

Victorian Supply Service Bill

No.

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By Authority L V North, Government Printer Melbourne

LEGISLATIVE ASSEMBLY

Read 1° 14 November 1991

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

A BILL

to establish the Victorian Supply Service and for other purposes.

Victorian Supply Service Act 1991

The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1. *Purpose*

5 The purpose of this Act is to establish the Victorian Supply Service.

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**).

3. Definitions

In this Act—

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

“**prescribed agency**” means an agency or instrumentality of the State prescribed by the regulations as an agency or instrumentality to which this Act applies; 5

“**Service**” means the Victorian Supply Service established under this Act;

“**supply**” includes sell or offer for sale. 10

PART 2—VICTORIAN SUPPLY SERVICE

4. Establishment of Service

(1) There is established a Victorian Supply Service.

(2) The Service—

(a) is a body corporate with perpetual succession; 15

(b) has a common seal;

(c) may sue and be sued;

(d) may do and suffer all acts and things that a body corporate may by law do and suffer.

(3) All courts must take judicial notice of the seal of the Service affixed to a document and, until the contrary is proved, must presume that it was duly affixed. 20

5. Functions

The functions of the Service are:

(a) to establish systems and procedures, including a tender process, for the management of the supply of goods and services, or any class of goods and services, to administrative units and prescribed agencies, or any class of administrative units and prescribed agencies; 25
30

- (b) to establish systems and procedures for the custody and distribution of stores and other goods by administrative units and prescribed agencies;
- 5 (c) to establish systems and procedures for the management of the disposal of goods, or any class of goods, by administrative units and prescribed agencies or any class of administrative units and prescribed agencies;
- 10 (d) to provide training in the systems and procedures referred to in paragraph (a), (b) and (c);
- (e) generally to manage, or monitor, the provision of goods and services to, and disposal of goods by, administrative units and prescribed agencies;
- 15 (f) to supply, or make arrangements for the supply of, goods and services to administrative units and prescribed agencies and to any other organisation or person approved by the Minister in writing;
- (g) to issue guidelines and directions to administrative units and prescribed agencies about the supply of goods and services and the disposal of goods;
- 20 (h) to carry out such other functions as are conferred on it by this or any other Act.

6. Powers

- 25 (1) The Service may do all things necessary for the performance of its functions and, subject to the general direction and control of the Minister, has, in particular, the following powers:
- 30 (a) to enter into contracts and agreements for the supply of goods or services on its own behalf or on behalf of an administrative unit or a prescribed agency;
- (b) to carry on, or participate in the carrying on of, a business related to the supply of goods and services under paragraph (a);
- 35 (c) to act as an agent for an administrative unit or prescribed agency in connection with the supply of goods and services to the unit or agency;

- (d) to issue guidelines and directions not inconsistent with this Act or the regulations, regulating the entering into of contracts for the supply of goods or services to administrative units or to prescribed agencies; 5
 - (e) in consultation with the Government Printer, to carry on, or manage or participate in the carrying on of, a printing and publishing business for the Parliament and the Government and for any other purposes; 10
 - (f) if the Minister so directs, to carry on, or manage, or participate in carrying on, any other business for the Government, administrative units or prescribed agencies related to the supply of goods or services;
 - (g) with the approval of the Minister, to make charges for services provided to administrative units and prescribed agencies under paragraph (a) or (c), including charges not limited to the cost of providing the services. 15
- (2) Without limiting the generality of sub-section (1), the Service, with the approval of the Minister, and subject to such terms and conditions as the Minister determines— 20
- (a) may be a member of a company, association or partnership;
 - (b) may form, or participate in the formation of, a company, association or partnership; 25
 - (c) may enter into a joint venture with another person or persons.

7. *Members and term of office*

- (1) The Service consists of a chairperson and not less than 4 other members appointed by the Governor in Council on the recommendation of the Minister. 30
- (2) A member of the Service is appointed for such term, not exceeding 3 years, as is specified in the member's instrument of appointment and is eligible to be re-appointed. 35

- (3) A member of the Service is not subject to the **Public Service Act 1974** by reason only of being such a member.

8. *Remuneration*

- 5 A member of the Service, unless an officer of the public service, is entitled to the remuneration and allowances (if any) fixed by the Governor in Council and published in the Government Gazette.

9. *Vacancies, resignation and removal from office*

- (1) A member ceases to be a member if he or she—
10 (a) becomes bankrupt; or
 (b) is absent, without leave first granted by the Service, from 3 consecutive meetings of which reasonable notice has been given to that member personally or by post.
15 (2) An appointed member may resign by writing delivered to the Minister.
 (3) The Minister may remove a member from office.

10. *Pecuniary interests of members*

- 20 (1) A member who has a pecuniary interest in a matter being considered or about to be considered by the Service must, as soon as practicable after the relevant facts have come to this or her knowledge, declare the nature of the interest at a meeting.
25 (2) Sub-section (1) does not apply in the case of a member engaged in the supply of goods and services if the interest is no greater than that of any other person so engaged.
 (3) A 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.
30 (4) After a declaration is made by a member—
 (a) unless the Service otherwise directs, the member must not be present during any deliberation with respect to that matter; and

- (b) the member is not entitled to vote on the matter;
and
- (c) if the member does vote on the matter, the vote
must be disallowed.

11. Chairperson 5

The Chairperson of the Service or, in his or her absence, a member appointed by the Service, shall preside at a meeting of the Service.

12. Proceedings of the Service

- (1) Three members constitute a quorum of the Service. 10
- (2) A question arising at a meeting shall be determined by a majority of votes of members present and voting on that question, and if voting is equal, the Chairperson, if present, has a casting, as well as a deliberative, vote.
- (3) Subject to this Act, the Service may regulate its own proceedings. 15

13. Validity of decisions

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

- (a) of a defect or irregularity in, or in connection with, the appointment of a member; or 20
- (b) of a vacancy in membership, including a vacancy arising out of the failure to appoint an original member.

14. Improper use of information 25

A person who is, or has been, a member or employee of the Service 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. 30

Penalty: 50 penalty units.

PART 3—CONTRIBUTION

15. *Annual dividend*

At such times and in such manner as the Minister, after consultation with the Service, determines, the Service must pay to the Consolidated Fund by way of dividend each year such amount as the Minister, after consultation with the Service, determines.

PART 4—FINANCIAL

16. *Victorian Supply Service Fund*

- (1) The Service must keep a fund called the Victorian Supply Service Fund.
- (2) There must be paid into the Fund—
- (a) amounts appropriated by the Parliament for the purposes of this Act;
 - (b) all other money received by the Service.
- (3) There may be paid out of the Fund—
- (a) money to meet the costs and expenses (including capital expenditure) incurred by the Service in performing its functions or exercising its powers;
 - (b) money to pay the remuneration of staff of the Service;
 - (c) any other amounts authorised by this or any Act to be paid out of the Fund.
- (4) The Service may invest money in the Fund in accordance with section 4 of the **Trustee Act 1958** or in any other manner approved by the Treasurer for the purposes of this section.

17. *Borrowing powers*

- (1) The Service may, with approval of the Treasurer, obtain financial accommodation (within the meaning of the **Borrowing and Investment Powers Act 1987**) on such terms and conditions as are approved by the Treasurer.

- (2) The Treasurer may, on behalf of the Government of Victoria, execute a guarantee on such terms and conditions as the Treasurer determines in favour of any person or body of persons guaranteeing the due satisfaction of amounts that become payable and of other actions required to be performed as a result of or in connection with the provision to the Service of financial accommodation including, without limiting the generality of the foregoing, the payment of expenses of enforcing or obtaining or endeavouring to enforce or obtain such satisfaction. 5 10

18. Budget

- (1) The Service must on or before 1 May each year submit to the Minister for his or her approval a budget in relation to the operation of the Service for the next financial year. 15
- (2) The budget must be in the form and contain the matters required by the Minister.

19. Accounts and records

- (1) The Service must ensure that there are kept proper accounts and records of the transactions and affairs of the Service and any other records as will sufficiently explain its financial operations and position of the service. 20
- (2) The Service must do all things necessary to—
 - (a) ensure that all money payable to the Service is properly collected; and 25
 - (b) ensure that all money expended by the Service is properly expended and properly authorised; and
 - (c) ensure that adequate control is maintained over assets owned by or in the custody of the Service; and 30
 - (d) ensure that all liabilities incurred by the Service are properly authorised;

- (e) ensure that efficiency and economy of operations are and the avoidance of waste and extravagance; and
- 5 (f) develop and maintain an adequate budgeting and accounting system; and
- (g) develop and maintain an adequate internal audit system.

20. Annual report

- 10 (1) The Service must, in respect of each financial year, prepare an annual report containing—
 - (a) a report of its operations during the financial year; and
 - (b) financial statements for the financial year—and submit the report to the Minister not later than 30
15 September next following the financial year.
- (2) The report of operations referred to in sub-section (1) (a) must—
 - (a) be prepared in a form and contain information determined by the Service to be appropriate; and
 - 20 (b) contain any other information required by the Minister.
- (3) The financial statements referred to in sub-section (1) must—
 - 25 (a) contain information determined by the Minister to be appropriate; and
 - (b) be prepared in a manner and form approved by the Minister; and
 - (c) present fairly the results of the financial transactions of the Service during the financial year to which they relate and the financial position of the Service as at the end of that year; and
 - 30 (d) be signed by the principal accounting officer (by whatever name called) of the Service and by the Chairperson and one other member of the Service, who must—
 - 35

- (i) state whether, in their opinion, the financial statements present fairly the results of the financial transactions of the Service during the financial year to which they relate and whether they sufficiently explain the financial position of the Service at the end of the financial year; and 5
 - (ii) state whether, at the date of signing the financial statements, they were aware of any circumstances that render any details included in the statements misleading or inaccurate and, if so, details of the circumstances; and 10
- (d) be audited as required by this section 21 (1).
- (4) The Minister cause each annual report submitted to the Minister under this section to be laid before the Legislative Council and the Legislative Assembly before the expiration of the seventh sitting day of the Legislative Council or the Legislative Assembly, as the case may be, after the report has been received by the Minister. 15
- (5) If the Service fails to submit an annual report to the Minister by 30 September in each year, the Minister must report or cause to be reported that failure and the reasons for the failure to each House of the Parliament. 20
- (6) This section does not apply to the Service if, as a result of an order made under the **Annual Reporting Act 1983**, the Service is required to submit an annual report under that Act. 25

21. *Audit*

- (1) The financial statements referred to in section 20 must be audited by the Auditor-General. 30
- (2) The Auditor-General has, in respect of the audit of those financial statements, all the powers conferred on the Auditor-General by any law relating to the audit of the public accounts.
- (3) Without limiting the generality sub-section (2), the Auditor-General and each officer of the Auditor-General— 35

- (a) has right of access at all times to the books of the Service; and
 - (b) may require from a member of the Service any information, assistance or explanations necessary for the performance of the duties of the Auditor-General in relation to the audit.
- (4) The Service must pay to the Consolidated Fund an amount to be determined by the Auditor-General to defray the costs and expenses of any audit by the Auditor-General under this section.

PART 5—GENERAL

22. *Overriding inconsistent provisions*

- A provision of another Act regulating the supply of goods or services to a prescribed agency that is inconsistent with this Act, or with systems, procedures, guidelines or directions established or issued by the Service under this Act, is void to the extent of the inconsistency.

23. *Regulations*

- (1) The Governor in Council may make regulations for or with respect to—
 - (a) the supply of goods and services to administrative units or prescribed agencies;
 - (b) prescribing agencies and instrumentalities of the State as agencies or instrumentalities to which this Act applies;
 - (c) any matter or thing in respect of which the Service may issue guidelines or directions;
 - (d) 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 general or limited application;
 - (b) may differ according to differences of time, place or circumstance;

- (c) may confer a discretionary authority or impose a duty on a specified person or class of persons;
- (d) may provide in a specified case or class of case for the exemption of persons or things or a 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; 5
- (e) may impose a penalty not exceeding 5 penalty units for a contravention of the regulations. 10