

PUBLIC ACCOUNT ACT 1986

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No. 56 of 1986
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PUBLIC ACCOUNT ACT 1986

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 No. 56 of 1986
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AN ACT to make provision for, and with respect to, the Public Account of the State.

[Royal Assent 20 May 1986]

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:—

PART I

PRELIMINARY

- 1**—This Act may be cited as the *Public Account Act 1986*. Short title.
- 2**—This Act shall commence on 1st July 1986. Commencement.
- 3**—(1) In this Act, unless the contrary intention appears— Interpretation.
 “Appropriation Act” means an Act which authorizes the issue and application of any money from the Consolidated Fund to meet—

- (a) the cost of the ordinary annual services of the Government;
 - (b) expenditure on public works or any property required for public purposes; or
 - (c) the making of a loan authorized by law;
- “ the Consolidated Fund ” means the Consolidated Fund established under section 7;
- “ the Loan Fund ” means the Loan Fund formerly established under the repealed Act;
- “ loan money ” means money borrowed (whether before or after the commencement of this Act) by, or on behalf of, the State;
- “ the Public Account ” means the Public Account of the State referred to in section 5;
- “ the repealed Act ” means the *Public Account Act 1957*;
- “ special deposit account ” means a special deposit account established under section 13 within the Special Deposits and Trust Fund;
- “ the Special Deposits and Trust Fund ” means the Special Deposits and Trust Fund established under section 13;
- “ trust account ” means a trust account established under section 13 within the Special Deposits and Trust Fund.
- (2) For the purposes of this Act—
- (a) expenditure for recurrent services shall be deemed to be the cost of the ordinary annual services of the Government; and
 - (b) expenditure for works and services shall be deemed to be—
 - (i) expenditure on public works or property required for public purposes; or
 - (ii) the making of a loan authorized by law.

Application
of this Act.

4—(1) The provisions of this Act are in addition to, and not in derogation from, the provisions of the *Audit Act 1918* and the *Financial Agreement Act 1927* and this Act shall be construed accordingly.

(2) Nothing in this Act authorizes—

- (a) the commencement of a public work contrary to section 16 of the *Public Works Committee Act 1914*;
- (b) the undertaking or constructing of new power development contrary to section 16 of the *Hydro-Electric Commission Act 1944*; or
- (c) the commencement or continuation of any other work or undertaking contrary to any enactment requiring specific authority of Parliament for that work or undertaking.

5—For the purposes of this Act and of the *Audit Act 1918*, the Public Account of the State consists of— The Public Account.

- (a) the Consolidated Fund; and
- (b) the Special Deposits and Trust Fund.

6—(1) Money standing to the credit of the Public Account may be invested in such securities as may be approved by the Treasurer for the purpose. Investment of funds of the Public Account.

(2) Except where otherwise provided in this Act or any other Act, any interest that is received from the investment of money standing to the credit of the Public Account shall be paid by the Treasurer into the Consolidated Fund.

PART II

THE CONSOLIDATED FUND

7—There shall be established and kept in the Treasury an account to be known as the Consolidated Fund. Establishment of the Consolidated Fund.

8—(1) For the purposes of this Act, all expenditure from the Consolidated Fund shall be recorded as— Expenditure from the Consolidated Fund.

- (a) expenditure for recurrent services; or
- (b) expenditure for works and services.

(2) Money shall not be drawn from the Consolidated Fund except under the authority of this Act or some other Act.

(3) Every appropriation out of the Consolidated Fund for any financial year shall lapse and cease to have any effect for any purpose at the close of that year.

(4) The Treasurer shall cause to be opened in the books of the Treasury such accounts as he may think necessary for the purpose of recording transactions in connection with the Consolidated Fund.

(5) There shall be credited to the Consolidated Fund the amounts of—

- (a) all revenue of the State;
- (b) except where otherwise expressly provided in any Act—
 - (i) all money received by the Treasurer after the commencement of this Act in repayment of advances or loans made or money expended from the Loan Fund or out of money borrowed for the public purposes of the State under any Act;
 - (ii) all money borrowed pursuant to the Financial Agreement by, or on behalf of, the State; and
 - (iii) except as provided by section 13 (7), all money received from the Commonwealth as a grant or loan towards the provision of capital works;
- (c) all money received by the Treasurer from the sale of lands or other property belonging to the Crown; and
- (d) any other money as may be determined by the Treasurer.

(6) There shall be kept in the Treasury an account of the capital liability of the State in respect of money borrowed by, or on behalf of, the State pursuant to the Financial Agreement or any Act.

9—A Bill for an Appropriation Act in relation to a financial year shall be accompanied by a statement showing, with respect to that financial year, the total amounts of—

- (a) estimated receipts of a recurrent nature;
- (b) estimated receipts of a capital nature;
- (c) estimated expenditure for recurrent services; and
- (d) estimated expenditure for works and services.

10—(1) Where an Appropriation Act has a schedule of authorized expenditure in which a Division contains a subdivision for salaries and related payments or a subdivision for administrative expenses, an amount that is specified opposite an item specified in either of those subdivisions shall not be construed as restricting expenditure on that item to the amount so specified but as authorizing additional expenditure as provided by subsection (2).

Transfer of appropriations of Consolidated Fund.

(2) Where an amount that is specified opposite an item specified in a subdivision referred to in subsection (1) as the estimated expenditure on that item for the relevant financial year proves to be deficient, the Treasurer may, by order, make good the deficiency out of any surplus arising, or saving effected, in relation to any other item specified in that subdivision of the relevant Division.

(3) Where, in an Appropriation Act, an amount that is specified as estimated expenditure for works and services proves to be deficient, the Treasurer may, by order, make good the deficiency out of any surplus arising, or saving effected, in relation to another item of expenditure for works and services.

11—(1) In this section, “ Commonwealth money to which this section applies ” means money that is granted or lent, or agreed to be granted or lent, to the State by the Commonwealth under an arrangement made between the State and Commonwealth with respect to the purposes for which that money may be expended, unless that money is money to which section 13 (7) (a), (b), or (c) applies.

Treasurer's Reserve.

(2) Subject to this section, the Treasurer may, in any financial year, by order, issue and apply from the Consolidated Fund an amount not exceeding in total—

- (a) an amount of \$10 000 000;
- (b) if an additional amount is contingently appropriated by an Appropriation Act for the relevant financial year, that additional amount;
- (c) if Parliament has appropriated for that financial year any money for a purpose other than for salaries and related payments or administrative expenses and there is a surplus arising, or saving effected, from that appropriation, the amount of that surplus or saving; and

(d) if any Commonwealth money to which this section applies is paid or payable to the State by the Commonwealth in, or in relation to, that financial year, the amount of that Commonwealth money,

for expenditure the need for which could not, in the opinion of the Treasurer, reasonably have been foreseen and which is essential for efficient financial administration.

(3) Subsection (2) does not authorize expenditure for a purpose other than a purpose mentioned in an Appropriation Act then in force unless the Governor has, in writing, approved of that expenditure.

(4) Of the total amount available under subsection (2) (a) and (b) in a financial year, not more than one-third may be applied for purposes other than a purpose specified in the Schedule to an Appropriation Act for the financial year then current or, if there is no Appropriation Act then in force, an Appropriation Act for the preceding year.

(5) An amount referred to in subsection (2) (a), (b), or (c) may be applied only for expenditure for recurrent services.

(6) The Consolidated Fund is, without further or other appropriation, appropriated to the extent necessary to provide an amount mentioned in subsection (2) (a) and to provide for the expenditure, pursuant to this section, of Commonwealth money to which this section applies.

(7) All expenditure under this section in any financial year shall, before the close of the following financial year, be submitted to Parliament for its approval.

(8) Nothing in this section affects the operation of regulations 20 and 21 of Schedule II to the *Audit Act* 1918 in a case where an authority is issued by the Governor under regulation 20 of that Schedule and notwithstanding that money is also available under this section.

Special
payments for
expenditure for
works and
services.

12—(1) After an Appropriation Act is passed in respect of a financial year, the Treasurer may, by order, with the approval of the Governor, determine that there shall be paid from the Consolidated Fund, in anticipation of appropriation by Parliament, such additional amounts as may be necessary in the public interest to provide for expenditure for works and services.

(2) An amount authorized under subsection (1) as expenditure for works and services for a purpose other than a purpose specified in the Schedule to an Appropriation Act then in force shall not exceed \$1 000 000 in the relevant financial year.

(3) An order made under subsection (1) has no force or effect after the financial year to which it relates.

(4) All expenditure under this section in any financial year shall, before the close of the following financial year, be submitted to Parliament for its approval.

PART III

THE SPECIAL DEPOSITS AND TRUST FUND

13—(1) All money deposited with the Treasurer or otherwise held on trust by the Treasurer and such other money held by the Treasurer as he may direct, shall be kept in a separate fund to be called the Special Deposits and Trust Fund. Establishment of the Special Deposits and Trust Fund.

(2) The Treasurer may establish special deposit accounts and trust accounts for any money kept in the Special Deposits and Trust Fund and define the purposes for which they are to be used.

(3) The money standing to the credit of a special deposit account or trust account shall be deemed to be money standing to the credit of the Special Deposits and Trust Fund.

(4) The Treasurer may direct that a special deposit account or trust account shall be closed and, on such a direction, after all liabilities relating to the account have been met, the account shall be closed.

(5) The Treasurer may direct that any money standing to the credit of a special deposit account or trust account that is not required for the purposes of that account and the balance of money standing to the credit of a special deposit account or trust account closed under subsection (4) shall be credited to the Consolidated Fund.

(6) The Treasurer may—

(a) accept deposits of money belonging to, or appropriated or set aside for the use of, the Crown or of an authority of the State, and credit those deposits to an appropriate special deposit account or trust account; and

(b) allow interest on those deposits at such rates as may be approved by the Treasurer.

(7) The Treasurer may accept and credit to an appropriate special deposit account money granted or lent to the State by the Commonwealth that is—

(a) to be applied for specific purposes prescribed by or under a Commonwealth Act;

(b) received by the State on condition that it will be applied for specific purposes; or

(c) received by the State in accordance with an agreement made between the State and the Commonwealth with respect to the purposes for which that money may be spent,

and may, without any authority other than this Act, issue and apply that money for the purposes for which it was granted or lent.

(8) The Treasurer shall not expend any money standing to the credit of the Special Deposits and Trust Fund except for the purposes of that Fund or under the authority of this Act or some other Act.

PART IV

POWERS OF TREASURER

Application out of the Public Account for advances to departments, &c.

14—(1) Subject to this section, the Treasurer may issue and apply out of the Public Account such amounts as may be required to provide—

(a) advances to departments and authorities of the State, the accounts of which are kept in the Treasury; and

(b) special advances to departments and authorities of the State for specific purposes, pending adjustment when actual expenditure on those purposes is made.

(2) An advance shall not be made under subsection (1) (a) unless—

(a) Parliamentary sanction has been obtained for the expenditure for the purposes of which the advance is made;
or

(b) the expenditure is authorized under section 12 (1) of this Act or under regulation 20 of Schedule II to the *Audit Act 1918*.

(3) Unless otherwise sanctioned by the Treasurer, with the approval of the Auditor-General, all amounts that are issued and applied under subsection (1) shall, out of money provided by Parliament or under section 13 (7) to meet the expenditure, be refunded and paid back into the Public Account in the financial year in which that money is so provided.

15—(1) Where the annual statements prepared by the Treasurer pursuant to section 29 of the *Audit Act* 1918 show a deficit in the Consolidated Fund for a financial year, the Treasurer may issue and apply temporarily out of the Public Account such amount as may be required to meet the whole or a part of that deficit.

Temporary application out of the Public Account to meet a deficit in the Consolidated Fund.

(2) The Treasurer shall, in the annual statements referred to in subsection (1), include a statement showing the amount of the deficit, if any, referred to in that subsection.

16—(1) Where authority to pay money out of the Consolidated Fund has been granted by any Act and the money standing to the credit of the Consolidated Fund is, for the time being, insufficient to provide for that payment, the Governor may authorize the Treasurer to make arrangements for obtaining temporary advances (whether by way of overdraft or otherwise) in the State or elsewhere to an extent not exceeding, in any case, the amount by which the receipts of revenue, or, as the case may be, the available loan money, are or is for the time being insufficient to provide for that payment.

Temporary borrowing pending receipts.

(2) The interest or discount on a temporary advance under this section is chargeable to the Consolidated Fund which, to the necessary extent, is appropriated accordingly.

(3) All amounts of money raised by a temporary advance under this section during a financial year for the purposes of subsection (1) shall be issued and applied solely for purposes for which the Consolidated Fund has been authorized to be issued and applied pursuant to any Act appropriating the supplies granted to the Crown for the service of that financial year or the following financial year.

PART V

MISCELLANEOUS

Interpretation. **17**—In this Part, unless the contrary intention appears—

“ the Consolidated Revenue Fund ” means the Consolidated Revenue Fund formerly established under the *Consolidated Revenue Fund Act 1873*;

“ the Trust Fund ” means the Trust Fund formerly established under the repealed Act.

Copies of orders to be forwarded to Auditor-General.

18—(1) The Treasurer shall, within 7 days after he makes an order under this Act, cause a copy of the order to be forwarded to the Auditor-General.

(2) An order made by the Treasurer under this Act is not a statutory rule within the meaning of the *Rules Publication Act 1953*.

Returns with details of orders to be laid before Parliament.

19—The Treasurer shall cause to be laid before each House of Parliament, within 14 sitting days of that House after 31st March, 30th June, 30th September, and 31st December in each year, a return specifying details of each order made pursuant to section 10 (2) or (3), 11 (2), or 12 (1) during the preceding period of 3 months.

Regulations.

20—(1) The Governor may make regulations for the purposes of this Act.

(2) Without limiting the generality of subsection (1), the regulations may make provision for, or with respect to, matters of a transitional or savings nature consequent on the enactment of this Act.

Repeal of *Public Account Act 1957*.

21—The *Public Account Act 1957* is repealed.

Transitional and savings provisions.

22—(1) The amount of money standing to the credit of the Consolidated Revenue Fund or the Loan Fund immediately before the commencement of this Act shall be credited to the Consolidated Fund.

(2) If the annual statements prepared by the Treasurer pursuant to section 29 of the *Audit Act* 1918 in respect of the financial year ending on 30th June 1986 show a deficit in the Consolidated Revenue for that financial year, the amount of that deficit shall be charged to the Consolidated Fund.

(3) Trust accounts that were, immediately before the commencement of this Act, kept in the Treasury as part of the Trust Fund are continued and shall be deemed to be special deposit accounts or trust accounts under section 13, as may be directed by the Treasurer.

23—A reference in any enactment, agreement, notice, or other document to the Consolidated Revenue, the Consolidated Revenue Fund, the Loan Fund, or the Trust Fund shall, if that enactment, agreement, certificate, notice, or other document was subsisting or in force immediately before the commencement of this Act—

References to Consolidated Revenue, Consolidated Revenue Fund, Loan Fund, and Trust Fund.

(a) in the case of a reference to the Consolidated Revenue, the Consolidated Revenue Fund, or the Loan Fund, be read after that day as a reference to the Consolidated Fund; or

(b) in the case of a reference to the Trust Fund, be read after that day as a reference to the Special Deposits and Trust Fund,

and that enactment, agreement, certificate, notice, or other document shall be construed and have effect accordingly.

