



AUDIT

No. 11 of 1974

ANALYSIS

- 1. Short title and citation.
- 2. Surcharges.
- 3. Recovery of amount surcharged.
Appeal in respect of surcharges.



AN ACT to amend the Audit Act 1918.

[16 May 1974]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1—(1) This Act may be cited as the *Audit Act 1974*.

Short title and citation.

(2) The *Audit Act 1918*, as subsequently amended, is in this Act referred to as the Principal Act.

Surcharges.

2 Section 22 of the Principal Act is amended—

(a) by omitting from subsection (1) all the words following the words “ the Auditor-General shall ” and substituting therefor the words “ require the person who has committed the fraud, default, mistake, or error occasioning the deficiency or loss or expenditure that has not been duly authorized, vouched, or certified to show cause why he should not be surcharged and, upon failure to show cause to the satisfaction of the Auditor-General, the Auditor-General may surcharge the person with—

- (i) such sums as the Auditor-General considers have been wilfully or negligently omitted to be collected, received, or not properly accounted for;
- (ii) any expenditure that has not been duly authorized, vouched, or certified; or
- (iii) all or part of any deficiency or loss of moneys, the value of stores or other property deficient, lost, or required to be replaced, or the expenditure for the repair of stores or other property of or under the control of the State or any public body.”; and

(b) by adding at the end thereof the following sub-sections:—

“(3) Nothing in this Act shall be construed as preventing the Auditor-General from exercising his power of surcharge notwithstanding that any deficiency or loss of money or stores has been written off or that the Auditor General has signed an acquittance in respect thereof under section 21.

“(4) The Auditor-General shall report all surcharges to the Treasurer or the public body concerned.”.

3 Sections 23 and 23A of the Principal Act are repealed and the following sections substituted therefor:—

“ 23—(1) Where a person is surcharged under section 22 the Treasurer or the public body (as the case may require) may, notwithstanding anything to the contrary in any Act or instrument, take all or any of the following measures of recovery, namely: —

- (a) Sue that person for the amount of the surcharge as money paid by the Crown or the public body concerned to the use of that person at his request;

Recovery of
amount
surcharged.

(b) Deduct an amount in or towards the discharge of the amount of the surcharge from—

(i) any salary, wages, allowances, expenses, gratuities, or pay in lieu of long service leave which is or becomes payable from public moneys or by the public body (as the case may be) to that person; or

(ii) any moneys held by the Treasurer or the public body which are or become payable to that person as a refund of contributions (with or without interest thereon) from a superannuation fund; or

(c) By a notice in writing under his hand or its seal require a person holding moneys which are or become payable to that person as a refund of contributions from a superannuation fund to deduct from those moneys and pay to him or it a specified amount in or towards the discharge of the amount of the surcharge.

“(2) A person holding moneys which are or become payable as a refund of contributions from a superannuation fund to a person surcharged shall, on receipt of a notice under subsection (1) (c), comply with the notice so far as the moneys available will allow.

“(3) For the purposes of this section a ‘superannuation fund’ is any fund which receives moneys from public moneys or from a public body and from persons receiving salary or wages from public moneys or from a public body and provides superannuation payments, annuities, pensions, allowances, lump sum payments, assistance, or other benefits for those persons, their widows, children, or other dependants, or legal personal representatives.

“23A—(1) Where a person who is surcharged pursuant to section 22 is dissatisfied with the surcharge, he may, within three months after the date of the notice of the surcharge, appeal to the Master of the Supreme Court.

Appeal in respect of surcharges.

“(2) The Master of the Supreme Court, after such investigation as he considers equitable, may make such order directing relief from the surcharge, either in whole or in part, as appears to the Master of the Supreme Court to be just and reasonable, or may reject the appeal.

“(3) The decision of the Master of the Supreme Court on an appeal under this section, and the terms of any order made by him under this section, bind the Crown and all other parties affected thereby, and shall be acted upon accordingly.”.