



Audit Amendment Act 1988

No. 73 of 1988

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SCHEDULE 1

AMENDMENTS OF THE AUDIT ACT 1901 RELATING TO OFFENCES

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**AMENDMENTS OF THE AUDIT ACT 1901 TO CHANGE REFERENCES FROM
AUDITOR-GENERAL'S OFFICE TO AUSTRALIAN AUDIT OFFICE**



Audit Amendment Act 1988

No. 73 of 1988

An Act to amend the *Audit Act 1901*, and for related purposes

[Assented to 24 June 1988]

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

Short title etc.

1. (1) This Act may be cited as the *Audit Amendment Act 1988*.
- (2) In this Act, "Principal Act" means the *Audit Act 1901*¹.

Commencement

2. (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) Sections 6 and 19 commence on a day to be fixed by Proclamation.
- (3) Sections 16, 17 and 20 commence on the twenty-eighth day after the day on which this Act receives the Royal Assent.

Acting appointment

3. Section 8 of the Principal Act is amended by omitting from paragraph (3) (a) “including” and substituting “other than”.

Repeal of section 45

4. Section 45 of the Principal Act is repealed.

5. (1) Before section 49 of the Principal Act the following section is inserted in Part VII:

Interpretation

“48Q. In this Part, unless the contrary intention appears:

‘aggregate financial statement’ means a financial statement prepared in accordance with subsection 50AB (1);

‘declared Department’ means a Department in relation to which the Minister has made a declaration for the purposes of subsection 51 (2);

‘Department’ has the same meaning as in section 2AB;

‘Departmental financial statement’ means a financial statement prepared in accordance with subsection 50 (2);

‘financial statements guidelines’ means guidelines in force under section 50AA;

‘Secretary’ has the same meaning as in section 2AB.”.

(2) The amendment made by subsection (1) applies in relation to the financial year commencing on 1 July 1988 and to subsequent financial years.

Minister’s monthly statement of financial transactions

6. Section 49 of the Principal Act is amended:

(a) by omitting from subsection (1) “the form in the Schedule, or that form as varied under subsection (2)” and substituting “the form prescribed in regulations for the purposes of this subsection”;

(b) by omitting subsection (2).

7. Section 50 of the Principal Act is repealed and the following sections are substituted:

Departmental financial statements

“50. (1) As soon as practicable after the end of each financial year, the Secretary of each Department shall submit to the Auditor-General a financial statement for the Department in respect of the financial year.

“(2) The financial statement shall be prepared in accordance with the financial statements guidelines and shall set out:

(a) particulars of the receipts and expenditures of the Consolidated Revenue Fund, the Loan Fund and the Trust Fund during the financial year in respect of the Department; and

- (b) such other information (if any) relating to the financial year as is required by the financial statements guidelines to be included in the statement.

Financial statements guidelines

“50AA. For the purposes of section 50, the Minister may, by writing, make guidelines:

- (a) relating to the provision, in Departmental financial statements, of particulars of the receipts and expenditures of the Consolidated Revenue Fund, the Loan Fund and the Trust Fund in respect of Departments; and
- (b) requiring the inclusion, in Departmental financial statements, of other information relating to Departments.

Aggregate financial statements

“50AB. (1) As soon as practicable after the end of each financial year, the Minister shall cause to be prepared a financial statement providing particulars of the total receipts and expenditures, during the financial year, of each of the following funds:

- (a) the Consolidated Revenue Fund;
- (b) the Loan Fund;
- (c) the Trust Fund.

“(2) As soon as practicable after the preparation of an aggregate financial statement, the Minister shall submit the statement to the Auditor-General.

Amounts may be stated to next higher or lower dollar

“50AC. (1) For the purposes of an aggregate financial statement, or any part of a Departmental financial statement that relates to matters referred to in paragraph 50 (2) (a), the statement of an amount to the next lower, or next higher, dollar is a sufficient statement of the amount.

“(2) For the purposes of any part of a Departmental financial statement that relates to matters referred to in paragraph 50 (2) (b), the question of whether the statement of an amount to the next lower, or next higher, dollar is a sufficient statement of the amount shall be determined by reference to the financial statements guidelines.”.

Application of amendment made by section 7 etc.

8. (1) The amendment made by section 7 applies in relation to the financial year commencing on 1 July 1988 and subsequent financial years.

(2) Where, as a result of administrative arrangements made by the Governor-General on 24 July 1987, a matter previously dealt with by a Department became a matter dealt with by another Department, section 50 of the Principal Act as in force before the commencement of section 7 of this Act applies in relation to the financial year commencing on 1 July 1987 as if any amounts received or expended on behalf of the first-mentioned

Department in relation to the matter, being amounts received or expended during the financial year, had instead been received or expended on behalf of the other Department in relation to the matter.

9. (1) Section 51 of the Principal Act is repealed and the following section is substituted:

Auditor-General to audit and report

“51. (1) As soon as practicable after the Auditor-General receives a Departmental financial statement, or an aggregate financial statement, the Auditor-General shall examine the statement and shall prepare and sign a report concerning the statement:

- (a) stating whether, in the opinion of the Auditor-General, the statement agrees with, or differs from, the accounts and records kept in accordance with section 40;
- (b) if the statement is a Departmental financial statement—stating whether, in the opinion of the Auditor-General, the statement was prepared in accordance with the financial statements guidelines;
- (c) setting out particulars of cases in which, in the opinion of the Auditor-General, the provisions of the Constitution or any law of the Commonwealth have not been carried out; and
- (d) containing such other information relating to, such explanations of and such comments on the statement as the Auditor-General thinks desirable.

“(2) Subsection (1) does not apply in relation to so much of a Departmental financial statement as is included in the statement in compliance with paragraph 50 (2) (b) unless the Minister has, by writing, declared that Departmental financial statements of the Department concerned are to be subject to full examination.

“(3) Before making a declaration for the purposes of subsection (2) in relation to a Department, the Minister shall have regard to any advice given to the Minister by the Auditor-General as to the making of such a declaration in relation to the Department.

“(4) The Auditor-General may, if the Auditor-General considers it expedient to do so, discharge an obligation under this section to prepare and sign a report by preparing and signing a report and later, but as soon as practicable, a report or reports supplementary to the first-mentioned report.”.

(2) The amendment made by subsection (1) applies in relation to the financial year commencing on 1 July 1988 and to subsequent financial years.

Certain orders and legal opinions to be annexed to Auditor-General's report

10. (1) Section 52 of the Principal Act is amended by inserting in subsection (1) "that relates to an aggregate financial statement" after "section 51".

(2) The amendment made by subsection (1) applies in relation to the financial year commencing on 1 July 1988 and to subsequent financial years.

Auditor-General's reports on aggregate financial statements to be transmitted to Parliament

11. (1) Section 53 of the Principal Act is amended:

(a) by inserting in subsection (1) "that relates to an aggregate financial statement" after "section 51";

(b) by omitting paragraph (3) (a) and substituting the following paragraph:

"(a) if the report is a report other than a supplementary report—a copy of the aggregate financial statement to which the report relates; and".

(2) The amendments made by subsection (1) apply in relation to the financial year commencing on 1 July 1988 and to subsequent financial years.

12. (1) After section 53 of the Principal Act the following section is inserted:

Auditor-General's reports on Departmental financial statements to be given to Minister administering Department etc.

"53A. (1) After preparing and signing a report under section 51 that relates to a Departmental financial statement, the Auditor-General shall give a signed copy of the report to the relevant authority in relation to the Department concerned.

"(2) For the purposes of subsection (1), the relevant authority in relation to a Department is:

(a) if the Department is a Department of State—the Minister administering the Department of State;

(b) if the Department is the Department of the Senate—the President of the Senate;

(c) if the Department is the Department of the House of Representatives—the Speaker of the House of Representatives;

(d) if the Department is the Department of the Parliamentary Library, the Department of the Parliamentary Reporting Staff or the Joint House Department—both the President of the Senate and the Speaker of the House of Representatives; or

(e) if the Department is a branch or part of the Australian Public Service in relation to which a person has, under an Act, the powers

of, or exercisable by, the Secretary of a Department of the Australian Public Service—the Minister administering that Act.

“(3) If the Department to which a Departmental financial statement to which a report (in this subsection called the ‘Auditor-General’s report’) under section 51 relates is a Department for the purposes of subsection 25 (6) of the *Public Service Act 1922*, the report required by that subsection to be prepared in relation to the Department in respect of the financial year to which the statement relates shall include a copy of the Auditor-General’s report.

“(4) If the Department to which a Departmental financial statement to which a report (in this subsection called the ‘Auditor-General’s report’) under section 51 relates is a Parliamentary Department for the purposes of subsection 9B (2) of the *Public Service Act 1922*, the report required by that subsection to be prepared in relation to the Parliamentary Department in respect of the financial year to which the statement relates shall include a copy of the Auditor-General’s report.”.

(2) The amendment made by subsection (1) applies in relation to the financial year commencing on 1 July 1988 and to subsequent financial years.

Annual report and financial statements

13. Section 63H of the Principal Act is amended by omitting subsection (2A).

Annual report and financial statements

14. Section 63M of the Principal Act is amended by omitting subsection (2A).

15. After section 63Q of the Principal Act the following section is inserted in Part XI:

Auditor-General shall report on all cases of non-compliance

“63R. (1) The Auditor-General shall report on all cases in which, in the opinion of the Auditor-General, the receipt, expenditure or investment of money, or the acquisition or disposal of assets, by a statutory body was not in accordance with the enactment by or under which the body was established.

“(2) In this section:

‘statutory body’ means a body or authority established by or under an enactment.”.

16. After section 64 of the Principal Act the following section is inserted:

Misuse of Commonwealth credit cards

“64A. (1) A person who uses a Commonwealth credit card with the intention of obtaining cash, goods or services otherwise than for the Commonwealth is guilty of an offence punishable, on conviction, by a fine not exceeding \$20,000 or by imprisonment for a period not exceeding 5 years, or both.

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“(2) In this section:

‘Commonwealth credit card’ means a credit card issued to the Commonwealth to enable the Commonwealth to obtain cash, goods or services on credit.”.

Repeal of section 69

17. Section 69 of the Principal Act is repealed.

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

18. Section 70C of the Principal Act is amended:

(a) by omitting from paragraph (1) (c) “and” (last occurring);

(b) by inserting after paragraph (1) (c) the following paragraph:

“(ca) amounts of revenue, or debts or overpayments, the recovery of which would, in the opinion of the Minister, be uneconomical; and”.

Repeal of Schedule

19. The Schedule to the Principal Act is repealed.

Amendments relating to offences

20. The Principal Act is further amended as set out in Schedule 1.

Amendments to change references from Auditor-General’s Office to Australian Audit Office

21. The Principal Act is further amended as set out in Schedule 2.

SCHEDULE 1

Section 20

**AMENDMENTS OF THE *AUDIT ACT 1901* RELATING TO
OFFENCES**

After subsection 2A (2):

Insert the following subsection:

“(2A) Nothing in this Act renders the Crown liable to be prosecuted for an offence.”.

Subsection 14B (2):

Add at the end the following penalty:

“Penalty:

- (a) in the case of a natural person—\$2,000 or imprisonment for 12 months, or both; or
- (b) in the case of a body corporate—\$10,000.”.

Subsection 14C (3):

Add at the end the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”.

Section 22:

Add at the end the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”.

Section 24:

Add at the end the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”.

Subsection 25 (4):

Omit “\$100”, substitute “\$5,000 or imprisonment for 2 years, or both.”.

Subsection 34 (1):

Add at the end the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”.

Subsection 34 (2):

Add at the end the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”.

Subsection 42 (1A):

- (a) After “14 days” insert “, or such longer period as the Auditor-General allows,”.
- (b) Add at the end the following penalty:
“Penalty for contravention of this subsection: \$500.”.

SCHEDULE 1—continued

Subsection 48M (3):

Add at the end the following penalty:

“Penalty: \$5,000 or imprisonment for 2 years, or both.”.

After subsection 63 (1):

Insert the following subsection:

“(1A) Regulations made in accordance with this section may prescribe penalties, not exceeding a fine of \$500, for offences against the regulations.”.

Subsection 63 (3):

After “this Act” insert “(other than this section)”.

After subsection 63A (1):

Insert the following subsection:

“(1A) Regulations made in accordance with this section may prescribe penalties, not exceeding a fine of \$500, for offences against the regulations.”.

Subsection 63A (2):

After “this Act” insert “(other than this section)”.

Section 63F:

Add at the end the following penalty:

“Penalty: \$10,000.”.

Subsection 63G (6):

Omit all the words after “this Division”.

Subsection 63G (7):

Omit the subsection, substitute the following subsections:

“(7) A person shall not refuse or fail to comply with a requirement under subsection (6) to the extent that the person is capable of complying with it.

Penalty:

(a) in the case of a natural person—\$1,000 or imprisonment for 6 months, or both; or

(b) in the case of a body corporate—\$5,000.

“(8) A person shall not, in purported compliance with a requirement under subsection (6), knowingly furnish information that is false or misleading in a material particular.

Penalty:

(a) in the case of a natural person—\$2,000 or imprisonment for 12 months, or both; or

(b) in the case of a body corporate—\$10,000.

“(9) A person is not excused from furnishing information in pursuance of a requirement under subsection (6) on the ground that the information

SCHEDULE 1—continued

may tend to incriminate the person, but any information furnished in pursuance of a requirement under subsection (6) is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against subsection (7) or (8).”.

Section 63K:

Add at the end the following penalty:

“Penalty: \$10,000.”.

Subsection 63L (6):

Omit all the words after “this Division”.

Subsection 63L (7):

Omit the subsection, substitute the following subsections:

“(7) A person shall not refuse or fail to comply with a requirement under subsection (6) to the extent that the person is capable of complying with it.

Penalty:

(a) in the case of a natural person—\$1,000 or imprisonment for 6 months, or both; or

(b) in the case of a body corporate—\$5,000.

“(8) A person shall not, in purported compliance with a requirement under subsection (6), knowingly furnish information that is false or misleading in a material particular.

Penalty:

(a) in the case of a natural person—\$2,000 or imprisonment for 12 months, or both; or

(b) in the case of a body corporate—\$10,000.

“(9) A person is not excused from furnishing information in pursuance of a requirement under subsection (6) on the ground that the information may tend to incriminate the person, but any information furnished in pursuance of a requirement under subsection (6) is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against subsection (7) or (8).”.

Subsection 63ME (3):

Omit all the words after “this Division”.

Subsection 63ME (4):

Omit the subsection, substitute the following subsections:

“(4) A person shall not refuse or fail to comply with a requirement under subsection (3) to the extent that the person is capable of complying with it.

Penalty:

(a) in the case of a natural person—\$1,000 or imprisonment for 6 months, or both; or

SCHEDULE 1—continued

(b) in the case of a body corporate—\$5,000.

“(5) A person shall not, in purported compliance with a requirement under subsection (3), knowingly furnish information that is false or misleading in a material particular.

Penalty:

(a) in the case of a natural person—\$2,000 or imprisonment for 12 months, or both; or

(b) in the case of a body corporate—\$10,000.

“(6) A person is not excused from furnishing information in pursuance of a requirement under subsection (3) on the ground that the information may tend to incriminate the person, but any information furnished in pursuance of a requirement under subsection (3) is not admissible in evidence against the person in any criminal proceedings, other than proceedings for an offence against subsection (4) or (5).”.

Subsection 70D (8):

Omit “\$500”, substitute “\$5,000 or imprisonment for 2 years, or both.”.

Subsection 71 (4):

Omit “Ten dollars”, substitute “\$500”.

SCHEDULE 2

Section 21

**AMENDMENTS OF THE *AUDIT ACT 1901* TO CHANGE
REFERENCES FROM AUDITOR-GENERAL'S OFFICE TO
AUSTRALIAN AUDIT OFFICE**

The following provisions of, and heading in, the *Audit Act 1901* are amended by omitting “Auditor-General's Office” (wherever occurring) and substituting “Australian Audit Office”:

subsection 2 (1) (definition of “Auditor-General's Office”), subsection 11A (1), paragraph 48A (2) (d), heading to Division 3 of Part VI, section 48J, subsections 48K (2), 48L (3), (4), (6), (7), (9) and (10) and 48N (1), paragraph 48N (2) (b), subsections 48N (4) and 48P (1), (2), (4), (5), (6), (7) and (8) and subparagraphs 70D (10) (c) (ii) and (iii).

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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; No. 62, 1983; Nos. 40 and 63, 1984; Nos. 65, 166 and 187, 1985; Nos. 76 and 102, 1986; and No. 141, 1987.

*[Minister's second reading speech made in—
House of Representatives on 28 April 1988
Senate on 24 May 1988]*