

Audit (Amendment) Bill (No. 2)

No.

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By Authority L. V. North, Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 14 November 1991

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

(No. 2)

A BILL

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

Audit (Amendment) Act 1991

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

The purpose of this Act is to amend the **Audit Act 1958**.

5 2. *Commencement*

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

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

No. 6203.
Reprinted to
No. 16/1986
and
subsequently
amended by
Nos 110/1986,
97/1987,
19/1989,
57/1989,
81/1989 and
44/1990.

3. *Principal Act*

In this Act, the **Audit Act 1958** is called the Principal Act.

PART 2—AMENDMENT OF AUDIT ACT 1958

4. *Amendment of sections 1, 2 and 3*

In the Principal Act—

5

(a) before section 1 insert—

“PART 1—PRELIMINARY”;

(b) in section 1, omit all words and expressions after
“Audit Act 1958”;

(c) section 2 is repealed;

10

(d) in section 3, before the definition of “audit” insert—

“**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

15

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

20

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

(e) in section 3, after the definition of “audit” **insert—**

‘ **“authority”** means—

(a) an administrative unit;

(b) a public body;’;

5 (f) in section 3, after the definition of “prescribed” **insert—**

‘ **“public body”** means—

(a) a public statutory authority; or

10 (b) a person or body prescribed for the purposes of this definition;’;

(g) in section 3, after the definition of “public moneys” **insert—**

15 ‘ **“Victorian Auditor-General’s Office”** means the administrative unit under the **Public Service Act 1974** under the control of the Auditor-General;’;

20 (h) in section 3, the definitions of “audit inspector”, “collector of imposts”, “officer in charge of stores”, “Part”, “paymaster”, “public authority”, “receiver of revenue”, “regulations”, “Schedule”, “stores” “sub-collector” and “Treasurer” are **repealed**.

5. Amendment of heading preceding section 4

25 In the Principal Act, in the heading preceding section 4, for “PART I—ADMINISTRATION” **substitute** “PART 2—THE AUDITOR-GENERAL”.

6. The Auditor-General

(1) In section 4 (1) of the Principal Act, after “Council” **insert** “on such terms and conditions, not inconsistent with this Act, as the Governor in Council determines”.

30 (2) In section 5 (1) of the Principal Act, for “during good behaviour” **substitute** “for 7 years or until attaining the age of 65, whichever is the shorter period”.

(3) After section 5 (1) of the Principal Act **insert—**

“(1A) The Auditor-General is eligible for re-appointment.”.

(4) After section 5 (6) of the Principal Act insert—

“(7) The Auditor-General ceases to hold office if he or she nominates for election for either House of the Parliament of Victoria or for the Parliament of the Commonwealth or of any other State or Territory.”. 5

7. Deputy Auditor-General

In section 6 of the Principal Act, for “Assistant” (wherever occurring) substitute “Deputy”. 10

8. New section 6A inserted

After section 6 of the Principal Act insert—

“6A. Acting appointment

(1) The Governor in Council may appoint a person to act in the office of Auditor-General— 15

- (a) during a vacancy in that office; or
- (b) during any period, or during all periods, when the person holding that office is absent from duty or is, for any other reason, unable to perform the functions of that office— 20

but a person appointed to act during a vacancy must not continue so to act for more than 6 months.

(2) An appointment of a person under sub-section (1) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment. 25

(3) The Governor in Council— 30

- (a) subject to this section, may determine the terms and conditions of appointment of a person acting in the office of Auditor-General; and

(b) may terminate such an appointment at any time.

5 (4) If a person is acting in the office of Auditor-General in accordance with sub-section (1) (b) and that office becomes vacant while that person is so acting, that person may continue so to act until the Governor in Council otherwise directs, the vacancy is filled or a period of 6 months from the date on which the vacancy occurred expires, whichever first happens.

10 (5) While a person is acting in the office of Auditor-General in accordance with sub-section (1) the person has, and may exercise, all the powers, and shall perform all the functions, of that office under this Act.

15 (6) The validity of anything done by or in relation to a person purporting to act in the office of Auditor-General under an appointment made under sub-section (1) shall not be called in question on the ground that the occasion for his or her appointment had not arisen, that there is a defect or irregularity in or in connection with his or her appointment, that the appointment had ceased to have effect or that the occasion for him or her to act had not arisen or had ceased.”

25

9. *Amendment of heading*

For the heading in the Principal Act “PART IV—AUDIT AND INSPECTION” **substitute** “PART 3—AUDIT”.

10. *New sections 31, 31A, 31B, 32 and 33 substituted*

30 For sections 31, 32 and 33 of the Principal Act **substitute**—

“31. *Audit of authorities*

(1) The financial statements and accounting records of each authority must from time to time and at

least once in each year be audited by the Auditor-General or a person authorised by the Auditor-General.

- (2) The Auditor-General may dispense with all or any part of an audit of the financial statements and accounting records of an authority in any year. 5

31A. *Report on audit*

A report on each audit of the financial statements and accounting records of an authority must be made by the Auditor-General or person who carried out the audit to— 10

- (a) the authority; and
 (b) the Minister responsible for that authority; and 15
 (c) the Minister administering this section..

31B. *Audit fee*

An authority whose financial statements and accounting records are required or permitted by this or any other Act to be audited by the Auditor-General must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of the audit. 20

32. *Independent auditor to audit Victorian Auditor-General's office* 25

- (1) A person may be appointed by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Economic and Budget Review Committee, as an independent auditor of the Victorian Auditor-General's Office. 30

- 5
- (2) The function of the independent auditor is to audit the financial statements of the Victorian Auditor-General's office in accordance with the **Annual Reporting Act 1983**.
- (3) An arrangement—
- (a) must not be made for a period exceeding 3 years, but may be renewed; and
- (b) may provide for the payment of remuneration.
- 10
- (4) Remuneration payable under the arrangement shall be paid out of the Consolidated Fund which is to the necessary extent appropriated accordingly.
- 15
- (5) Section 12 of the **Annual Reporting Act 1983** applies for the purposes of this section as if a reference to the Auditor-General were a reference to the independent auditor.

33. Report of independent auditor

- 20
- (1) The independent auditor may make a report on an audit under section 32.
- (2) A report under sub-section (1) may include recommendations for the more effective, efficient and economic operation of the Victorian Auditor-General's Office.
- 25
- (3) The independent auditor must not make a report of an audit under this section unless—
- (a) at least 10 days before making the report, the independent auditor has given the Auditor-General a copy of the report or a summary of the findings and proposed recommendations; and
- 30
- (b) has included in the report any submissions or comment made by the Auditor-General or a summary, in an agreed form, of any such submissions or comment.
- 35

- (4) The independent auditor must, within 7 sitting days after making the report, transmit the report to the Legislative Assembly.”.

11. *Repeal of sections 39, 40, 41, 42 and 43*

Sections 39, 40, 41, 42 and 43 of the Principal Act are **repealed.** 5

12. *Amendment of section 44*

In section 44 of the Principal Act—

- (a) in sub-section (1), for “under his hand in the form in the Sixteenth Schedule or to the like effect” **substitute** “by notice in the prescribed form”; 10
- (b) in sub-section (1), for “accounts books and papers” **substitute** “accounting records and other documents”;
- (c) in sub-section (2), for “book or record” **substitute** “document”. 15
- (d) in sub-section (3), for “the receipt and expenditure of money or stores and all other matters” **substitute** “all matters”.

13. *Amendment of section 44B* 20

In section 44B of the Principal Act, after “Society of” **insert** “Certified Practising”.

14. *Amendment of section 45*

In section 45 (1) of the Principal Act—

- (a) for “accounts books vouchers” **substitute** “accounting records”; and 25
- (b) for “shall be liable on any such default to be dealt with as in case of a contempt of the Supreme Court” **substitute—**
- “is guilty of an offence. 30
- Penalty: 5 penalty units.”

15. New section 48 substituted

For section 48 of the Principal Act **substitute—**

“48. Reports by Auditor-General

(1) The Auditor-General—

5 (a) may make a report on the annual statement of financial operations under section 22B of the **Public Account Act 1958**; and

10 (b) may make a report on any audit undertaken by the Auditor-General, or person authorised by the Auditor-General, under this or any other Act.

15 (2) A report under sub-section (1) (a) may include recommendations for the more effective and efficient management of public money and keeping of proper accounts and records of the transactions relating to public money.

20 (3) A report under sub-section (1) (b) may include recommendations for the more effective, efficient and economic operation of the authority to which the report relates.

25 (4) The Auditor-General must cause a copy of each report under sub-section (1) to be transmitted to the Legislative Assembly within 7 sitting days after it is made.

 (5) The Auditor-General must not make a report under this section unless—

30 (a) in the case of a report under sub-section (1) (a), the Auditor-General has, at least 10 days before the report is made, given a copy of the report to the Minister making the annual statement of operations;

35 (b) in a case of a report under sub-section (1) (b), the Auditor-General has, at least 10 days before the report is made, given a copy of the report, or a summary of

findings and proposed recommendations,
to the authority to which the report relates;
(c) the Auditor-General has included in the
report any submissions or comment made
by the Minister or authority, as the case
may be, or a summary, in an agreed form,
of any such submissions or comment.

(6) This section does not apply to a report under
section 48A.”

16. *Amendment of section 48A* 10

In section 48A of the Principal Act—

- (a) in sub-section (1), for “a Department or public
authority” **substitute** “an authority,”;
- (b) in sub-section (2), **omit** “Department or public”;
- (c) in sub-section (3), **omit** “Department or public”;
- (d) after sub-section (7) **insert—**

“(8) An authority subject to an audit under this
section must pay to the Consolidated Fund an
amount to be determined by the Auditor-
General to defray the costs and expenses of the
audit.”

17. *New Part 4 substituted*

For Part V of the Principal Act **substitute—**

“PART 4—REGULATIONS”

“49. *Regulations* 25

The Governor in Council may make regulations
for or with respect to any matter or thing required
or permitted by this Act to be prescribed or
necessary to be prescribed to give effect to this
Act.”.

18. *Repeal of Schedules*

The First Schedule and the Sixteenth Schedule to the Principal Act are **repealed**.

PART 3—TRANSITIONAL AND CONSEQUENTIAL

5 **19. *Auditor-General***

10 Despite the amendment of the Principal Act by section 6 (1), the person holding office as Auditor-General immediately before the commencement of this section continues, after that commencement, to hold office on the same terms and conditions as those on which the Auditor-General held office before that commencement.

20. *Deputy Auditor-General*

15 Despite the amendment of the Principal Act by section 7, the person holding office as Assistant Auditor-General immediately before the commencement of this section continues, after that commencement, to hold office as Deputy Auditor-General on the same terms and conditions as those on which he or she held office as Assistant Auditor-General before that commencement.

