



Audit Amendment Act 1984

No. 40 of 1984

An Act to amend the *Audit Act 1901*

[Assented to 8 June 1984]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

Short title, &c.

1. (1) This Act may be cited as the *Audit Amendment Act 1984*.
- (2) The *Audit Act 1901*¹ is in this Act referred to as the Principal Act.

Commencement

2. (1) Subject to sub-section (2), this Act shall come into operation on the day on which it receives the Royal Assent.
- (2) Sections 7 to 14 (inclusive) shall come into operation on 1 July 1984.
3. After section 4 of the Principal Act the following sections are inserted:

Leave of absence

“4A. The Minister may grant to the Auditor-General leave of absence from duty on such terms and conditions as to remuneration or otherwise as the Minister determines.

Resignation

“4B. The Auditor-General may resign the office of Auditor-General by writing signed by the Auditor-General and delivered to the Governor-General.”.

Incapacity for other position

4. Section 5 of the Principal Act is amended by omitting paragraphs (2) (c) and (d) and substituting the following word and paragraph:

“or (c) if he is absent from duty, except on leave of absence granted by the Minister, for 14 consecutive days or for 28 days in any 12 months.”.

How removed from office or suspended

5. Section 7 of the Principal Act is amended by inserting in sub-section (2) “physical or mental” before “incapacity”.

6. Sections 8 and 9 of the Principal Act are repealed and the following sections are substituted:

Acting appointment

“8. (1) The Governor-General may appoint a person to act in the office of Auditor-General—

- (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 from Australia or is, for any other reason, unable to perform the functions of that office,

but a person appointed to act during a vacancy shall 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.

“(3) The Governor-General may—

- (a) subject to this section, determine the terms and conditions of appointment, including remuneration and allowances, of a person acting in the office of Auditor-General; and
- (b) terminate such an appointment at any time.

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

“(5) While a person is acting in the office of Auditor-General in accordance with sub-section (1)—

- (a) the person has, and may exercise, all the powers, and shall perform all the functions, of that office under this Act; and

- (b) the person has, and may exercise, the powers (if any) exercisable by the Auditor-General by virtue of a delegation to the Auditor-General under any other law.

“(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.

Superannuation

“9. For the purposes of the *Superannuation Act 1976*, the removal under section 7 of this Act of an Auditor-General from office following his or her suspension from office on the ground of physical or mental incapacity shall be deemed to be retirement on the ground of invalidity.”.

Private moneys collected by officers, &c.

7. Section 25 of the Principal Act is amended by omitting from sub-section (5) “may” and substituting “shall”.

8. Before section 31 of the Principal Act the following sections are inserted in Part V:

Notional items

“29. (1) Where a subdivision in a Schedule to an Appropriation Act for a financial year is not divided into items, the Minister may direct in writing that, for the purposes of this Part and of the regulations, that subdivision shall be taken to be divided into notional items set out in the direction.

“(2) Where, in the opinion of the Minister, it is desirable to do so, the Minister may approve in writing the variation of a direction under sub-section (1) by way of—

- (a) the reduction, by an amount specified in the approval, of the amount in one of the notional items into which a subdivision referred to in that sub-section is to be taken to be divided; and
- (b) the increase, by that amount specified in the approval, of the amount in another of those notional items into which that subdivision is to be taken to be divided,

and, where the Minister approves such a variation of a direction, the direction shall, for the purposes of this Part (including this sub-section) and of the regulations, be taken to be so varied.

Notional items taken to be items

“30. Where, because of a direction under sub-section 29 (1), a subdivision referred to in that sub-section is to be taken to be divided into notional items, sections 34, 35, 36A and 36C have effect as if those notional items were items of that subdivision.”.

Act of grace payments

9. Section 34A of the Principal Act is amended—

(a) by inserting after sub-section (1) the following sub-sections:

“(1A) A payment, or payments, to a person by virtue of a direction under sub-section (1) shall be made on such terms or conditions as are determined by an authorized person before the payment is, or the payments are, made, being such terms or conditions as the authorized person considers to be appropriate.

“(1B) Where a payment or payments to a person by virtue of a direction under sub-section (1) is or are subject to terms or conditions determined under sub-section (1A), in addition to those terms or conditions, that payment is, or those payments are, subject to the condition that, if any of those terms or conditions is not or are not complied with, the person will, on demand by an authorized person, pay to the Commonwealth an amount equal to the amount of that payment.

“(1C) Where a person is liable to pay an amount to the Commonwealth under sub-section (1B), the Commonwealth may recover that amount as a debt due to the Commonwealth by action in a court of competent jurisdiction.”;

(b) by omitting from sub-section (2) “\$25,000” and substituting “\$50,000”; and

(c) by omitting from sub-section (2) “\$5,000” and substituting “\$10,000”.

Bank accounts

10. Section 63D of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

“(3) In this section, ‘approved bank’, in relation to an authority, means a trading bank as defined in sub-section 5 (1) of the *Banking Act 1959* or another bank declared by the Treasurer or a person authorized by the Treasurer to give approvals under this section to be an approved bank in relation to that authority.”.

Investment of moneys

11. Section 63E of the Principal Act is amended by omitting sub-section (2) and substituting the following sub-section:

“(2) In sub-section (1), ‘approved bank’, in relation to an authority, means a trading bank as defined in sub-section 5 (1) of the *Banking Act 1959* or another bank declared by the Treasurer or a person authorized by the Treasurer to give approvals under this section to be an approved bank in relation to that authority.”.

Bank accounts

12. Section 63J of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

“(3) In this section, ‘approved bank’, in relation to an authority, means the Reserve Bank of Australia or another bank for the time being declared by the Treasurer or a person authorized by the Treasurer to give approvals under this section to be an approved bank in relation to that authority.”.

Audit, &c., by arrangement

13. Section 63P of the Principal Act is amended by omitting sub-section (3) and substituting the following sub-section:

“(3) Arrangements for the purposes of sub-paragraph (1) (a) (i) with a body, arrangements for the purposes of paragraph (1) (b) with a Government, or an arrangement made under sub-section (2) with a body, may include provision for the payment of a fee by the body or Government, as the case requires, to the Commonwealth in respect of the carrying out of an inspection and audit to which the arrangement relates.”.

Writing off, and waiver of rights to, certain moneys and stores

14. Section 70C of the Principal Act is amended—

- (a) by omitting from paragraph (2) (a) “and”;
- (b) by adding at the end of sub-section (2) the following word and paragraph:

“; and (c) to allow an amount payable to the Commonwealth to be paid in instalments.”; and
- (c) by omitting from sub-section (4) “\$25,000” and substituting “\$50,000”.

Schedule 1

15. Schedule 1 to the Principal Act is repealed.

NOTE

1. No. 4, 1901, as amended. For previous amendments, see 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; Nos. 17 and 77, 1960; No. 89, 1961; No. 74, 1962; No. 75, 1964; No. 126, 1965; No. 93, 1966; No. 120, 1968; No. 20, 1969; No. 216, 1973; No. 56, 1975; No. 36, 1978; Nos. 8 and 155, 1979; Nos. 74 and 176, 1981; Nos. 26 and 80, 1982; and No. 62, 1983.