

Authorised Version No. 064
Financial Management Act 1994

No. 18 of 1994

Authorised Version incorporating amendments as at
1 July 2014

TABLE OF PROVISIONS

<i>Section</i>	<i>Page</i>
PART 1—PRELIMINARY	1
1 Purposes	1
2 Commencement	1
3 Definitions	1
4 Act binds the Crown	5
5 Relevant Minister	6
6 Declaration of financial year	6
7 Delegation	6
8 Directions	6
PART 2—THE CONSOLIDATED FUND	8
9 The Consolidated Fund	8
10 Appropriation of Commonwealth grants etc.	8
11 Liability under guarantees	9
12 Loans from Consolidated Fund	9
PART 3—PUBLIC LEDGER AND PUBLIC ACCOUNT	10
13 Public ledger	10
14 Public Account	10
15 Accounts of departments	10
16 Receipt of public money	11
17 How money is to be issued	11
18 Investment of money in Public Account	12
PART 4—THE TRUST FUND	13
19 The Trust Fund	13
20 Deposits in Trust Fund	14
21 Investment of money in Trust Account	14
22 Expenditure of money in Trust Fund	14
23 Departmental Working Accounts	14

<i>Section</i>	<i>Page</i>
PART 5—FINANCIAL RESPONSIBILITY	16
Division 1—Introduction	16
23A Definitions	16
23B Application of Part	17
Division 2—Principles of sound financial management	17
23C Government to operate in accordance with principles of sound financial management	17
23D Principles of sound financial management	17
Division 3—Financial policy objectives and strategies statements	18
23E Financial policy objectives and strategies statement	18
23F Purpose of statement	19
23G Content of statement	19
Division 4—Estimated financial statements and budget update	21
23H Estimated financial statements	21
23I Purpose of estimated financial statements	21
23J Content of estimated financial statements	21
23K Accompanying statement	22
23L Budget update	23
23M Purpose of budget update	23
23N Content of budget update	24
Division 5—Disclosure of financial results	25
24 Annual financial report	25
25 Mid-year report	27
26 Quarterly financial report	28
Division 6—Pre-election budget update	30
27 Pre-election budget update	30
27A Purpose of pre-election budget update	30
27B Contents of pre-election budget update	30
27C Release of pre-election budget update	31
Division 7—Release of reports, statements and updates	31
27D Transmission of documents to Parliament	31
27DA Publication of documents protected	34
27E Release of estimated financial statements and budget financial policy objectives and strategies statement	34
PART 6—BUDGET MANAGEMENT	36
28 Appropriation for borrowing against future appropriation	36
29 Appropriation of certain revenue and asset proceeds	36
30 Transfer between items of departmental appropriation	37

<i>Section</i>	<i>Page</i>	
31	Transfer between items of Parliamentary appropriation	38
31A	Transfer between items of Court Services Victoria appropriation	39
32	Unused appropriation	40
33	Appropriation to meet certain obligations	41
34	Reduction in amount applied to meet future payments	41
35	Temporary advances	42
36	Temporary advances to authorities	43
37	Issue of money out of Public Account	43
38	Application of money in Public Account to meet appropriations	44
39	Arrangements for temporary advances	44
40	Annual budget estimates	45
 PART 6A—INDEMNITIES		 47
40A	Definitions	47
40B	Provisions of this Part in addition to all other powers	48
40C	Indemnity for directors	48
40D	Indemnity for statutory authorities and State companies	48
40E	Indemnity for owner of goods	48
40F	Charge for indemnities	49
40G	Confirmation of certain indemnities	49
40H	Appropriation	50
 PART 6B—GUARANTEE CHARGE		 51
40I	Definitions	51
40J	Application of Part	51
40K	Guarantee charge	51
40L	Information to be supplied	53
 PART 6C—FINANCIAL ACCOMMODATION LEVY		 54
40M	Leviable authority	54
40N	Financial accommodation levy	54
40O	Leviable authority not liable to pay guarantee charge	55
 PART 7—ACCOUNTABILITY AND REPORTING		 56
42	Accountable officer	56
43	Chief finance and accounting officer and other persons	56
44	Accounts to be kept	57
44A	Accountable officer of public body must provide financial information	57
44B	Asset registers and risk management strategies	57
45	Report of operations and financial statements to be prepared	58
46	Tabling requirements	59
47	Minister may vary reporting requirements	60

<i>Section</i>	<i>Page</i>
48 Report of operations	61
49 Financial statements	61
50 Information	62
51 Relevant Minister may require additional information	62
52 Minister may direct public body to submit financial statements	62
53 Composite reports	62
53A Annual reports of State-owned corporations and other bodies	63
54 Part to prevail	65
PART 7A—SUPPLY MANAGEMENT	66
54AA Specified entities	66
54A Establishment of Victorian Government Purchasing Board	66
54B Functions of Board	67
54C Powers of Board	68
54D Membership of Board and terms of office	68
54E Payment of members	69
54F Procedure of Board	69
54G Validity of Board decisions	70
54H Members' pecuniary interests	70
54I Improper use of information	71
54J Delegation	71
54K Minister's directions	71
54L Supply policies	72
54M Annual report	73
PART 7B—ACQUISITION, LEASING AND LICENSING OF LAND AND PREMISES	74
54N Minister may acquire land	74
54O Minister may lease land or premises for other Ministers	74
54P Licensing and leasing of surplus Crown land and buildings	74
PART 8—GENERAL	76
55 Writing off	76
56 Recovery of overpayments	76
57 Liability in respect of loss or damage	77
58 Unclaimed property	78
59 Regulations	79
PART 9—TRANSITIONAL AND CONSEQUENTIAL	82
62 Transitional provisions	82
62A Further transitional provisions	82
63 References to receiver of revenue	83
64 Saving of payments under Mint Act 1958	83

<i>Section</i>	<i>Page</i>
SCHEDULES	84
SCHEDULE 1—Warrant	84
<hr/> <hr/>	
ENDNOTES	86
1. General Information	86
2. Table of Amendments	87
3. Explanatory Details	91

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The Parliament of Victoria enacts as follows:

PART 1—PRELIMINARY

1 Purposes

The purposes of this Act are—

- (a) to improve financial administration of the public sector;
- (b) to make better provision for the accountability of the public sector;
- (c) to provide for annual reporting to the Parliament by departments and public sector bodies.

2 Commencement

- (1) Part 1 and sections 60 and 61 come into operation on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act come into operation on 1 July 1994.

3 Definitions

In this Act—

accountable officer means—

- (a) in relation to a department or public body, the accountable officer for the department or public body as determined under section 42;

**S. 3 def. of
*accountable
officer*
amended by
No. 75/1994
s. 5(1)(a)(i)(ii),
substituted by
No. 69/2013
s. 11(b).**

- (b) in relation to a specified entity that is not a department or public body, the chief executive officer (by whatever name called) of the specified entity;

accounting records includes—

- (a) invoices, receipts, orders for the payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry; and
- (b) such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up;

authorised deposit-taking institution has the same meaning as in the Banking Act 1959 of the Commonwealth;

S. 3 def. of *authorised deposit-taking institution* inserted by No. 11/2001 s. 3(Sch. item 26.1).

authority means—

- (a) a department; or
- (b) a person or body prescribed as an authority for the purposes of this Act;

S. 3 def. of *Board* inserted by No. 75/1994 s. 5(1)(b).

Board means the Victorian Government Purchasing Board established by section 54A;

S. 3 def. of *business day* inserted by No. 43/2004 s. 4.

business day means a day other than a Saturday, a Sunday or a public holiday appointed under the **Public Holidays Act 1993**;

chief finance and accounting officer, in relation to an authority or public body, means the person designated as that officer for the purposes of section 43;

Court Services Victoria means Court Services Victoria established under section 5 of the **Court Services Victoria Act 2014**;

S. 3 def. of *Court Services Victoria* inserted by No. 1/2014 s. 63(b).

Courts Council means the Courts Council established under section 10 of the **Court Services Victoria Act 2014**;

S. 3 def. of *Courts Council* inserted by No. 1/2014 s. 63(b).

department means—

- (a) a department within the meaning of the **Public Administration Act 2004**;
- (b) an office or body specified in section 16(1) of that Act;

S. 3 def. of *department* substituted by No. 46/1998 s. 7(Sch. 1), amended by Nos 108/2004 s. 117(1) (Sch. 3 item 77.1), 37/2014 s. 10(Sch. item 62).

enactment means a rule, regulation, by-law, order, Order in Council, proclamation or other instrument of a legislative character;

financial accommodation has the same meaning as in the **Borrowing and Investment Powers Act 1987**;

S. 3 def. of *financial accommodation* inserted by No. 43/1995 s. 8.

financial year means—

- (a) in relation to a public body—
 - (i) if the Minister has made a determination under section 6 with respect to the financial year

S. 3 def. of *financial year* amended by No. 75/1994 s. 5(1)(c).

of that public body, the period referred to in the determination;

(ii) if a period is determined by or under any other Act to be the financial year for that public body, that period;

(b) in any other case, the period of 12 months ending at midnight on 30 June;

S. 3 def. of *public body* amended by Nos 75/1994 s. 5(1)(d)(i)(ii), 43/1995 s. 7(1)(a), 1/2014 s. 63(a).

public body means—

(a) a public statutory authority;
(b) a State business corporation or State body within the meaning of the **State Owned Enterprises Act 1992**;

(ba) Court Services Victoria;

(c) a body, office or trust body—

(i) established by or under an Act or enactment; or

(ii) established by the Governor in Council or a Minister—

and that is declared by the Minister, by notice published in the Government Gazette, to be a body or office to which Part 7 applies;

S. 3 def. of *outputs* inserted by No. 1/1998 s. 4(a).

outputs means goods produced or services provided by or on behalf of an authority or public body;

S. 3 def. of *services* repealed by No. 1/1998 s. 4(b).

* * * * *

specified entity means an entity specified under section 54AA for the purposes of Part 7A;

S. 3 def. of *specified entity* inserted by No. 69/2013 s. 11(a).

the relevant Minister means—

- (a) in relation to a department, the Minister or Ministers for the time being responsible for any part of that department;
- (b) in relation to a public body established by or under a provision of an Act or enactment, the Minister or Ministers for the time being administering that provision or enactment;
- (c) in relation to any other public body, the Minister declared by Order under section 5 to be the relevant Minister;
- (d) in relation to a body to which section 53A applies, the Minister declared by notice under section 53A(3) to be the relevant Minister in relation to the body for the purposes of section 53A;

S. 3 def. of *the relevant Minister* substituted by Nos 75/1994 s. 5(1)(e), 43/1995 s. 7(1)(b).

trust body means a body (including a trustee or trustees) who or which, or any office the holder of which, is charged with the control or management of any trust, fund, account or superannuation scheme which is established by an Act or enactment or by the Governor in Council or a Minister.

4 Act binds the Crown

This Act binds the Crown not only in right of Victoria but also, so far as the legislative power of the Parliament permits, the Crown in all its other capacities.

S. 4 repealed by No. 75/1994 s. 5(2), new s. 4 inserted by No. 9/2000 s. 3.

s. 5

S. 5
amended by
No. 43/1995
s. 7(1)(c).

5 Relevant Minister

The Governor in Council may, by Order, declare a Minister to be the relevant Minister in relation to a public body for the purposes of this Act.

S. 6
substituted by
No. 75/1994
s. 6,
amended by
No. 100/1995
s. 26(1).

6 Declaration of financial year

- (1) The Minister may determine in writing that a period, other than the period of 12 months ending at midnight on 30 June or the period determined by or under any other Act, is the financial year for a public body for the purposes of its first or final report of operations and financial statements under Part 7.
- (2) Unless inconsistent with another Act, the Minister may, in relation to a public body or class of public bodies, in writing determine that a period, other than the period of 12 months ending at midnight on 30 June, is the financial year for that public body or public bodies of that class for the purposes of Part 7.

S. 6(2)
inserted by
No. 100/1995
s. 26(2).

7 Delegation

The Minister may, by instrument, delegate to any person or class of persons employed in the administration of this Act any power of the Minister under this Act or the regulations, other than this power of delegation.

8 Directions

- (1) The Minister may give an authority, a public body, an accountable officer or a chief finance and accounting officer directions in writing for or with respect to any of the matters for or with respect to which regulations may be made under this Act.

Note

Section 59 sets out the matters for or with respect to which regulations may be made under this Act.

S. 8(1)
substituted by
No. 26/2006
s. 4(1).

(2) Directions referred to in subsection (1) must not be inconsistent with this Act or the regulations.

(3) Directions—

- (a) may be of a general or limited application;
- (b) may differ according to differences in time, place or circumstances;
- (c) may confer a discretionary authority or impose a duty on a specified person or class of person;
- (d) may provide in a specified case or class of case for the exemption of persons or things or class of persons or things from any of the provisions of the directions, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

**S. 8(3)
inserted by
No. 26/2006
s. 4(2).**

(4) A direction may adopt, apply or incorporate the whole or any part of a statement of accounting standards or statement of accounting practice issued at any time before the direction is made by all or any of the persons or bodies referred to in section 59(3).

**S. 8(4)
inserted by
No. 26/2006
s. 4(2).**

(5) For the avoidance of doubt, the power to make directions under subsection (1) extends to directions with respect to money in a Trust Account in the Trust Fund that is established by or under another Act.

**S. 8(5)
inserted by
No. 26/2006
s. 4(2).**

PART 2—THE CONSOLIDATED FUND

9 The Consolidated Fund

- (1) There shall be established and kept an account to be known as the Consolidated Fund.
- (2) There shall be credited to the Consolidated Fund—
 - (a) all money forming part of the Consolidated Revenue under the **Constitution Act 1975**;
 - (b) all money—
 - (i) raised by or on behalf of or received by the State; or
 - (ii) which by or under an Act is payable to a person holding an office or place in the public service—

and which is not, by or under an Act, required or authorised to be paid to the Trust Fund, or an account in the Trust Fund, or to any other fund.
- (3) If the purpose for which money must be applied is defined by the Commonwealth, the Minister may accept the money and credit it to a suitable account in the Trust Fund and, without any other authority than this Act, authorise the disbursement of the money for that purpose.

10 Appropriation of Commonwealth grants etc.

If, under an Act of the Commonwealth or an arrangement between the Commonwealth and the State, money is or will be made available by the Commonwealth to the State by way of grant or otherwise, the Minister may, with approval of the Governor in Council, issue out of the Consolidated Fund such amount as is required to be expended in pursuance of the Act of the Commonwealth or the arrangement and the

Consolidated Fund is to the necessary extent appropriated accordingly.

11 Liability under guarantees

If any borrowing or other contract or agreement or the performance of any other contract or agreement is by any Act declared to be guaranteed by the Government of Victoria, any sums required by the Minister or the Treasurer for fulfilling any such guarantee shall be paid out of the Consolidated Fund (which is to the necessary extent appropriated accordingly) and any sums received or recovered by the Minister or the Treasurer in respect of any sum so paid by the Minister or the Treasurer shall be paid into the Consolidated Fund.

12 Loans from Consolidated Fund

Despite anything in any Act, if a payment is made by way of a loan from the Consolidated Fund, the Minister may determine from time to time the terms and conditions of the loan.

s. 13

Pt 3 (Heading)
substituted by
No. 1/1998
s. 5.

PART 3—PUBLIC LEDGER AND PUBLIC ACCOUNT

S. 13
substituted by
No. 1/1998
s. 6.

13 Public ledger

The Minister must ensure that a ledger is established and maintained to record—

- (a) transactions on the Public Account; and
- (b) expenses and obligations incurred that are to be met out of the Public Account; and
- (c) such other transactions and such account balances as the Minister determines.

S. 14
amended by
No. 11/2001
s. 3(Sch.
item 26.2).

14 Public Account

The Minister must open and maintain the Public Account with such authorised deposit-taking institution or institutions as the Minister determines.

15 Accounts of departments

S. 15(1)
amended by
No. 11/2001
s. 3(Sch.
item 26.3).

- (1) A department may, with the approval in writing of the Minister, and in accordance with such terms and conditions as the Minister determines, open and maintain an account with an authorised deposit-taking institution or institutions.

S. 15(2)
amended by
No. 11/2001
s. 3(Sch.
item 26.4).

- (2) Unless the Minister otherwise determines in writing, an account opened under this section does not form part of the Public Account.

S. 15(3)
amended by
No. 11/2001
s. 3(Sch.
item 26.4).

- (3) Money must not be withdrawn from an account opened under this section except in accordance with the regulations and directions.

16 Receipt of public money

A person who collects or receives public money must, in accordance with the regulations and directions, daily or at such intervals as the Minister determines, pay the money into the Public Account or an account opened under section 15.

S. 16
amended by
No. 11/2001
s. 3(Sch.
item 26.4).

17 How money is to be issued

- (1) Public money forming part of the Consolidated Fund may be drawn from the Public Account only in accordance with this section.
- (2) The Minister, as often as occasion may require during a financial year, must—
 - (a) calculate the amount of public money likely to become due and payable out of the Public Account during that financial year; and
 - (b) must prepare an instrument in the form in Schedule 1 or to the like effect specifying that amount; and
 - (c) must sign the instrument and give it to the Auditor-General.
- (3) The instrument, when countersigned by the Auditor-General and approved by the Governor, is the warrant enabling the Minister to order the drawing of money from the Public Account.
- (4) Before countersigning the instrument, the Auditor-General must ascertain that the sums mentioned in it are then legally available and, after countersigning the instrument, the Auditor-General must return it to the Minister, who must submit it to the Governor for approval and signature, and then file the instrument.

18 Investment of money in Public Account

S. 18(1)
amended by
No. 104/1995
s. 6(Sch. 1
item 8(a)).

- (1) Any money standing to the credit of the Public Account may be invested by the Minister in any manner in which trust funds may be invested under the **Trustee Act 1958**.
 - (2) Except where otherwise expressly provided, interest received from the investment of any money under subsection (1) shall be credited to the Consolidated Fund.
-

PART 4—THE TRUST FUND

19 The Trust Fund

- (1) The Minister may establish Trust Accounts in the Trust Fund and define the purposes for which they are established.
- (2) Subject to this section, Trust Accounts existing immediately before the commencement of this section (whether or not established by an Act) continue as Trust Accounts under this section.
- (3) All money standing to the credit of an account which is a Trust Account for the purposes of this section is deemed to be money standing to the credit of the Trust Fund.
- (4) The Minister may direct that a Trust Account be closed and, after all liabilities of the Trust Account have been met, the Trust Account must be closed accordingly.
- (5) The Minister may direct that—
 - (a) any money standing to the credit of a Trust Account which is not required for the purposes of the Trust Account; and
 - (b) the balance of money standing to the credit of a Trust Account closed under this section—

S. 19(5)
amended by
No. 1/1998
s. 7.

be credited to another Trust Account or to the Consolidated Fund.

20 Deposits in Trust Fund

The Minister may—

- (a) accept deposits and credit the deposits to an appropriate Trust Account in the Trust Fund; and
- (b) allow interest on the deposits at such rates as are from time to time prescribed.

21 Investment of money in Trust Account

The Minister may invest money standing to the credit of a Trust Account in any manner in which trust funds may be invested under the **Trustee Act 1958**.

22 Expenditure of money in Trust Fund

The Minister must not expend any money standing to the credit of a Trust Account in the Trust Fund except for the purposes of that Account or under the authority of this or another Act.

23 Departmental Working Accounts

- (1) The Minister may establish a Trust Account in the Trust Fund as a Working Account for each nominated department.
- (2) There shall be paid into the Working Account of a nominated department amounts equal to amounts received from the provision of outputs by the nominated department to the extent, and on the conditions, agreed between the Minister administering this section and the Minister responsible for the nominated department.

S. 21
amended by
No. 104/1995
s. 6(Sch. 1
item 8(b)).

S. 23(2)
amended by
No. 1/1998
s. 8.

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- (3) For the purposes of the payment of an amount of money into a Working Account under subsection (2)—
- (a) an amount equal to that amount of money is deemed to have been appropriated to that Account; and
 - (b) the Minister may issue the amount out of the Consolidated Fund and apply it for the purpose of that Account.
- (4) Money in the Working Account of a nominated department may be expended for the provision of such outputs by the nominated department, and on such conditions, as are agreed between the Minister administering this section and the Minister responsible for the nominated department.
- (5) In this section, *nominated department* means a department, or part of a department, that—
- (a) provides outputs to the public or an authority or public body; and
 - (b) receives fees for those outputs that, in the opinion of the Minister, are not less than the cost of providing the outputs; and
 - (c) is declared by the Minister to be a nominated department for the purposes of this section.

S. 23(4)
amended by
No. 1/1998
s. 8.

S. 23(5)(a)
amended by
No. 1/1998
s. 8.

S. 23(5)(b)
amended by
No. 1/1998
s. 8.

PART 5—FINANCIAL RESPONSIBILITY

Division 1—Introduction

Pt 5 (Heading and ss 24–27) amended by Nos 75/1994 s. 7(1)(a), 43/1995 s. 7(1)(d), 42/1997 ss 4(1)(2) (a)–(g), 5, 93/1997 s. 25(1)–(6), 1/1998 s. 9(a)(b), 53/1999 s. 24(1)–(3) (ILA s. 39B(1)), substituted as Pt 5 (Heading and ss 23A–27F) by No. 9/2000 s. 4.

S. 23A inserted by No. 9/2000 s. 4.

23A Definitions

In this Part—

budget means the State budget;

current financial policy objectives and strategies statement—

- (a) in relation to the estimated financial statements for a financial year, means the financial policy objectives and strategies statement prepared under section 23E in association with the budget for that financial year;
- (b) in relation to a budget update for a financial year, means the financial policy objectives and strategies statement prepared under section 23E in association with the budget update;

- (c) in relation to a pre-election budget update, means the financial policy objectives and strategies statement prepared under section 23E in association with the most recent budget or budget update (as the case may be);

Government means the Government of the State of Victoria;

quarter of a financial year, means the period of 3 months ending on 30 September, 31 December, 31 March and 30 June in that year;

Secretary means Secretary to the Department of Treasury and Finance.

23B Application of Part

This Part applies in respect of the financial year 2000/2001 and each subsequent financial year.

S. 23B
inserted by
No. 9/2000
s. 4.

Division 2—Principles of sound financial management

23C Government to operate in accordance with principles of sound financial management

It is the intention of the Parliament that the Government establish and maintain a budgeting and reporting framework that is consistent with the principles of sound financial management so as to form a basis for the provision of sustainable social and economic services and infrastructure fairly to all Victorians.

S. 23C
inserted by
No. 9/2000
s. 4.

23D Principles of sound financial management

- (1) The principles of sound financial management are that the Government must—
- (a) manage financial risks faced by the State prudently, having regard to economic circumstances;

S. 23D
inserted by
No. 9/2000
s. 4.

- (b) pursue spending and taxing policies that are consistent with a reasonable degree of stability and predictability in the level of the tax burden;
 - (c) maintain the integrity of the Victorian tax system;
 - (d) ensure that its policy decisions have regard to their financial effects on future generations;
 - (e) provide full, accurate and timely disclosure of financial information relating to the activities of the Government and its agencies.
- (2) The financial risks referred to in subsection (1)(a) include—
- (a) risks arising from the level of the State's general government sector debt;
 - (b) commercial risks arising from ownership of public non-financial corporations and public financial corporations;
 - (c) risks arising from changes in the structure of the Victorian tax base;
 - (d) risks arising from management of assets and liabilities of the State.

Division 3—Financial policy objectives and strategies statements

23E Financial policy objectives and strategies statement

- (1) The Minister must prepare two financial policy objectives and strategies statements for each financial year.

S. 23E
inserted by
No. 9/2000
s. 4.

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- (2) The first financial policy objectives and strategies statement for a financial year must be—
- (a) prepared in association with the budget for that financial year;
 - (b) laid before each House of the Parliament in accordance with section 27E.
- (3) The second financial policy objectives and strategies statement for a financial year must be—
- (a) prepared in association with the budget update for that financial year;
 - (b) transmitted to the Parliament in accordance with section 27D.

S. 23E(3)(b)
substituted by
No. 43/2004
s. 5.

23F Purpose of statement

The purpose of a financial policy objectives and strategies statement is to make transparent the Government's financial strategies and to establish a benchmark for evaluating the Government's conduct of financial policy.

S. 23F
inserted by
No. 9/2000
s. 4.

23G Content of statement

- (1) A financial policy objectives and strategies statement must—
- (a) specify the Government's long-term financial objectives within which financial policy for the financial year to which the budget or budget update relates and the following 3 financial years will be framed;
 - (b) explain the broad strategic priorities on which the budget or budget update is based;
 - (c) specify the key financial measures that the Government has identified as being important and against which financial policy will be set and assessed;

S. 23G
inserted by
No. 9/2000
s. 4.

-
- (d) specify, for the financial year to which the budget or budget update relates and the following 3 financial years—
- (i) the Government's short-term financial objectives;
 - (ii) the targets for each specified key financial measure;
- (e) explain how the financial objectives and strategic priorities specified or explained in paragraphs (a), (b) and (d) relate to the principles of sound financial management;
- (f) specify any financial policy actions taken or to be taken by the Government that are temporary in nature, state the reasons for taking them and indicate the process for their revision;
- (g) identify the reporting basis on which subsequent Government financial reports will be prepared;
- (h) state the reasons for any changes from the previous financial policy objectives and strategies statement.
- (2) A financial policy objectives and strategies statement must be based on the principles of sound financial management.
- (3) If particular information required to be included in a financial policy objectives and strategies statement is unchanged from information set out in full in an earlier statement, the statement may instead summarise the information and state that it is unchanged from what was set out in the earlier statement.

Division 4—Estimated financial statements and budget update

23H Estimated financial statements

- (1) The Minister must prepare estimated financial statements for each financial year in association with the budget for that financial year.
- (2) Estimated financial statements must be laid before each House of the Parliament in accordance with section 27E.

S. 23H
inserted by
No. 9/2000
s. 4.

23I Purpose of estimated financial statements

The purpose of estimated financial statements is to set out the projected financial results for the Victorian general government sector calculated on the basis of the Government's stated financial policies and assumptions.

S. 23I
inserted by
No. 9/2000
s. 4,
amended by
No. 43/2004
s. 6(1).

23J Content of estimated financial statements

- (1) Estimated financial statements comprise—
 - (a) for the financial year in respect of which they are prepared and the following 3 financial years—
 - (i) an estimated statement of financial performance of the Victorian general government sector for the year;
 - (ii) an estimated statement of financial position of the Victorian general government sector at the end of the year;
 - (iii) an estimated statement of cash flows of the Victorian general government sector for the year;

S. 23J
inserted by
No. 9/2000
s. 4.

S. 23J(1)(a)(i)
amended by
No. 43/2004
s. 6(1).

S. 23J(1)(a)(ii)
amended by
No. 43/2004
s. 6(1).

S. 23J(1)(a)(iii)
amended by
No. 43/2004
s. 6(1).

s. 23K

- (b) a statement of the accounting policies on which the statements required by paragraph (a) are based and explanatory notes.
- (2) The information in the estimated financial statements must take into account Government decisions and other circumstances that may have a material effect on the estimated financial statements.
- (3) Estimated financial statements must be prepared—
 - (a) on a basis consistent with the current financial policy objectives and strategies statement; and
 - (b) in the manner and form determined by the Minister, having regard to appropriate financial reporting frameworks.

S. 23J(3)
substituted by
No. 43/2004
s. 6(2).

S. 23K
inserted by
No. 9/2000
s. 4.

23K Accompanying statement

- (1) The Minister must prepare an accompanying statement in association with each set of estimated financial statements.
- (2) An accompanying statement comprises—
 - (a) a statement of the material economic and other assumptions that have been used in preparing the estimated financial statements;
 - (b) a discussion of the sensitivity of the estimated financial statements to changes in those economic and other assumptions;
 - (c) an overview of the estimated tax expenditures for the financial years covered by the estimated financial statements;

- (d) a statement of the risks, quantified where feasible, that may have a material effect on the estimated financial statements, including—
- (i) contingent liabilities;
 - (ii) publicly announced Government commitments that are not yet included in the estimated financial statements.
- (3) The information in an accompanying statement must take into account Government decisions and other circumstances that may have a material effect on the estimated financial statements.
- (4) An accompanying statement must be laid before each House of the Parliament with the estimated financial statements to which it relates in accordance with section 27E.

23L Budget update

- (1) The Minister must prepare a budget update for each financial year.
- (2) A budget update must be transmitted to the Parliament in accordance with section 27D.

S. 23L
inserted by
No. 9/2000
s. 4.

S. 23L(2)
substituted by
No. 43/2004
s. 7(1).

23M Purpose of budget update

The purpose of a budget update is to provide updated information to allow the assessment of the Government's financial performance against the financial policy objectives and strategies set out in its current financial policy objectives and strategies statement.

S. 23M
inserted by
No. 9/2000
s. 4.

s. 23N

23N Content of budget update

S. 23N
inserted by
No. 9/2000
s. 4.

S. 23N(1)
substituted by
No. 43/2004
s. 7(2).

- (1) A budget update comprises updated estimated financial statements.
- (2) The updated estimated financial statements must—
 - (a) take into account Government decisions and other circumstances that may have a material effect on them;
 - (b) state the date on which the updating was undertaken.
- (3) A budget update must be prepared—
 - (a) on a basis consistent with the current financial policy objectives and strategies statement; and
 - (b) in the manner and form determined by the Minister, having regard to appropriate financial reporting frameworks.
- (4) If particular information required to be included in a budget update is unchanged from information set out in full in the estimated financial statements, the update may instead summarise the information and state that it is unchanged from what was set out in the estimated financial statements.

S. 23N(3)
substituted by
No. 43/2004
s. 7(3).

Division 5—Disclosure of financial results

24 Annual financial report

- (1) The Minister must prepare an annual financial report for each financial year.
- (2) The annual financial report—
 - (a) must be prepared in the manner and form determined by the Minister, having regard to appropriate financial reporting frameworks;
 - (b) must present fairly the financial position of the State and the Victorian general government sector at the end of the financial year and—
 - (i) the transactions on the Public Account;
 - (ii) the transactions of the Victorian general government sector;
 - (iii) other financial transactions of the State—
in respect of the financial year;
 - (c) must include details of amounts paid into Working Accounts under section 23;
 - (d) must include details of amounts allocated to departments during the financial year under section 28;
 - (e) must include details of money credited under section 29 to an item in a Schedule to an appropriation Act for that financial year;
 - (f) must include particulars of amounts transferred in accordance with determinations under section 30 or 31;

S. 24 substituted by No. 9/2000 s. 4.

S. 24(2)(a) amended by No. 43/2004 s. 8(1)(a).

S. 24(2)(b) amended by No. 43/2004 s. 8(1)(b).

S. 24(2)(b)(ii) amended by No. 43/2004 s. 8(1)(b).

S. 24(2)(g)
substituted by
No. 26/2006
s. 5.

- (g) must include details of—
- (i) amounts appropriated in respect of the financial year as a result of a determination under section 32 in respect of unused appropriation for the preceding financial year;
 - (ii) the application during the financial year of amounts referred to in subparagraph (i);
 - (iii) amounts appropriated in respect of the next financial year as a result of a determination under section 32 in respect of unused appropriation for the financial year;
- (h) must include—
- (i) details of expenses and obligations met from money advanced to the Minister under section 35(1) during the financial year;
 - (ii) a statement of the reasons for carrying forward any part of an unused advance to the next financial year under section 35(4);
- (i) must include details of payments made during the financial year out of money advanced to the Treasurer in an annual appropriation Act for that year to meet urgent claims;
- (j) must include details of—
- (i) payments made during the financial year in fulfilment of any guarantee by the Government under any Act;

- (ii) money received or recovered by the Minister or Treasurer during the financial year in respect of any guarantee payments;
- (k) must include details, as at the end of the financial year, of—
 - (i) the liabilities (including contingent liabilities under guarantees and indemnities or in respect of superannuation payments and all other contingent liabilities) and assets of the State; and
 - (ii) prescribed assets and prescribed liabilities of prescribed bodies;
- (l) may include any other information the Minister considers appropriate;
- (m) must be audited by the Auditor-General.
- (3) The Minister must cause a copy of each annual financial report to be given to the Auditor-General on or before 20 September next following the financial year to which it relates.
- (4) An audited annual financial report must be transmitted to the Parliament in accordance with section 27D.

S. 24(4)
substituted by
No. 43/2004
s. 8(2).

25 Mid-year report

- (1) The Minister must prepare a mid-year report for each financial year.
- (2) The mid-year report—
 - (a) must be prepared in the manner and form determined by the Minister, having regard to appropriate financial reporting frameworks;

S. 25
substituted by
No. 9/2000
s. 4.

S. 25(2)(a)
amended by
No. 43/2004
s. 9(1)(a).

s. 26

S. 25(2)(b)
amended by
No. 43/2004
s. 9(1)(b).

(b) must present fairly the financial position of the State and the Victorian general government sector at midnight on 31 December in the financial year and—

(i) the transactions on the Public Account;

S. 25(2)(b)(ii)
amended by
No. 43/2004
s. 9(1)(b).

(ii) the transactions of the Victorian general government sector;

(iii) other financial transactions of the State—

in respect of the period of 6 months ending on that day;

(c) may include any other information the Minister considers appropriate.

S. 25(3)
substituted by
No. 43/2004
s. 9(2).

(3) A mid-year report must be transmitted to the Parliament in accordance with section 27D.

S. 26
inserted by
No. 9/2000
s. 4.

26 Quarterly financial report

(1) The Minister must prepare a quarterly financial report for each quarter of each financial year.

(2) A quarterly financial report comprises—

S. 26(2)(a)
amended by
No. 43/2004
s. 10(1).

(a) a statement of financial performance of the Victorian general government sector for the quarter;

S. 26(2)(b)
amended by
No. 43/2004
s. 10(1).

(b) a statement of financial position of the Victorian general government sector at the end of the quarter;

S. 26(2)(c)
amended by
No. 43/2004
s. 10(1).

(c) a statement of cash flows of the Victorian general government sector for the quarter;

-
- (d) a statement of the accounting policies on which the statements required by paragraphs (a), (b) and (c) are based;
- (e) any other information the Minister considers appropriate.
- (2A) A quarterly financial report must be prepared in the manner and form determined by the Minister, having regard to appropriate financial reporting frameworks. **S. 26(2A) inserted by No. 43/2004 s. 10(2).**
- (2B) The quarterly financial report for the quarter ending on 31 December in a financial year must include, in addition to the statements referred to in subsection (2)(a) to (d) for that quarter, those statements for the period of 6 months ending on that 31 December. **S. 26(2B) inserted by No. 43/2004 s. 10(2).**
- (3) The quarterly financial report for the quarter ending on 31 March in a financial year must include, in addition to the statements referred to in subsection (2)(a) to (d) for that quarter, those statements for the period of 9 months ending on that 31 March.
- (3A) The quarterly financial report for the quarter ending on 30 June in a financial year must include, in addition to the statements referred to in subsection (2)(a) to (d) for that quarter, those statements for the period of 12 months ending on that 30 June. **S. 26(3A) inserted by No. 43/2004 s. 10(3).**
- (4) A quarterly financial report must be transmitted to the Parliament in accordance with section 27D. **S. 26(4) substituted by No. 43/2004 s. 10(4).**

Division 6—Pre-election budget update

27 Pre-election budget update

If a writ is issued for a general election within the meaning of section 3 of the **Electoral Act 2002**, the Secretary must prepare a pre-election budget update in accordance with this Division.

S. 27 substituted by No. 9/2000 s. 4, amended by No. 2/2003 s. 52 (as amended by No. 44/2006 s. 15).

27A Purpose of pre-election budget update

The purpose of a pre-election budget update is to provide updated information on the estimated financial statements.

S. 27A inserted by No. 9/2000 s. 4.

27B Contents of pre-election budget update

(1) A pre-election budget update comprises—

S. 27B inserted by No. 9/2000 s. 4.

- (a) updated estimated financial statements for the Victorian general government sector for the financial year in respect of which they are prepared and the following 3 financial years;
- (b) a statement of the material economic and other assumptions that have been used in preparing the updated statements;
- (c) discussion of the sensitivity of the updated statements to changes in those economic and other assumptions;
- (d) a statement of the risks, quantified where feasible, that may have a material effect on the updated statements, including—
 - (i) contingent liabilities;

S. 27B(1)(a) amended by No. 43/2004 s. 11(1).

- (ii) publicly announced Government commitments that are not yet included in the updated statements.
- (2) The information in a pre-election budget update must take into account, to the fullest extent possible, all Government decisions and all other circumstances that may have a material effect on the estimated financial statements.
- (3) A pre-election budget update must be prepared on a basis consistent with—
 - (a) the current financial policy objectives and strategies statement; and
 - (b) the most recent estimated financial statements or budget update, as applicable.
- (4) If particular information required to be included in a pre-election budget update is unchanged from information set out in full in earlier estimated financial statements and accompanying statement or an earlier budget update, the pre-election budget update may instead summarise the information and state that it is unchanged from what was set out in the earlier statements or budget update.

S. 27B(3)
substituted by
No. 43/2004
s. 11(2).

27C Release of pre-election budget update

The Secretary must publicly release the pre-election budget update within 10 days after the issue of the writ for the election.

S. 27C
inserted by
No. 9/2000
s. 4.

Division 7—Release of reports, statements and updates

27D Transmission of documents to Parliament

- (1) This section applies to the following documents—
 - (a) an audited annual financial report;
 - (b) a mid-year report;
 - (c) a quarterly financial report;

S. 27D
inserted by
No. 9/2000
s. 4,
amended by
No. 36/2003
s. 25,
substituted by
No. 43/2004
s. 12.

- (d) a budget update;
- (e) the financial policy objectives and strategies statement prepared in association with a budget update.
- (2) The Minister must cause a document to be transmitted to each House of the Parliament on or before the due date for that document.
- (3) The *due date* for a document specified in column 1 of the following table is the date set out in column 2 of the table opposite that document.

TABLE

<i>Column 1</i> <i>Document</i>	<i>Column 2</i> <i>Due date</i>
audited annual financial report for a financial year	15 October next following that financial year
mid-year report for a financial year	15 March in that financial year
quarterly financial report for the quarter ending on 30 September in a financial year	15 November in that financial year
quarterly financial report for the quarter ending on 31 December in a financial year	15 March in that financial year
quarterly financial report for the quarter ending on 31 March in a financial year	15 May in that financial year
quarterly financial report for the quarter ending on 30 June in a financial year	15 October next following that financial year
budget update for a financial year and financial policy objectives and strategies statement prepared in association with it	15 December in that financial year

- (3A) Despite subsection (3), if in any financial year the budget for the following financial year (or, if applicable, the current financial year) is delivered within 30 days after the due date set out in Column 2 of the Table for a document (other than the budget update), the due date for the document is extended so as to allow the document to be transmitted to each House of the Parliament on the day on which the budget is delivered.
- (4) The clerk of each House of the Parliament must cause the document to be laid before the House on the day on which it is received or on the next sitting day of the House.
- (5) If the Minister proposes to transmit a document to the Parliament on a day on which neither House of the Parliament is actually sitting, the Minister must—
- (a) give one business day's notice of his or her intention to do so to the clerk of each House of the Parliament; and
 - (b) give the document to the clerk of each House on the day indicated in the notice; and
 - (c) publish the report on a Government Internet website as soon as practicable after giving it to the clerks.
- (6) The clerk of each House must—
- (a) notify each member of the House of the receipt of a notice under subsection (5)(a) on the same day that the clerk receives that notice; and
 - (b) give a copy of a document to each member of the House as soon as practicable after the document is received under subsection (5)(b); and

S. 27D(3A)
inserted by
No. 72/2005
s. 3(1).

S. 27D(5)
amended by
No. 72/2005
s. 3(2).

s. 27DA

(c) cause the document to be laid before the House on the next sitting day of the House.

S. 27D(7)
repealed by
No. 72/2005
s. 3(3).

* * * * *

S. 27DA
inserted by
No. 43/2004
s. 12.

27DA Publication of documents protected

- (1) A document that is given to the clerks under section 27D(5)(b) is taken to have been published by order, or under the authority, of the Houses of the Parliament.
- (2) The publication of a document by the Minister under section 27D(5)(c) is absolutely privileged and the provisions of sections 73 and 74 of the **Constitution Act 1975** and any other enactment or rule of law relating to the publication of the proceedings of the Parliament apply to and in relation to the publication of the document as if it were a document to which those sections applied and had been published by the Government Printer under the authority of the Parliament.

S. 27E
inserted by
No. 9/2000
s. 4.

27E Release of estimated financial statements and budget financial policy objectives and strategies statement¹

The Minister must cause the estimated financial statements for a financial year and accompanying statement and the financial policy objectives and strategies statement prepared in association with the budget for that financial year to be laid before—

- (a) the Legislative Assembly on or before the day on which the second readings of the annual appropriation Bills for that year are moved; and

(b) the Legislative Council on the same day that they are laid before the Legislative Assembly or, if the Council is not sitting on that day, on the next sitting day of the Council.

* * * * *

**S. 27F
inserted by
No. 9/2000
s. 4,
repealed by
No. 43/2004
s. 13.**

PART 6—BUDGET MANAGEMENT

28 Appropriation for borrowing against future appropriation

S. 28(1)
amended by
No. 1/1998
s. 10(a)(i).

(1) The Governor in Council, on the recommendation of the Minister, may by Order published in the Government Gazette approve the allocation to a department of amounts in addition to the amounts appropriated for the purposes of that department in the annual appropriation.

(2) The Minister must not recommend an allocation under this section unless satisfied—

S. 28(2)(a)
amended by
No. 1/1998
s. 10(a)(ii).

(a) that it is for purposes considered prudent and advantageous in the current financial year;
and

S. 28(2)(b)
amended by
No. 1/1998
s. 10(a)(iii).

(b) that the benefit of that allocation will accrue, or continue, in the next financial year.

S. 28(3)
amended by
No. 1/1998
s. 10(a)(iv).

(3) An amount approved for allocation to a department in a financial year must not exceed an amount equal to 3 per centum of the amount appropriated for the purposes of the department in the annual appropriation for that year.

(4) The Minister may issue out of the Consolidated Fund amounts not exceeding in a financial year a total amount equal to one half of one per centum of the annual appropriation for that year and the Consolidated Fund is appropriated accordingly.

29 Appropriation of certain revenue and asset proceeds

S. 29
amended by
Nos 75/1994
s. 7(1)(b),
43/1995
s. 7(1)(e),
1/1998
s. 10(b)(c),
substituted by
No. 26/2006
s. 6.

(1) This section applies if a Schedule to an appropriation Act provides that this section applies in relation to an item in respect of a department set out in that Schedule.

- (2) If this section applies—
- (a) revenue receivable—
 - (i) from the provision of outputs by the department; or
 - (ii) by way of specific purpose payment by the Commonwealth; or
 - (iii) by way of specific purpose payment by a municipal council; or
 - (b) proceeds received from the disposal of assets shown in the accounts of the department—
- may be credited to the item to the extent, and on the conditions, agreed between the Minister administering this section and the Minister responsible for the administration of the item.
- (3) For the purposes of subsection (2)—
- (a) an amount equal to an amount credited under that subsection is deemed to have been appropriated for the purposes of the item; and
 - (b) the Minister may issue that amount out of the Consolidated Fund and apply it accordingly.
- (4) In this section—
- department* includes Court Services Victoria.

S. 29(4)
inserted by
No. 1/2014
s. 64.

30 Transfer between items of departmental appropriation

- (1) The relevant Minister in relation to a department, with the consent of the Treasurer, may determine that part of an amount appropriated for an item in a Schedule to an annual appropriation Act in respect of the department may be transferred to, and applied for the purposes of, another such item.

S. 30
amended by
No. 43/1995
s. 7(1)(f)(i)(ii)
(g)(i)(ii),
substituted by
No. 1/1998
s. 11.

- (2) The relevant Minister must be of the opinion, before making a determination under subsection (1), that—
 - (a) the amount to be transferred from an item is not required for the purposes of that item; and
 - (b) the amount assigned to the item to which the amount is to be transferred is insufficient for the purposes of that item.
- (3) A relevant Minister (other than the Minister administering this section) who makes a determination under subsection (1) must ensure that particulars of the transfer are given to the Minister administering this section as soon as possible.

S. 31
amended by
No. 43/1995
s. 7(1)(h)(i)(ii)
(i)(i)(ii),
substituted by
No. 1/1998
s. 11.

31 Transfer between items of Parliamentary appropriation

- (1) The Presiding Officers—
 - (a) may determine that part of an amount appropriated for an item in a Schedule to an annual appropriation Act in respect of a department of the Parliament may be transferred to, and applied for the purposes of, a corresponding item in that Schedule in respect of another department of the Parliament;
 - (b) may determine, with the consent of the Treasurer, that part of an amount appropriated for an item in a Schedule to an annual appropriation Act in respect of a department of the Parliament may be transferred to, and applied for the purposes of, another item in that Schedule in respect of that or another department.

-
- (2) The Presiding Officers must be of the opinion, before making a determination under subsection (1), that—
- (a) the amount to be transferred from an item is not required for the purposes of that item; and
 - (b) the amount assigned to the item to which the amount is to be transferred is insufficient for the purposes of that item.
- (3) The Presiding Officers must ensure that particulars of a transfer under subsection (1) are given to the Minister administering this section as soon as possible.
- (4) In this section, a reference to the Presiding Officers is a reference to—
- (a) in relation to a transfer referred to in subsection (1)(b) in respect of the Department of Legislative Council, the President of the Legislative Council;
 - (b) in relation to a transfer referred to in subsection (1)(b) in respect of the Department of Legislative Assembly, the Speaker of the Legislative Assembly;
 - (c) in any other case, the President of the Legislative Council and the Speaker of the Legislative Assembly acting jointly.

31A Transfer between items of Court Services Victoria appropriation

S. 31A
inserted by
No. 1/2014
s. 65.

- (1) The Courts Council, with the consent of the Treasurer and Attorney-General, may determine that part of an amount appropriated for an item in a Schedule to an annual appropriation Act in respect of Court Services Victoria may be transferred to, and applied for the purposes of, another item in that Schedule.

s. 32

- (2) The Courts Council must be of the opinion, before making a determination under subsection (1), that—
- (a) the amount to be transferred from an item is not required for the purposes of that item; and
 - (b) the amount assigned to the item to which the amount is to be transferred is insufficient for the purposes of that item.
- (3) The Courts Council must ensure that particulars of a transfer under subsection (1) are given to the Attorney-General and the Minister administering this section as soon as possible.

S. 32 substituted by No. 1/1998 s. 11.

32 Unused appropriation

- (1) If an amount appropriated for a financial year for an authority or for a department of the Parliament is not applied, or is not likely to be applied, in that year, the Minister may determine that the amount, or part of it, may not be applied in that financial year but may be applied for the authority or department (as the case requires) in the next financial year.

S. 32(2) repealed by No. 26/2006 s. 7(1).

* * * * *

- (3) If the Minister makes a determination under subsection (1), the amount appropriated for the authority or for the department of the Parliament (as the case requires) in respect of the next financial year is deemed to have been increased accordingly.

S. 32(4) substituted by No. 26/2006 s. 7(2).

- (4) A statement under section 40 must include the estimated amounts for which determinations under this section may be made in respect of unused appropriation for the preceding financial year.

33 Appropriation to meet certain obligations

S. 33
substituted by
No. 1/1998
s. 11.

- (1) If an amount is applied in a financial year for the purpose of an item in Schedule 1 to the annual appropriation Act for that year, the Consolidated Fund is appropriated to the extent necessary to enable money, not exceeding the total of the amount applied or such lesser amount as is determined by the Minister under section 34, to be paid in a future financial year in discharge of the expenses or obligations, or in furtherance of the arrangements, to which the amount applied relates.
- (2) If an amount is applied in a financial year for the purpose of an item in Schedule 1 to the annual appropriation Act for that year in respect of depreciation of an asset, the Consolidated Fund is appropriated to the extent necessary to enable money, not exceeding the total of the amount applied or such lesser amount as is determined by the Minister under section 34, to be paid in a future financial year in respect of the acquisition of assets.
- (3) Subsections (1) and (2) apply in respect of an amount applied under an annual appropriation Act for 1998/99 or a subsequent financial year.

34 Reduction in amount applied to meet future payments

S. 34
substituted by
No. 1/1998
s. 11.

- (1) If the Minister is satisfied that all or part of an amount applied in a financial year for the purpose of an item in Schedule 1 to the annual appropriation Act for that year is no longer required for that purpose, the Minister may determine that the amount so applied be reduced accordingly.

- (2) If the Minister makes a determination under subsection (1), the amount appropriated for the purpose of the relevant item is reduced by an amount equal to the amount reduced in accordance with that determination.

S. 35
substituted by
No. 1/1998
s. 11.

35 Temporary advances

- (1) There may be issued temporarily out of the Public Account in a financial year any money (not exceeding in total 0.5% of the total amount appropriated by the annual appropriation Act for that year) required to be provided for advances to the Minister to enable him or her to meet urgent claims before Parliamentary sanction is obtained.
- (2) All money issued under subsection (1) must be paid back into the Public Account immediately Parliamentary sanction is obtained.
- (3) All expenses and obligations met from money issued under subsection (1) must be included in the expenses and obligations of the financial year in respect of which the advances were made.
- (4) If—
- (a) Parliamentary sanction has not been obtained for the expenses or obligations during the financial year in which an advance under this section was made; and
 - (b) the Minister considers it necessary or expedient to carry forward any part of the unused advance to the accounts of the next financial year—
- the Minister may do so.

S. 35(4)
amended by
No. 9/2000
s. 5(1)(a).

36 Temporary advances to authorities

- (1) There may be issued temporarily out of the Public Account any money required to provide—
- (a) advances to authorities not exceeding at any time an amount estimated by the Minister to be sufficient to meet one month's expenses, but no such advances may be made unless Parliamentary sanction has been obtained (whether under this or any other Act) for the incurring of those expenses;
 - (b) special advances to authorities of specific amounts for specific purposes pending adjustment when payment is made.
- (2) All money issued under this section must be paid back into the Public Account in the financial year in which the money was issued unless otherwise approved by the Minister.

S. 36
substituted by
No. 1/1998
s. 11.

37 Issue of money out of Public Account

- (1) There may be issued out of the Public Account—
- (a) money required for payment by the Minister by agreement with or on account of any other Government;
 - (b) money required for payment by the Minister to or on account of an authority or public body—

pending repayment by the Government or authority or public body.
- (2) If the Minister so determines, interest must be paid by an authority or public body on money issued to it under this section—
- (a) at such rate or rates calculated on such basis or bases as are determined by the Minister from time to time; and

S. 37(1)
amended by
Nos 75/1994
s. 7(1)(c),
1/1998
s. 12(1)(a).

S. 37(1)(b)
amended by
No. 75/1994
s. 7(1)(c).

S. 37(2)
amended by
Nos 75/1994
s. 7(1)(c),
1/1998
s. 12(1)(b)(i).

S. 37(2)(b)
amended by
No. 1/1998
s. 12(1)(b)(ii).

- (b) when the money is refunded and paid into the Public Account.

38 Application of money in Public Account to meet appropriations

S. 38(2)
amended by
No. 1/1998
s. 12(1)(c).

- (1) If at any time the money in the Consolidated Fund is insufficient to meet appropriations authorised by any Act, the Minister may apply other moneys in the Public Account to meet the appropriations.
- (2) Moneys applied under subsection (1) shall be deemed to be a temporary advance and shall be refunded and paid back into the Public Account immediately upon receipt of moneys under section 39.

39 Arrangements for temporary advances

- (1) If at any time the Minister is of the opinion that the money in the Consolidated Fund is likely to be insufficient to meet appropriations authorised by any Act, the Governor in Council, on the recommendation of the Minister, may authorise the Minister to make arrangements for obtaining temporary advances.
- (2) Advances arranged under subsection (1) shall be deemed to be money legally available to meet appropriations from the Consolidated Fund authorised by any Act.
- (3) Subject to subsection (5), money raised by temporary advance during any financial year under this section—
- (a) must be credited to a special account in the Trust Fund; and
 - (b) must be issued and applied solely for the purposes for which the Consolidated Fund has been appropriated by any Act; and

- (c) must be repaid with interest during the financial year in which the temporary advance is obtained.
- (4) The interest on a temporary advance under this section shall be at a rate not exceeding that for the time being fixed by order of the Minister and shall be chargeable upon the Consolidated Fund, which is to the necessary extent appropriated accordingly.
- (5) If, in a financial year, money received in the Consolidated Fund is insufficient to provide for the repayment of a temporary advance in whole or in part during that year, the temporary advance or part not repaid shall be repaid out of money received into the Consolidated Fund during a succeeding financial year.

40 Annual budget estimates

- (1) The Minister must prepare, in association with the annual appropriation Bills, a statement of information under departmental headings setting out—
 - (a) a description of the goods and services to be produced or provided by each department during the period to which the statement relates, together with comparative information for the preceding financial year;
 - (b) a description of the amount available or to be available to each department during the period to which the statement relates, whether appropriated by the Parliament for that purpose or otherwise received or to be received by the department, together with comparative figures for the preceding financial year;

S. 40(1)(b)
amended by
No. 1/1998
s. 12(1)(d)(f).

Financial Management Act 1994
No. 18 of 1994
Part 6—Budget Management

s. 40

S. 40(1)(c)
amended by
No. 1/1998
s. 12(1)(d)(ii).

- (c) the estimated amount of the receipts and receivables of each department during the period to which the statement relates, together with comparative figures for the preceding financial year;
- (d) any other information required by this Act to be included in the statement;
- (e) such other information as the Minister determines.

S. 40(2)
substituted by
No. 26/2006
s. 8.

- (2) The Minister must cause the statement to be laid before—
 - (a) the Legislative Assembly on or before the day on which the second readings of the annual appropriation Bills are moved; and
 - (b) the Legislative Council on the same day that it is laid before the Legislative Assembly or, if the Council is not sitting on that day, on the next sitting day of the Council.

S. 40(3)
inserted by
No. 1/1998
s. 12(2).

- (3) In this section—
department includes a department of the Parliament.

PART 6A—INDEMNITIES

Pt 6A
(Heading and
ss 40A–40H)
inserted by
No. 110/1994
s. 43.

40A Definitions

S. 40A
inserted by
No. 110/1994
s. 43.

In this Part—

company means a company within the meaning of the Corporations Act that is taken to be registered in Victoria;

S. 40A def. of
company
substituted by
No. 44/2001
s. 3(Sch.
item 43.1).

eligible director means an officer of a State company or statutory authority;

officer, in relation to a statutory authority or State company, means director or member of the board of management of the authority or company or secretary, executive officer or person concerned in, or who takes part in, the management of the authority or company;

State company means a company—

- (a) a majority of the shares in which are held by, or on behalf of, the State or a statutory authority; or
- (b) a majority of the directors of which is appointed by, or by a person acting on behalf of, the State or a statutory authority;

statutory authority includes a State body within the meaning of the **State Owned Enterprises Act 1992**.

s. 40B

S. 40B
inserted by
No. 110/1994
s. 43.

40B Provisions of this Part in addition to all other powers

The provisions of this Part are in addition to, and do not in any way restrict or limit, and must not be taken to restrict or limit, any other powers (whether under an Act or otherwise) of the Treasurer or the State to give, or authorise the giving of, indemnities.

S. 40C
inserted by
No. 110/1994
s. 43,
amended by
No. 73/1996
s. 24(a)(b).

40C Indemnity for directors

The Treasurer may, on behalf of the Government of Victoria, give an indemnity to a person who is or has been an eligible director, on such terms and conditions as the Treasurer determines, and, despite anything to the contrary in any Act, against such liabilities as the Treasurer determines, being liabilities that by law may attach to the person as an officer, or former officer, of a statutory authority or State company.

S. 40D
inserted by
No. 110/1994
s. 43.

40D Indemnity for statutory authorities and State companies

The Treasurer may, on behalf of the Government of Victoria, give an indemnity to a statutory authority or State company, on such terms and conditions as the Treasurer determines, against such liabilities as the Treasurer determines, being liabilities that by law may attach to the authority or company in carrying out or purporting to carry out its functions and powers.

S. 40E
inserted by
No. 110/1994
s. 43.

40E Indemnity for owner of goods

The Treasurer may, on behalf of the Government of Victoria, give an indemnity, on such terms and conditions as the Treasurer determines, to the owner of goods that are lent for temporary exhibition or are otherwise made available for a limited period to the State or to a statutory authority or an agency or instrumentality of the

State against such loss or damage to the goods as the Treasurer determines.

40F Charge for indemnities

The Treasurer, as a condition of giving an indemnity under this Part, may require the payment to the Treasurer of an amount determined by the Treasurer for payment into a trust account in the Trust Fund established under section 19.

S. 40F
inserted by
No. 110/1994
s. 43.

40G Confirmation of certain indemnities

(1) This section applies to an indemnity given by the Treasurer before the commencement of this section to—

- (a) an officer of an electricity corporation, Victorian Power Exchange or distribution company within the meaning of the **Electricity Industry Act 1993**;
- (b) the Administrator for the restructuring of the electricity supply industry appointed under section 48 of the **Electricity Industry Act 1993**;
- (c) a person in respect of his or her position as an officer of the Totalizator Agency Board established under the **Racing Act 1958**;
- (d) a person in respect of his or her position as an officer of TABCORP Holdings Limited, A.C.N. 063 780 709.

S. 40G
inserted by
No. 110/1994
s. 43.

(2) If a person to whom an indemnity to which this section applies was given makes a written request to the Treasurer for a certificate under this section confirming the indemnity, the Treasurer may issue such a certificate, and upon the giving of the certificate, the indemnity has effect for the purposes of section 40H as if it had been given under this Part.

S. 40H
inserted by
No. 110/1994
s. 43.

40H Appropriation

- (1) Any sums required by the Treasurer in fulfilling any liability arising under an indemnity given by the Treasurer under this Part shall be paid out of the Consolidated Fund (which is hereby to the necessary extent appropriated accordingly).
- (2) Any sums received or recovered by the Treasurer from a person who is or has been an eligible director or from a statutory authority, State company or any other person or otherwise in respect of any sums paid by the Treasurer under an indemnity given under this Part shall be paid into the Consolidated Fund.

PART 6B—GUARANTEE CHARGE

Pt 6B
(Heading and
ss 40I–40L)
inserted by
No. 43/1995
s. 9.

40I Definitions

S. 40I
inserted by
No. 43/1995
s. 9.

In this Part—

State guarantee means—

- (a) a guarantee under an Act; or
- (b) a guarantee executed by the
Treasurer—

guaranteeing the due satisfaction of amounts
payable in respect of financial
accommodation.

40J Application of Part

S. 40J
inserted by
No. 43/1995
s. 9.

This Part does not apply in relation to financial
accommodation obtained before the
commencement of this section.

40K Guarantee charge

S. 40K
inserted by
No. 43/1995
s. 9.

- (1) The Treasurer may determine, before financial
accommodation to which a State guarantee is to
apply is provided to a person, that an annual
guarantee charge is payable by that person in
respect of the financial accommodation at an
annual percentage rate specified in the
determination, being a rate that, in the opinion of
the Treasurer, does not exceed the difference
between—
 - (a) the annual interest or discount rate and other
costs of the financial accommodation; and

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- (b) the estimated annual interest or discount rate and other costs of the financial accommodation that would apply if the State guarantee did not apply.
- (2) A person who is required to pay a guarantee charge in respect of financial accommodation must pay to the Treasurer, for payment into the Consolidated Fund—
- (a) if the financial accommodation is provided for less than 12 months, an amount determined—
- (i) if the guarantee is under an Act, by multiplying the amount of the financial accommodation by the rate referred to in subsection (1); or
- (ii) if the guarantee is executed by the Treasurer, by multiplying the amount of the limit of the guarantee by the rate referred to in subsection (1); or
- (b) if the financial accommodation is provided for 12 months or more, an amount in respect of each financial year during which the guarantee is in force determined by multiplying the sum of the person's liabilities in respect of the financial accommodation as at the end of that financial year by the rate referred to in subsection (1).
- (3) A guarantee charge is payable on or before 31 December next following the financial year, or part of a financial year, to which it relates and may be recovered as a debt due to the State.

40L Information to be supplied

A person who is required to pay a guarantee charge must give to the Treasurer, or a person authorised by the Treasurer, such information as the Treasurer or authorised person reasonably requires for the purpose of determining the amount of the charge in respect of a financial year.

S. 40L
inserted by
No. 43/1995
s. 9.

s. 40M

PART 6C—FINANCIAL ACCOMMODATION LEVY

Pt 6C
(Heading and
ss 40M–40O)
inserted by
No. 43/1995
s. 9.

40M Leviable authority

- (1) In this Part, *leviable authority* means an authority in respect of which an Order under subsection (2) is in force.
- (2) The Governor in Council may, by Order published in the Government Gazette, declare a public authority within the meaning of the **Treasury Corporation of Victoria Act 1992** to be a leviable authority for the purposes of this Part.

S. 40M
inserted by
No. 43/1995
s. 9.

40N Financial accommodation levy

- (1) A leviable authority must pay to the Treasurer for payment into the Consolidated Fund a levy, in respect of each leviable period, in respect of financial accommodation provided to the authority, or in respect of such part of that accommodation as the Treasurer determines from time to time.
- (2) The levy payable by a leviable authority in respect of each leviable period is determined by multiplying the liabilities of the authority in respect of the financial accommodation to which the levy relates as at the end of that leviable period by a percentage rate determined in relation to that authority by the Treasurer, or a person authorised by the Treasurer, in respect of the financial year in which the leviable period falls, being a rate that, in the opinion of the Treasurer or authorised person, does not exceed the difference between—

S. 40N
inserted by
No. 43/1995
s. 9.

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- (a) the annual interest or discount rate and other costs of the financial accommodation; and
 - (b) the estimated annual interest or discount rate and other costs of the financial accommodation that would apply if the leviable authority were not a public authority.
- (3) The Treasurer or authorised person may, in determining the levy in accordance with subsection (1), have regard to such matters as the Treasurer or person determines.
 - (4) The levy is payable at such times, and in such manner, as the Treasurer determines and may be recovered as a debt due to the State.
 - (5) In this section, *leviable period*, in relation to a leviable authority, means a financial year or such shorter period as the Treasurer determines from time to time in relation to that authority.

400 Leviable authority not liable to pay guarantee charge

S. 400
inserted by
No. 43/1995
s. 9.

A leviable authority that is liable to pay a financial accommodation levy under this Part in respect of financial accommodation is not liable to pay a guarantee charge under Part 6B in respect of that financial accommodation.

PART 7—ACCOUNTABILITY AND REPORTING

* * * * *

S. 41
repealed by
No. 9/2000
s. 5(1)(b).

42 Accountable officer

S. 42(1)
amended by
No. 75/1994
s. 7(1)(d).

- (1) For the purposes of this Act, there must be an accountable officer for each department and public body.
- (2) Unless the Minister otherwise determines—
 - (a) the accountable officer for a department is the department head of that department; and
 - (b) the accountable officer for a public body is the chief executive officer, by whatever name called, of that body.

43 Chief finance and accounting officer and other persons

S. 43(1)(b)
amended by
No. 46/1998
s. 7(Sch. 1).

- (1) The accountable officer of a department or public body must designate, in respect of the financial administration of the department or public body—
 - (a) a position of chief finance and accounting officer;
 - (b) persons whose duty it is to receive money;

S. 43(1)(c)
amended by
No. 46/1998
s. 7(Sch. 1).

- (c) persons whose duty it is to make payments.

- (2) The chief finance and accounting officer is responsible to the accountable officer for ensuring that proper accounting records and systems and other records are maintained in accordance with the regulations and directions.

44 Accounts to be kept

The accountable officer of a department or public body must ensure that there are kept proper accounts and records of the transactions and affairs of the department or public body and such other records as sufficiently explain the financial operations and financial position of the department or public body.

44A Accountable officer of public body must provide financial information

S. 44A
inserted by
No. 1/1998
s. 13.

- (1) The accountable officer of a public body must provide to the relevant Minister in relation to the public body or to the Minister administering this section any financial information requested by the relevant Minister or Minister administering this section (as the case may be).
- (2) Directions under section 8 may be given in relation to the provision of financial information under subsection (1).

44B Asset registers and risk management strategies

S. 44B
inserted by
No. 50/2001
s. 9

- (1) A department or public body must—
- (a) maintain a register of assets held or managed by it; and
 - (b) develop, implement and keep under review a risk management strategy.
- (2) The register of assets is to be in the form, and contain the information, determined by the Minister after consultation with the Victorian Managed Insurance Authority.

S. 45
amended by
No. 75/1994
s. 7(2),
substituted by
No. 43/1995
s. 4.

45 Report of operations and financial statements to be prepared

- (1) As soon as practicable after the end of each financial year—
 - (a) the relevant Minister of a department must cause to be prepared, in accordance with this Part, a report of the operations of the department during the financial year;
 - (b) a public body must cause to be prepared, in accordance with this Part, a report of its operations during the financial year;
 - (c) the accountable officer of each department and public body must cause to be prepared, in accordance with this Part, financial statements of the department or public body for the financial year.
 - (2) The accountable officer of each department and public body must submit the financial statements of the department or public body to the Auditor-General within 8 weeks after the end of the financial year.
 - (3) Subsection (2) does not apply to a public body that is not required under the **Audit Act 1994** or any other Act to have its financial statements or accounts audited by the Auditor-General.
- (3A) A public body or the relevant Minister of a department must submit the report of operations of the public body or department (as the case may be) to the Auditor-General as soon as practicable after it has been prepared.

S. 45(3)
amended by
Nos 93/1997
s. 28(Sch.
item 13),
53/1999
s. 24(3)(c).

S. 45(3A)
inserted by
No. 53/1999
s. 24(4).

- (4) The financial statements of an Administrative Office within the meaning of the **Public Administration Act 2004** (other than the Environment Protection Authority) must be incorporated in and consolidated with the financial statements for that financial year of the department.
- (5) This section does not apply to the Victorian Auditor-General's Office².

S. 45(4) amended by Nos 46/1998 s. 7(Sch. 1), 108/2004 s. 117(1) (Sch. 3 item 77.2).

S. 45(5) inserted by No. 53/1999 s. 24(5).

46 Tabling requirements

S. 46 amended by No. 75/1994 s. 7(3), substituted by No. 43/1995 s. 4.

- (1) Subject to subsections (2) and (3), the relevant Minister of a department or public body must cause the report of operations and audited financial statements of the department or public body for a financial year to be laid before each House of the Parliament after the end of that financial year and before the end of the next following fourth month of the year or on the first sitting day of the House after the end of that month.
- (2) If it appears to the relevant Minister from the financial statements of the department or public body that the expenses and obligations of the department or public body in respect of the financial year do not exceed \$5 000 000, the relevant Minister—
- (a) must report to each House of the Parliament the receipt by him or her of the report of operations and financial statements of the department or public body; and

S. 46(1) substituted by No. 42/1997 s. 6.

S. 46(2) amended by No. 1/1998 s. 14(a).

- (b) if a member of either House of the Parliament so requests, must cause the report of operations and financial statements to be laid before each House of the Parliament within 14 sitting days of that House after the request.
- (3) If the relevant Minister of a department or public body has not received the report of operations and financial statements of the department or public body in time for him or her to comply with subsection (1), the relevant Minister—
 - (a) must cause that fact and the reasons for it to be reported to each House of the Parliament; and
 - (b) must cause the report of operations and financial statements to be laid before each House of the Parliament as soon as practicable after they are received by him or her.
- (4) This section does not apply to the Victorian Auditor-General's Office³.

S. 46(4)
inserted by
No. 53/1999
s. 24(6).

S. 47
substituted by
No. 43/1995
s. 4.

47 Minister may vary reporting requirements

- (1) Subject to subsection (2), the Minister, in writing, may grant an exemption to the accountable officer of a department or public body from any provision of this Part relating to the contents, form or preparation of the financial statements of that department or public body.
- (2) The Minister must not grant an exemption from the requirement to cause financial statements to be prepared and submitted to the Auditor-General, but may extend the period within which they must be so submitted.

- (3) An exemption under this section continues to apply in relation to an accountable officer until the Minister advises the accountable officer in writing that it no longer applies.
- (4) An accountable officer must include in financial statements particulars of any exemption given under this section in respect of those statements.

48 Report of operations

A report of operations referred to in section 45—

- (a) must be in a form and contain information determined by the accountable officer to be appropriate; and
- (b) must contain any other information required by the Minister.

S. 48
amended by
No. 43/1995
s. 7(1)(j).

49 Financial statements

The financial statements referred to in section 45—

- (a) must contain such information as is required by the Minister; and
- (b) must be prepared in a manner and form approved by the Minister; and
- (c) must present fairly the financial transactions of the department or public body during the financial year to which they relate; and
- (d) must present fairly the financial position of the department or public body as at the end of that year; and
- (e) must be certified by the accountable officer for the department or public body in the manner approved by the Minister.

S. 49
amended by
No. 43/1995
s. 7(1)(k).

50 Information

Information that may be prescribed or required under or for the purposes of section 48 or 49 extends to information relating to previous financial years and to proposals and forecasts for future years.

S. 51
amended by
No. 43/1995
s. 7(1)(l).

51 Relevant Minister may require additional information

The relevant Minister may in writing direct a public body to include in a report of operations or financial statements such additional information as he or she considers necessary or appropriate in the public interest.

52 Minister may direct public body to submit financial statements

S. 52(1)
repealed by
No. 43/1995
s. 7(1)(m).

* * * * *

- (2) If the Minister considers it necessary or appropriate in the public interest, he or she may in writing direct a public body to prepare and submit within 4 weeks after the date of the direction financial statements in respect of any part of a financial year of the public body together with such further information as he or she so directs.

53 Composite reports

S. 53(1)
amended by
No. 75/1994
s. 7(4).

- (1) If the Minister so determines, a Minister who is the relevant Minister in respect of 2 or more departments or public bodies or both may, in respect of those departments or public bodies or both, cause to be prepared in respect of a financial year, in addition to, or instead of, any other report required to be prepared under this Act or any other Act—

- (a) an annual report containing the reports of operations and financial statements of those departments or public bodies or both; or
- (b) an annual report containing a report of operations and financial statements consolidating information provided by those departments or public bodies or both.
- (2) The Minister administering this section may make a determination at the request of the relevant Minister or otherwise.
- (3) This section does not apply to the Victorian Auditor-General's Office⁴.

S. 53(1)(a)
amended by
No. 75/1994
s. 7(4).

S. 53(1)(b)
amended by
No. 75/1994
s. 7(4).

S. 53(3)
inserted by
No. 53/1999
s. 24(7).

53A Annual reports of State-owned corporations and other bodies

S. 53A
inserted by
No. 43/1995
s. 6.

- (1) This section applies to the following bodies—
- (a) a corporation within the meaning of the Corporations Act (other than a State owned company within the meaning of the **State Owned Enterprises Act 1992**) all the shares in which are owned by or on behalf of the State or a statutory authority (whether or not a public statutory authority), whether directly or indirectly; and
- (b) a body corporate declared by the Governor in Council under subsection (2) to be a body to which this section applies.
- (2) The Governor in Council, by notice published in the Government Gazette, may declare a body corporate to be a body to which this section applies if—
- (a) a member, or a member of the governing body, of the body corporate is appointed by the Governor in Council or a Minister; or

S. 53A(1)(a)
amended by
No. 44/2001
s. 3(Sch.
item 43.2).

- (b) the Governor in Council is satisfied that a primary object of the body corporate is to carry out a public function in relation to which it is registered, or holds a licence or other authority granted or issued, under an Act.
- (3) The Governor in Council, by notice published in the Government Gazette, must declare a Minister to be the relevant Minister in relation to a body to which this section applies for the purposes of this section.
- (4) A body to which this section applies must, as soon as practicable after the end of each financial year, submit to the relevant Minister of that body its annual report, including its audited financial statements, in respect of that financial year.
- (5) Subject to subsections (6) and (7), the relevant Minister must cause the annual report to be laid before each House of the Parliament on or before 31 October each year or, if a House is not then sitting, on the first sitting day of that House after 31 October.
- (6) If it appears to the relevant Minister from the annual report that the expenses and obligations of the body in respect of the financial year do not exceed \$5 000 000, the relevant Minister—
- (a) must report to each House of the Parliament the receipt by him or her of the annual report; and
 - (b) if a member of either House of the Parliament so requests, must cause the annual report to be laid before each House of the Parliament within 14 sitting days of that House after the request.

S. 53A(6)
amended by
No. 1/1998
s. 14(b).

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- (7) If the relevant Minister has not received the annual report in time for him or her to comply with subsection (5), the relevant Minister—
- (a) must cause that fact and the reasons for it to be reported to each House of the Parliament; and
 - (b) must cause the annual report to be laid before each House of the Parliament as soon as practicable after it is received by him or her.

54 Part to prevail

If the provisions of an Act requiring a public body to keep or prepare accounts, or arrange the audit of accounts or to submit an annual report, or requiring an annual report to be laid before the Legislative Assembly or the Legislative Council or both, are inconsistent with this Part, the provisions are void to the extent of the inconsistency.

S. 54
amended by
No. 75/1994
s. 7(5).

s. 54AA

Pt 7A
(Heading and
ss 54A–54M)
inserted by
No. 75/1994
s. 4.

PART 7A—SUPPLY MANAGEMENT

S. 54AA
inserted by
No. 69/2013
s. 12.

54AA Specified entities

- (1) The Governor in Council, by Order, may declare that an entity, or a class of entities, is a specified entity or entities for the purposes of this Part.
- (2) The Governor in Council may declare that an entity or class of entities is a specified entity or entities only if the entities, or all entities of the class, are entities the transactions of which form part of the transactions of the State for the purposes of section 24(2)(b).
- (3) An Order under this section may declare that an entity or class of entities is a specified entity for all the purposes of this Part or only in relation to specified provisions of this Part or specified provisions of a supply policy made under section 54L.

S. 54A
inserted by
No. 75/1994
s. 4.

54A Establishment of Victorian Government Purchasing Board

- (1) The Victorian Government Purchasing Board is established.
- (2) The Board—
 - (a) is a body corporate with perpetual succession;
 - (b) has a common seal;
 - (c) may sue and be sued in its corporate name;
 - (d) may acquire, hold and dispose of real and personal property;
 - (e) may do and suffer all things that a body corporate may, by law, do and suffer.

-
- (3) The common seal must be kept as directed by the Board and must not be used except as authorised by the Board.
- (4) All courts must take judicial notice of the common seal on a document and, until the contrary is proved, must presume that the seal was properly affixed.

54B Functions of Board

S. 54B
inserted by
No. 75/1994
s. 4.

The Board has the following functions—

- (a) in relation to the supply of goods and services to departments and specified entities and the management and disposal of goods by departments and specified entities—
- (i) to develop, implement and review policies and practices; and
 - (ii) to provide advice, staff training and consultancy services;
- (b) to monitor compliance by departments and specified entities with supply policies and Ministerial directions and to report irregularities to the relevant Minister and the Minister;
- (c) to foster improvements in the use and application of purchasing systems and electronic trading;
- (d) to establish and maintain a comprehensive data base of purchasing data of departments and specified entities and supply markets for access by departments and specified entities;
- (e) any other functions conferred on the Board by this Part.

S. 54B(a)
amended by
Nos 1/1998
s. 14(c),
69/2013
s. 13(a).

S. 54B(b)
amended by
No. 69/2013
s. 13(b).

S. 54B(d)
amended by
No. 69/2013
s. 13(c).

s. 54C

S. 54C
inserted by
No. 75/1994
s. 4.

54C Powers of Board

- (1) The Board has all the powers necessary to perform its functions.
- (2) Without limiting subsection (1), the Board may—
 - (a) enter into contracts or arrangements on its own behalf, on behalf of the State or on behalf of departments or specified entities;
 - (b) call and award tenders and advertise;
 - (c) consider and approve requisitions for the purchase of goods and services by departments or specified entities;
 - (d) require accountable officers to audit compliance by departments and specified entities with supply policies and Ministerial directions and provide audit reports to the Board;
 - (e) require accountable officers to provide information and data relating to the supply of goods and services and the management and disposal of goods;
 - (f) exercise any other powers conferred on the Board by this Act or the regulations.
- (3) An accountable officer must provide to the Board on request—
 - (a) audit reports referred to in subsection (2)(d);
 - (b) information and data referred to in subsection (2)(e).

S. 54C(2)(a)
amended by
No. 69/2013
s. 13(d).

S. 54C(2)(c)
amended by
No. 69/2013
s. 13(d).

S. 54C(2)(d)
amended by
No. 69/2013
s. 13(e).

S. 54C(2)(e)
amended by
No. 1/1998
s. 14(c).

S. 54D
inserted by
No. 75/1994
s. 4.

54D Membership of Board and terms of office

- (1) The Board consists of a chairperson and not less than 6 other members appointed by the Governor in Council.

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- (2) A member of the Board holds office for the term, not exceeding 3 years, that is specified in the instrument of appointment and is eligible for re-appointment.
- (3) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.

S. 54D(3) amended by No. 46/1998 s. 7(Sch. 1), substituted by Nos 108/2004 s. 117(1) (Sch. 3 item 77.3), 80/2006 s. 26(Sch. item 38).

54E Payment of members

S. 54E inserted by No. 75/1994 s. 4.

- (1) A member of the Board, other than a member who is an employee in the public service within the meaning of the **Public Administration Act 2004**, is entitled to receive the fees that are fixed from time to time by the Governor in Council.
- (2) Each member of the Board is entitled to receive the allowances that are fixed from time to time by the Governor in Council.

S. 54E(1) amended by Nos 46/1998 s. 7(Sch. 1), 108/2004 s. 117(1) (Sch. 3 item 77.4).

54F Procedure of Board

S. 54F inserted by No. 75/1994 s. 4.

- (1) The chairperson of the Board, or in his or her absence a member elected by the members present, must preside at a meeting of the Board.
- (2) The quorum of the Board is 4 members.
- (3) The person presiding at a meeting of the Board has a deliberative vote only and if voting is equal the motion is lost.
- (4) Subject to this Part the Board may regulate its own proceedings.

s. 54G

S. 54G
inserted by
No. 75/1994
s. 4.

54G Validity of Board decisions

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

- (a) of a vacancy in its membership; or
- (b) of a defect or irregularity in the appointment of any member.

S. 54H
inserted by
No. 75/1994
s. 4.

54H Members' pecuniary interests

- (1) A member who has a pecuniary interest in a matter being considered or about to be considered by the Board must, as soon as practicable after the relevant facts have come to his or her knowledge, declare the nature of the interest at a meeting of the Board.

Penalty: 5 penalty units.

- (2) The 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.
- (3) After a declaration is made—
 - (a) unless the Board directs otherwise, the member must not be present during any deliberations on the matter; and
 - (b) the member is not entitled to vote on the matter; and
 - (c) if the member does vote, the vote must be disallowed.
- (4) For the purposes of this section, a member is not to be regarded as having a pecuniary interest in a contract or arrangement only because that contract or arrangement may benefit—

- (a) a department, specified entity or public body in which the member is employed or of which he or she is a member;
- (b) a company or other body in which the member has a beneficial interest that does not exceed 1% of the total nominal value of beneficial interests in that company or body.

S. 54H(4)(a)
amended by
No. 69/2013
s. 13(f).

54I Improper use of information

A person who is, or has been, a member of the Board 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.

Penalty: 5 penalty units.

S. 54I
inserted by
No. 75/1994
s. 4.

54J Delegation

The Board may delegate in writing to a member of the Board any of its powers except—

- (a) the power to require compliance audits to be undertaken under section 54C(2)(d);
- (b) the power to make, amend or revoke supply policies under section 54L;
- (c) this power of delegation.

S. 54J
inserted by
No. 75/1994
s. 4.

54K Minister's directions

- (1) The Minister may give directions in writing to the Board in relation to any of its functions or powers.
- (2) A copy of any direction must be included in the Board's annual report under section 54M.
- (3) The Board must comply with directions of the Minister.

S. 54K
inserted by
No. 75/1994
s. 4.

s. 54L

54L Supply policies

S. 54L
inserted by
No. 75/1994
s. 4.

S. 54L(1)
amended by
Nos 1/1998
s. 14(c),
69/2013
s. 13(g).

- (1) The Board may prepare, make, amend and revoke instruments, to be known as "supply policies", with respect to policies and practices relating to the supply of goods and services to departments and specified entities and the management and disposal of goods by departments and specified entities.
- (2) A supply policy—
 - (a) must be consistent with directions under section 8 and the regulations;
 - (b) may be of general or limited application;
 - (c) may differ according to differences in time, place or circumstance;
 - (d) may confer a discretionary authority or impose a duty on a specified person or class of persons;
 - (e) may leave anything for the approval or satisfaction of a specified person or class of persons;
 - (f) may apply, adopt or incorporate any matter contained in any document, code, standard, rule, specification or method formulated, issued, prescribed or published by any person whether—
 - (i) wholly or partially or as amended by the policy; or
 - (ii) as formulated, issued, prescribed or published at the time the policy is made or at any time before then; or

(iii) as formulated, issued, prescribed or published from time to time;

(g) may provide in a specified case or class of cases for the exemption of departments, specified entities, persons or things or classes of persons or things from any of the provisions of the policy, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

S. 54L(2)(g)
amended by
No. 69/2013
s. 13(h).

(3) The Board must cause notice of the making, amendment or revocation of supply policies to be published in the Government Gazette.

(4) All accountable officers and other members of staff of departments and specified entities must comply with supply policies.

S. 54L(4)
amended by
No. 69/2013
s. 13(i).

54M Annual report

(1) On or before 30 September each year the Board must give the Minister a report of its work and activities for the year ending on 30 June that year.

(2) The report must also contain any information specifically requested by the Minister.

(3) The Minister must cause each annual report of the Board to be laid before each House of Parliament before the expiration of the 7th sitting day of that House after the report is received by the Minister.

S. 54M
inserted by
No. 75/1994
s. 4.

s. 54N

Pt 7B
(Heading and
ss 54N–54P)
inserted by
No. 75/1994
s. 8.

**PART 7B—ACQUISITION, LEASING AND LICENSING OF
LAND AND PREMISES**

S. 54N
inserted by
No. 75/1994
s. 8.

54N Minister may acquire land

- (1) The Minister may purchase by agreement or compulsorily acquire any land required for the construction, completion or extension of any public works or for any related purpose.
- (2) The **Land Acquisition and Compensation Act 1986** applies to this Act and for that purpose—
 - (a) the **Financial Management Act 1994** is the special Act;
 - (b) the Minister is the Authority.

S. 54O
inserted by
No. 75/1994
s. 8.

**54O Minister may lease land or premises for other
Ministers**

In addition to all other powers of the Minister, the Minister may take on lease, on any terms and conditions the Minister thinks fit, any land or premises required for the purposes of any department or Minister.

S. 54P
inserted by
No. 75/1994
s. 8,
substituted by
No. 26/2006
s. 9.

**54P Licensing and leasing of surplus Crown land and
buildings**

- (1) The Minister may grant any person a lease over, or a licence to enter and use—
 - (a) any Crown land; or
 - (b) any building or other structure, or part of a building or structure, on Crown land—

that is not required for the purposes of a department or a Minister or any other public purpose.

- (2) A lease or licence may be granted under this section on any terms and conditions the Minister thinks fit.
 - (3) This section applies despite anything in the **Land Act 1958**.
-

PART 8—GENERAL

S. 55
amended by
No. 43/1995
s. 7(1)(n).

55 Writing off

An amount in respect of a loss or deficiency in a public account or account of an authority, or an amount of revenue or a debt may be written off in accordance with the regulations by the chief finance and accounting officer, the accountable officer or the relevant Minister.

56 Recovery of overpayments

- (1) In this section, *officer* means a person who is or was employed in the service of the State or a department.
- (2) Despite any Act or rule of law to the contrary, an officer is liable to repay to the State any money paid to him or her by the State to which he or she was not entitled (in this section called *an overpayment*).
- (3) Without limiting or affecting the right of the State to recover an overpayment by any legal or other process, the State may recover the overpayment from the officer by deduction or deductions from any amount due by the State to that officer.
- (4) A deduction under subsection (3) from salary or wages due to the officer must not exceed one tenth of the salary or wages, before any deductions, whether under this section or otherwise, to which the officer is entitled.
- (5) If deductions are made under this section from the salary or wages of an officer—
 - (a) the officer may apply to the relevant Minister for the weekly amount of the deductions to be reduced; and

S. 56(5)(a)
amended by
No. 43/1995
s. 7(1)(o).

- (b) the relevant Minister may give such directions as he or she thinks fit as to the amount of deductions to be made from the salary or wages of the officer. **S. 56(5)(b) amended by No. 43/1995 s. 7(1)(o).**
- (6) An officer may apply in writing to the relevant Minister to be relieved from all or any of the liability with respect to the repayment of an overpayment and the relevant Minister may at any time in his or her absolute discretion by writing relieve the officer from all or any of such liability. **S. 56(6) amended by No. 43/1995 s. 7(1)(o).**
- (7) Without derogating from the rights conferred on the State by this section, the State must before making any deduction under this section consider any proposal made by the officer with respect to the repayment of the overpayment.
- (8) Subsection (4) does not apply to a deduction in respect of an overpayment that has not been repaid at the date the officer ceases for any reason to be employed in the service of the State or a department. **S. 56(8) inserted by No. 75/1994 s. 9(1).**

57 Liability in respect of loss or damage

- (1) In this section, *officer* means a person who is or was employed in the service of an authority.
- (2) An officer who, by misconduct or by performing any duties in a grossly negligent manner, causes or contributes to a loss or deficiency in public money or the loss or destruction of or damage to other property of the State is liable to pay to the State an amount equal to the amount of the loss or deficiency or the value of the property lost or destroyed.
- (3) If an accountable officer, or the chief finance and accounting officer, of an authority is of the opinion that an officer of the authority may be liable for a loss, deficiency, destruction or damage under subsection (2), the accountable officer or

chief finance and accounting officer may direct that an investigation be held.

- (4) An investigation for the purposes of subsection (3) must be conducted in accordance with, and by a person appointed under, the regulations.
- (5) After considering the report of an investigation under this section, the accountable officer or chief finance and accounting officer must determine whether or not to seek to recover an amount specified in the report of the investigation from the officer.

58 Unclaimed property

S. 58(1)
amended by
No. 44/2008
s. 110.

- (1) If the Crown is entitled to any property whether real or personal as unclaimed property (otherwise than by reason of the **Unclaimed Money Act 2008**), the Minister on behalf of the Crown may, subject to and in accordance with subsection (3), grant, convey, transfer, assign or deliver that property on such terms as the Minister thinks fit.
- (2) If any money or the proceeds of the realisation of any property has been paid into the Consolidated Fund as unclaimed property, the Minister may, subject to and in accordance with subsection (3), authorise the payment of the whole or any part of the money out of the Consolidated Fund (which is to the necessary extent appropriated accordingly).
- (3) A grant, conveyance, transfer, assignment, delivery or payment of property under this section may be made by the Minister—
 - (a) if the Crown became entitled to the property as the result of the death of any person—
 - (i) to any person whether related to the deceased or not who was dependent upon the deceased; or

- (ii) to any person for whom in the opinion of the Minister the deceased might reasonably have been expected to make provision; and
- (b) in any other case to any person who in the opinion of the Minister has a just claim in relation to that property or money.

59 Regulations

(1) The Governor in Council may make regulations for or with respect to—

- (a) financial governance and oversight, including financial risk management and internal audit;
- (b) structures, systems and procedures in authorities and public bodies to ensure proper financial management;
- (c) the issue, control and disbursement of money applied temporarily from the Public Account;
- (d) financial reporting, including the form and content of reports of operations, financial statements and information required under Part 7;

S. 59(1)(a)
substituted by
No. 26/2006
s. 10(a).

S. 59(1)(b)
substituted by
No. 26/2006
s. 10(a).

S. 59(1)(d)
substituted by
No. 26/2006
s. 10(b).

* * * * *

S. 59(1)(da)
inserted by
No. 75/1994
s. 9(2)(a),
repealed by
No. 26/2006
s. 10(b).

- (e) policies and procedures to ensure that authorities and public bodies comply with obligations imposed on them by or under this Act;

S. 59(1)(e)
substituted by
No. 26/2006
s. 10(b).

Financial Management Act 1994
No. 18 of 1994
Part 8—General

s. 59

S. 59(1)(f)
substituted by
No. 1/1998
s. 15(1)(a).

(f) the management and disposal or writing off of the assets (other than money) and liabilities of the State and the recording of and accounting for those assets and liabilities;

(g) prescribing forms for the purposes of this Act or the regulations;

(h) the method of dealing with and accounting for securities coming into the possession of an accountable officer or other person;

S. 59(1)(i)
substituted by
No. 75/1994
s. 9(2)(b),
amended by
No. 1/1998
s. 15(1)(b).

(i) systems and procedures for the purchase and supply of goods and services for or on behalf of the State;

(j) generally prescribing 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.

S. 59(1A)
inserted by
No. 1/1998
s. 15(2),
amended by
No. 26/2006
s. 10(c).

(1A) For the avoidance of doubt, the power to make regulations under subsection (1) extends to regulations with respect to money in a Trust Account in the Trust Fund that is established by or under another Act.

(2) The regulations—

(a) may be of a general or limited application;

(b) may differ according to differences in time, place or circumstances;

(c) may confer a discretionary authority or impose a duty on a specified person or class of person;

- (d) may provide in a specified case or class of case for the exemption of persons or things or 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;
- (e) may impose a penalty not exceeding 5 penalty units for a contravention of the regulations.
- (3) Any regulation may adopt, apply or incorporate the whole or any part of any statement of accounting standards or statement of accounting practice issued at any time before the regulation is made by all or any of the following—
- (a) CPA Australia;
- (b) Institute of Chartered Accountants in Australia;
- (c) Australian Securities and Investments Commission;
- (d) Australian Accounting Standards Board;
- (e) Australian Bureau of Statistics;
- (f) any other prescribed person or body.

S. 59(3)(a)
substituted by
No. 43/2004
s. 14(a).

S. 59(3)(c)
substituted by
No. 44/2001
s. 3(Sch.
item 43.3).

S. 59(3)(e)
substituted by
No. 43/2004
s. 14(b).

S. 59(4)(5)
repealed by
No. 43/1995
s. 7(1)(p).

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PART 9—TRANSITIONAL AND CONSEQUENTIAL

* * * * *

Ss 60, 61
repealed by
No. 1/1998
s. 16.

62 Transitional provisions

- (1) Sections 46 and 47 of the **Audit Act 1958** continue to apply in respect of the financial year ending on 30 June 1994 as if that Act had not been repealed by this Act.
- (2) A person who, immediately before the commencement of this section, was a receiver of revenue under the **Audit Act 1958** continues, until his or her appointment is revoked by the Minister, to be a person whose duty it is to receive public money.
- (3) Each contract or other document in effect immediately before the commencement of this subsection that refers to the Tender Board continues to have effect according to its tenor on and after that commencement as if a reference in the document to the Tender Board were a reference to the Board.
- (4) In this section *Tender Board* means the Tender Board established by Regulation 7 of the Supply Management Regulations 1994.

S. 62(3)
inserted by
No. 75/1994
s. 9(3).

S. 62(4)
inserted by
No. 75/1994
s. 9(3).

S. 62A
inserted by
No. 42/1997
s. 7,
amended by
No. 1/1998
s. 17 (ILA
s. 39B(1)).

62A Further transitional provisions

- (1) Despite the amendment of section 46 by the **Financial Management (Amendment) Act 1997**, section 46 has effect, in relation to a public body the financial year of which ends in 1997 before 30 June, as if it had not been so amended.

(2) Despite the commencement of the **Financial Management (Amendment) Act 1998**—

S. 62A(2)
inserted by
No. 1/1998
s. 17.

- (a) the financial statement under section 24 in respect of the financial year 1997/98; and
- (b) the report of operations and financial statements of a department or public body under Part 7 in respect of that financial year—

must be prepared as if that Act had not come into operation.

(3) Despite the commencement of the **Financial Management (Financial Responsibility) Act 2000**, Part 5 and section 35(4), as in force

S. 62A(3)
inserted by
No. 9/2000
s. 5(2).

immediately before that commencement, continue to apply in respect of the financial year 1999/2000.

63 References to receiver of revenue

A reference in an Act or in regulations under an Act to a receiver of revenue is to be taken to be a reference to a person, or persons included in a class of persons, declared by order of the Minister published in the Government Gazette to be an officer whose duty it is to receive payment of fees by way of money or otherwise to collect public money.

64 Saving of payments under Mint Act 1958

Despite the repeal of the **Mint Act 1958** by the **Treasury Legislation (Repeal) Act 2005**, any obligation under that 1958 Act to pay an amount to Her Majesty in England continues to apply as if that 1958 Act had not been repealed.

S. 64
repealed by
No. 43/1995
s. 7(1)(q), new
s. 64
inserted by
No. 73/2005
s. 4(Sch. 2
item 2).

* * * * *

Ss 65, 66
repealed by
No. 42/1997
s. 8(a).

Sch. 1

SCHEDULES

SCHEDULE 1

WARRANT

Section 17

To the Auditor-General.

The amount of public moneys likely to become due and payable out of the Consolidated Fund during the period is
dollars cents.

<i>Consolidated Fund</i>	<i>Amount</i>
<i>Act</i>	
	\$ ¢

Total	\$
--------------	----

Dated this day of 19 .

G.H.
Minister

I certify that the abovementioned sums are now legally available.

E.F.
Auditor-General
/ /

To the Minister.
You are hereby authorised to issue out of the Consolidated Fund the above amount and this shall be your sufficient warrant.

J.K.
Governor
/ /

Financial Management Act 1994
No. 18 of 1994

Sch. 2

* * * * *

Sch. 2
amended by
Nos 75/1994
s. 7(6),
43/1995
s. 7(2)(a)(b),
106/1995 s. 53,
repealed by
No. 42/1997
s. 8(b).

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ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 19 November 1993

Legislative Council: 19 April 1994

The long title for the Bill for this Act was "A Bill relating to financial management, to repeal the **Public Account Act 1958** and the **Annual Reporting Act 1983**, to make consequential amendments to other Acts and for other purposes."

The **Financial Management Act 1994** was assented to on 10 May 1994 and came into operation as follows:

Part 1 (sections 1–8), sections 60, 61 on 10 May 1994: section 2(1); rest of Act on 1 July 1994: section 2(2).

2. Table of Amendments

This Version incorporates amendments made to the **Financial Management Act 1994** by Acts and subordinate instruments.

Financial Management (Amendment) Act 1994, No. 75/1994

Assent Date: 22.11.94
Commencement Date: S. 7(6) on 10.5.94: s. 2(1); rest of Act on 1.1.95:
s. 2(2)
Current State: All of Act in operation

Electricity Industry (Further Amendment) Act 1994, No. 110/1994

Assent Date: 20.12.94
Commencement Date: S. 43 on 20.12.94: Special Gazette (No. 100) 20.12.94
p. 1
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Financial Management and Audit Acts (Amendment) Act 1995, No. 43/1995

Assent Date: 14.6.95
Commencement Date: S. 7(2) on 10.5.95: s. 2(1); ss 1–6, 7(1), 8, 9 on
14.6.95: s. 2(6)
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Miscellaneous Acts (Omnibus Amendments) Act 1995, No. 100/1995

Assent Date: 5.12.95
Commencement Date: S. 26 on 5.12.95: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Trustee and Trustee Companies (Amendment) Act 1995, No. 104/1995

Assent Date: 5.12.95
Commencement Date: 1.1.96: s. 2
Current State: All of Act in operation

Zoological Parks and Gardens Act 1995, No. 106/1995

Assent Date: 5.12.95
Commencement Date: S. 53 on 30.4.96: Special Gazette (No. 45) on 30.4.96
p. 1
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Miscellaneous Acts (Further Omnibus Amendments) Act 1996, No. 73/1996

Assent Date: 17.12.96
Commencement Date: S. 24 on 17.12.96: s. 2(1)
Current State: This information relates only to the provision/s
amending the **Financial Management Act 1994**

Financial Management Act 1994
No. 18 of 1994

Endnotes

Financial Management (Amendment) Act 1997, No. 42/1997

Assent Date: 11.6.97
Commencement Date: 11.6.97: s. 2
Current State: All of Act in operation

Audit (Amendment) Act 1997, No. 93/1997

Assent Date: 16.12.97
Commencement Date: Ss 25, 28 (Sch. item 13) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Financial Management (Amendment) Act 1998, No. 1/1998

Assent Date: 31.3.98
Commencement Date: 1.7.98: s. 2
Current State: All of Act in operation

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Audit (Amendment) Act 1999, No. 53/1999

Assent Date: 14.12.99
Commencement Date: S. 24 on 1.1.00: Government Gazette 23.12.99 p. 2764
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Financial Management (Financial Responsibility) Act 2000, No. 9/2000

Assent Date: 18.4.00
Commencement Date: Ss 3–5 on 19.4.00: s. 2
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Statute Law Amendment (Authorised Deposit-taking Institutions) Act 2001, No. 11/2001

Assent Date: 8.5.01
Commencement Date: S. 3(Sch. item 26) on 1.6.01: s. 2(2)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Corporations (Consequential Amendments) Act 2001, No. 44/2001

Assent Date: 27.6.01
Commencement Date: S. 3(Sch. item 43) on 15.7.01: s. 2
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Victorian Managed Insurance Authority (Amendment) Act 2001, No. 50/2001

Assent Date: 27.6.01
Commencement Date: S. 9 on 28.6.01: s. 2
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Financial Management Act 1994
No. 18 of 1994

Endnotes

Constitution (Parliamentary Reform) Act 2003, No. 2/2003 (as amended by No. 44/2006)

Assent Date: 8.4.03
Commencement Date: S. 52 on 31.10.06: s. 2(3)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Audit (Amendment) Act 2003, No. 36/2003

Assent Date: 11.6.03
Commencement Date: S. 25 on 1.7.03: s. 2(2)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Financial Management (Amendment) Act 2004, No. 43/2004

Assent Date: 16.6.04
Commencement Date: Ss 4–14 on 17.6.04: s. 2
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 77) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Treasury Legislation (Miscellaneous Amendments) Act 2005, No. 72/2005

Assent Date: 25.10.05
Commencement Date: S. 3 on 26.10.05: s. 2
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Treasury Legislation (Repeal) Act 2005, No. 73/2005

Assent Date: 25.10.05
Commencement Date: S. 4(Sch. 2 item 2) on 26.10.05: s. 2
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Financial Management (Miscellaneous Amendments) Act 2006, No. 26/2006

Assent Date: 6.6.06
Commencement Date: 7.6.06: s. 2
Current State: All of Act in operation

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 38) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Financial Management Act 1994
No. 18 of 1994

Endnotes

Unclaimed Money Act 2008, No. 44/2008

Assent Date: 26.8.08
Commencement Date: S. 110 on 1.1.09: s. 2(2)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

State Taxation and Financial Legislation Amendment Act 2013, No. 69/2013

Assent Date: 19.11.13
Commencement Date: Ss 11–13 on 20.11.13: s. 2(1)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Court Services Victoria Act 2014, No. 1/2014

Assent Date: 11.2.14
Commencement Date: Ss 63–65 on 1.7.14: s. 2(2)
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 62) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Financial Management Act 1994**

3. Explanatory Details

¹ S. 27E: The Minister is also required, under section 16B of the **Audit Act 1994**, to cause the report of the Auditor-General's review of the estimated financial statements under that section to be laid before each House of the Parliament with the estimated financial statements.

² S. 45(5): The requirements for the report of operations and financial statements of the Victorian Auditor-General's Office are contained in section 7B of the **Audit Act 1994**.

³ S. 46(4): See note 2.

⁴ S. 53(3): See note 2.