

AUDIT.

No. 89 of 1961.

An Act to amend the *Audit Act* 1901-1960.

[Assented to 27th October, 1961.]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

- 1.—(1.) This Act may be cited as the *Audit Act* 1961.
- (2.) The *Audit Act* 1901-1960* is in this Act referred to as the Principal Act.
- (3.) The Principal Act, as amended by this Act, may be cited as the *Audit Act* 1901-1961.

Short title
and citation

* Act No. 4, 1901, as amended by No. 8, 1906; No. 4, 1909; No. 6, 1912; No. 32, 1917; No. 23, 1920; No. 34, 1924; No. 18, 1926; No. 45, 1934; No. 52, 1947; No. 60, 1948; No. 51, 1950; No. 79, 1952; No. 12, 1953; No. 29, 1954; No. 18, 1955; No. 39, 1957; No. 8, 1959; and Nos. 17 and 77, 1960.

Commence-
ment.

2.—(1.) Subject to the next succeeding sub-section, this Act shall come into operation on the day on which it receives the Royal Assent.

(2.) Sections three, four, twenty-one and twenty-two of this Act shall come into operation on a date to be fixed by Proclamation.

Interpretation.

3. Section two of the Principal Act is amended by inserting in the definition of “ Departments ”, after the word “ includes ”, the words “ Departments of the Parliament and ”.

4. After section two of the Principal Act and before the heading “ AUDITOR-GENERAL ” the following section is inserted:—

Application of
Act.

“ 2A.—(1.) This Act extends to every Territory of the Commonwealth, but does not apply to or in relation to revenues, moneys or stores of a Territory that does not form part of the Commonwealth or the operations of the administration of, or persons in the service of, any such Territory in relation to the receipt, expenditure or control of any such revenues, moneys or stores.

“ (2.) Subject to any modifications and exceptions specified in directions given in pursuance of section sixty-three of this Act, this Act applies outside Australia and the Territories of the Commonwealth to and in relation to every person who is or has been employed in the service of the Commonwealth, whether or not he is an Australian citizen, and the functions, powers, duties and responsibilities conferred or imposed by this Act on the Treasurer, the Auditor-General and other specified persons and authorities in relation to persons who are or have been so employed, and in relation to public moneys and other matters provided by this Act, are exercisable or shall be performed accordingly.

“ (3.) The provisions of this Act do not apply to or in relation to affairs and transactions (including the receipt or expenditure of money) in relation to the Parliamentary Refreshment Rooms except affairs or transactions involving the expenditure of moneys for the purpose of which the Consolidated Revenue Fund has been appropriated.”.

Appointment of
acting Auditor-
General.

5. Section nine of the Principal Act is amended by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“ (2.) On the first occasion on which a person is appointed under this section, he shall, before exercising the powers and performing the duties of the Auditor-General, make and subscribe before the Executive Council a declaration in the form contained in the First Schedule to this Act or to the like effect.”.

6. Section fourteen B of the Principal Act is amended by omitting from sub-section (2.) the words "or employee" and inserting in their stead the words ", employee or person".

Auditor-General to have access to books, documents, &c.

7. Section twenty-five of the Principal Act is amended by omitting the words "(unless otherwise specially directed) shall" and inserting in their stead the words "shall, if so required by the Auditor-General".

Accounting officers to send declared returns to the Auditor-General.

8. Section thirty-two of the Principal Act is amended—

(a) by omitting from sub-section (1.) the words "for his countersignature"; and

Treasurer to prepare statement of moneys required. Second Schedule.

(b) by omitting sub-sections (2.), (3.) and (4.) and inserting in their stead the following sub-sections:—

"(2.) Upon receipt of the instrument, the Auditor-General shall consider whether the sums of money set forth in the instrument are legally available for, and applicable to, the services or purposes stated.

Auditor-General to be guided by appropriation.

"(3.) If the Auditor-General is satisfied that those sums are so available and applicable, he shall—

Certificate of Auditor-General.

(a) sign a certificate to the effect set forth in the form contained in the Second Schedule to this Act; and

(b) return the instrument containing the certificate to the Treasurer for submission to the Governor-General.

"(4.) If the Auditor-General is not so satisfied, he shall not sign the certificate referred to in the last preceding sub-section and shall—

Auditor-General may return instrument.

(a) set forth in writing in a paper attached to the instrument a statement showing the sum or sums considered by him not to be available for, or not to be applicable to, the services and purposes stated in the instrument, and the grounds on which he withholds his certificate; and

(b) return the instrument to the Treasurer.

"(5.) An instrument prepared by the Treasurer in accordance with this section, after it has been completed by the signed certificate of the Auditor-General and an authority to the effect set forth in the form contained in the Second Schedule to this Act signed by the Governor-General, but not otherwise, shall be the warrant for the drawing from the Commonwealth Public Account, in accordance with the next succeeding section, of the sums set forth in the instrument."

Completed instrument to be warrant.

Debiting of
expenditure to
be charged to
Treasurer's
advance.

9. Section thirty-six A of the Principal Act is amended by inserting after the word "not" (second occurring) the words "at any time".

10. After section thirty-seven of the Principal Act and before the heading "AUDIT AND INSPECTION" the following section is inserted:—

Rebunds from
Consolidated
Revenue Fund.

"37A. Where the Commonwealth is liable to repay to any person any amount that has been received by the Commonwealth and paid into the Consolidated Revenue Fund and appropriation of the Consolidated Revenue Fund is not made by an Act other than this Act to enable the repayment to be made, the Consolidated Revenue Fund is hereby appropriated to the extent necessary to make the repayment."

11. After section forty-one C of the Principal Act the following section is inserted:—

Special
operations of
Departments.

"41D. —(1.) A Department, being a Department of State of the Commonwealth, shall, if so required by the Treasurer, keep such accounts and prepare such financial statements in respect of such of its operations, and in such form, as the Treasurer determines.

"(2.) Accounts kept and statements prepared under this section and all books, vouchers and papers relating to those accounts and statements shall be subject to inspection, examination and audit by the Auditor-General.

"(3.) The provisions of this section shall be read as in addition to and not in derogation from the other provisions of this Act."

Imperfect
vouchers.

12. Section forty-seven of the Principal Act is amended—

(a) by inserting after the word "Auditor-General" (wherever occurring) the words "or an authorized officer"; and

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

"(3.) In this section, 'authorized officer' means an officer authorized by the Auditor-General to act under this section."

Yearly
statement for
audit.

13. Section fifty of the Principal Act is amended—

(a) by omitting the words "and showing all votes which shall have lapsed"; and

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

"(2.) For the purposes of this section, the statement of an amount to the next lower or to the next higher pound shall be deemed to be a full and particular statement in detail of that amount."

14. Section fifty-one of the Principal Act is amended by adding at the end thereof the following sub-section:—

Auditor-General to audit and report.

“(2.) Whenever the Auditor-General considers it expedient he may discharge his obligation to prepare and sign a report under the last preceding sub-section by preparing and signing a report and later, but as soon as practicable, a report or reports supplementary to the first-mentioned report.”.

15. Section fifty-one A of the Principal Act is amended by omitting the words “the provisions of any other Act” and inserting in their stead the words “the provisions of this or any other Act”.

Information in respect of audits.

16. Section fifty-two of the Principal Act is amended by omitting the words “the said report” and inserting in their stead the words “a report under section fifty-one of this Act”.

Certain Orders in Council and law officer's opinions to be appended.

17. Section fifty-three of the Principal Act is repealed and the following section inserted in its stead:—

“53.—(1.) After preparing and signing a report under section fifty-one of this Act, the Auditor-General shall transmit a signed copy of the report to each House of the Parliament on the first day on which that House of the Parliament sits after the day on which he signed the report or within fourteen days after that day.

Auditor-General's reports to be transmitted to Parliament.

“(2.) If Parliament is not in session when the Auditor-General signs a report under section fifty-one of this Act, the Auditor-General shall, within fourteen days after the day on which he signed the report, transmit a signed copy of the report to the Treasurer.

“(3.) A copy of a report transmitted to a House of the Parliament or to the Treasurer under this section shall be accompanied by—

- (a) a copy of the Treasurer's statement under section fifty of this Act, except in the case of a supplementary report; and
- (b) any copies referred to in section fifty-two of this Act that are relevant to the report.

“(4.) Where a copy of a report and the accompanying papers (if any) are transmitted to the Treasurer under this section, the Treasurer shall, within fourteen days after the date on which he received them, publish them as a public document.”.

18. Section fifty-four of the Principal Act is amended by omitting the words “such yearly report” and inserting in their stead the words “a report under section fifty-one of this Act”.

Auditor-General to make suggestions for accounting, collection and payment.

Loan Fund
expenditure to
be covered by
Act.

19. Section fifty-seven of the Principal Act is amended—

(a) by omitting the word “ It ” and inserting in its stead the words “ Subject to this section, it ”; and

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

“ (3.) Where the Commonwealth is liable to repay to any person an amount that has been received by the Commonwealth and paid into the Loan Fund (not being an amount lent to the Commonwealth provision for the repayment of which is made by an Act other than this Act), the Loan Fund is appropriated to the extent necessary to make the repayment.”.

Trust accounts.

20. Section sixty-two A of the Principal Act is amended by adding at the end thereof the following sub-section:—

Refunds from
Trust Fund.

“ (7.) Where the Commonwealth is liable to repay to any person any amount that has been received by the Commonwealth and paid to the credit of the Trust Fund, the repayment may be made from moneys standing to the credit of the Trust Fund.”.

21. Section sixty-three of the Principal Act is repealed and the following section inserted in its stead:—

Moneys, &c.,
outside the
Commonwealth.

“ 63.—(1.) The Governor-General may give such directions as he considers necessary for and in relation to —

(a) the collection, receipt, custody, expenditure, care and management, outside Australia, of public moneys and the due accounting for those moneys;

(b) the keeping of books and accounts and the furnishing of statements, returns and vouchers in respect of the matters referred to in the last preceding paragraph;

(c) the execution of works and the supply of services outside Australia for or by the Commonwealth;

(d) the purchase outside Australia of chattels and other property for or by the Commonwealth;

(e) the custody, issue, sale or other disposal and writing off of stores and other property of the Commonwealth outside Australia, and the proper accounting for, and stocktaking of, those stores and that property; and

(f) the inspection and examination (otherwise than by the Auditor-General), and the departmental check, of books, accounts, statements, returns, records and vouchers prepared or kept outside Australia in respect of public moneys, stores and other property of the Commonwealth.

“(2.) Directions given under the last preceding sub-section have effect notwithstanding any other provision of this Act.

“(3.) For the purposes of this section, ‘Australia’ includes the Territories of the Commonwealth.”

22. Section seventy of the Principal Act is repealed and the following section inserted in its stead:—

“70.—(1.) Subject to the succeeding provisions of this section—

(a) the several courts of the States are invested with federal jurisdiction; and

(b) jurisdiction is conferred on the several courts of the Territories of the Commonwealth,

with respect to offences against this Act committed outside Australia and the Territories of the Commonwealth.

“(2.) The jurisdiction invested in or conferred on courts by the last preceding sub-section is invested or conferred within the limits (other than limits having effect by reference to the places at which offences are committed) of their several jurisdictions, whether those limits are as to subject-matter or otherwise.

“(3.) The jurisdiction invested in the courts of the States by this section is invested subject to the conditions and restrictions specified in paragraphs (a) to (c) of sub-section (2.) of section thirty-nine of the *Judiciary Act 1903-1960*.

“(4.) The jurisdiction invested in, or conferred on, a court of summary jurisdiction by this section shall not be judicially exercised except by a Chief, Police, Stipendiary, Resident or Special Magistrate, or a District Officer or Assistant District Officer of a Territory of the Commonwealth.

“(5.) The trial on indictment of an offence against this Act committed outside Australia and the Territories of the Commonwealth may be held in any State or Territory of the Commonwealth.

“(6.) Subject to this Act, the laws of a State or Territory of the Commonwealth with respect to the arrest and custody of offenders or persons charged with offences and the procedure for—

(a) their summary conviction;

(b) their examination and commitment for trial on indictment;

(c) their trial and conviction on indictment; and

(d) the hearing and determination of appeals arising out of any such trial or conviction or out of any proceedings connected therewith,

Jurisdiction
of courts in
respect of
offences
committed
outside
Australia.

and for holding accused persons to bail apply, so far as they are applicable, to a person who is charged in that State or Territory with an offence against this Act committed outside Australia and the Territories of the Commonwealth.

“(7.) Except as provided by this section, the *Judiciary Act* 1903–1960 applies in relation to offences against this Act.

“(8.) For the purposes of this section, ‘court of summary jurisdiction’ includes a court of a Territory of the Commonwealth sitting as a court for the making of summary orders or the summary punishment of offences under the law of the Territory.”.

Regulations.

23. Section seventy-one of the Principal Act is amended—

(a) by inserting in sub-section (1.), after the words “and in particular for”, the words “and in relation to”;

(b) by omitting from paragraph (c) of that sub-section the word “prescribing”;

(c) by omitting paragraph (d) of that sub-section and inserting in its stead the following paragraphs:—

“(d) the execution of works and the supply of services for or by the Commonwealth,

“(e) the purchase of chattels and other property for or by the Commonwealth, and

“(f) the custody, issue, sale or other disposal and writing off of stores and other property of the Commonwealth, and the proper accounting for, and stocktaking of, those stores and that property.”; and

(d) by omitting sub-section (2.) and inserting in its stead the following sub-section:—

“(2.) The regulations may—

(a) authorize the Secretary to the Department of the Treasury to give to persons employed in the service of the Commonwealth or to any other persons who are subject to the provisions of this Act directions, not inconsistent with this or any other Act or with any regulations under this or any other Act, for or in relation to any of the matters referred to in paragraphs (a) to (f), inclusive, of the last preceding sub-section;

- (b) authorize a prescribed officer of a Department to give to officers of, or persons employed in, that Department directions, not inconsistent with this or any other Act, with any regulations under this or any other Act or with any direction referred to in the last preceding paragraph, for or in relation to any of the matters referred to in paragraphs (a) to (f), inclusive, of the last preceding sub-section; and
 - (c) provide that a contravention of, or failure to comply with, a direction referred to in either of the last two preceding paragraphs shall be deemed to be a breach of the regulations.”
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