accountants in Australia;
 - (c) Australian Securities Commission;
 - (d) Australian Accounting Standards Board;
 - (e) Public Sector Accounting Standards Board;
 - (f) any other prescribed person or body.

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**S. 59(4)(5)
repealed by
No. 43/1995
s. 7(1)(p).**

PART 9—TRANSITIONAL AND CONSEQUENTIAL

60. *Repayment of outstanding revenue deficit*

An amount equal to the sum of \$21 782 280.68 that, immediately before the commencement of section 4(e) of the **Public Account Act 1970** had not been wholly refunded and paid back into the Public Account, shall be paid to the Public Account in repayment of that sum and the Consolidated Fund is to the necessary extent appropriated accordingly.

61. *Application of certain amounts deemed to have been authorised*

The application of the sum of \$34 887 110.03, being money paid to the State, in payment of financing charges payable by the Capital Works Authority on or about 27 March 1990 and before 27 June 1990, is deemed to have been authorised and amounts equal to that sum are deemed to have been appropriated from the Consolidated Fund for the purpose of the payment of those charges.

62. *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 1994 as if that Act had not been repealed by this Act.
- (2) A person who, immediately before the commencement of this section, was a receiver of revenue under the **Audit Act 1958** continues, until his or her appointment is revoked by the Minister, to be a person whose duty it is to receive public money.

- (3) Each contract or other document in effect immediately before the commencement of this sub-section that refers to the Tender Board continues to have effect according to its tenor on and after that commencement as if a reference in the document to the Tender Board were a reference to the Board.
- (4) In this section "**Tender Board**" means the Tender Board established by Regulation 7 of the Supply Management Regulations 1994.

S. 62(3)
inserted by
No. 75/1994
s. 9(3).

S. 62(4)
inserted by
No. 75/1994
s. 9(3).

62A. Further transitional provisions

S. 62A
inserted by
No. 42/1997
s. 7.

Despite the amendment of section 46 by the **Financial Management (Amendment) Act 1997**, section 46 has effect, in relation to a public body the financial year of which ends in 1997 before 30 June, as if it had not been so amended.

63. References to receiver of revenue

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 persons included in a class of persons, declared by order of the Minister published in the Government Gazette to be an officer whose duty it is to receive payment of fees by way of money or otherwise to collect public money.

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S. 64
repealed by
No. 43/1995
s. 7(1)(q).

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Ss 65, 66
repealed by
No. 42/1997
s. 8(a).

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SCHEDULES

SCHEDULE 1

WARRANT

Section 17

To the Auditor-General.

The amount of public moneys likely to become due and payable out of the Consolidated Fund during the period is
dollars cents.

<i>Consolidated Fund</i>	<i>Amount</i>
<i>Act</i>	
	\$ ¢

Total	\$

Dated this day of 19 .

G.H.
Minister

I certify that the abovementioned sums are now legally available.

To the Minister.
You are hereby authorised to issue out of the Consolidated Fund the above amount and this shall be your sufficient warrant.

E.F.
Auditor-General
/ /

J.K.
Governor
/ /

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Sch. 2

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Sch. 2
amended by
Nos 75/1994
s. 7(6),
43/1995
s. 7(2)(a)(b),
106/1995
s. 53, repealed
by No.
42/1997
s. 8(b).

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Act No. 18/1994

NOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 19 November 1993

Legislative Council: 19 April 1994

The long title for the Bill for this Act was "A Bill relating to financial management, to repeal the **Public Account Act 1958** and the **Annual Reporting Act 1983**, to make consequential amendments to other Acts and for other purposes."

The **Financial Management Act 1994** was assented to on 10 May 1994 and came into operation as follows: Part 1 (sections 1–8), sections 60, 61 on 10 May 1994: section 2(1); rest of Act on 1 July 1994: section 2(2).

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Notes

2. Table of Amendments

This Version incorporates amendments made to the **Financial Management Act 1994** by Acts and subordinate instruments.

Financial Management (Amendment) Act 1994, No. 75/1994

Assent Date: 22.11.94
Commencement Date: S. 7(6) on 10.5.94: s. 2(1); rest of Act on 1.1.95:
s. 2(2)
Current State: All of Act in operation

Electricity Industry (Further Amendment) Act 1994, No. 110/1994

Assent Date: 20.12.94
Commencement Date: S. 43 on 20.12.94: Special Gazette (No. 100) 20.12.94
p. 1
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Financial Management and Audit Acts (Amendment) Act 1995, No. 43/1995

Assent Date: 14.6.95
Commencement Date: S. 7(2) on 10.5.95: s. 2(1); ss 1–6, 7(1), 8, 9 on
14.6.95: s. 2(6)
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995

Assent Date: 5.12.95
Commencement Date: S. 26 on 5.12.95: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Trustee and Trustee Companies (Amendment) Act 1995, No. 104/1995

Assent Date: 5.12.95
Commencement Date: 1.1.96: s. 2
Current State: All of Act in operation

Zoological Parks and Gardens Act 1995, No. 106/1995

Assent Date: 5.12.95
Commencement Date: S. 53 on 30.4.96: Special Gazette (No. 45) on 30.4.96
p. 1
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Miscellaneous Acts (Further Omnibus Amendments) Act 1996, No. 73/1996

Assent Date: 17.12.96
Commencement Date: S. 24 on 17.12.96: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Notes

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Financial Management (Amendment) Act 1997, No. 42/1997

Assent Date: 11.6.97
Commencement Date: 11.6.97: s. 2
Current State: All of Act in operation

3. Explanatory Details

¹ S. 45: Section 5 of the **Financial Management and Audit Acts (Amendment) Act 1995**, No. 43/1995 reads as follows:

5. Application of section 4

- (1) Section 45(4) of the Principal Act as substituted by section 4 of this Act applies to departments in respect of the financial year ending on 30 June 1995 and each subsequent financial year.
- (2) The remaining provisions of sections 45, 46 and 47 of the Principal Act as substituted by section 4 of this Act apply to departments and public bodies in respect of each financial year ending after 1 January 1996.
- (3) Sections 45 (other than sub-section (2A)), 46 and 47 of the Principal Act as in force immediately before the commencement of section 4 of this Act apply to departments and public bodies in respect of financial years ending on or before 1 January 1996.

² S. 45(4): See note 1.

³ S. 46: See note 1.

⁴ S. 47: See note 1.