

1978

COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

AUDIT AMENDMENT BILL 1978

EXPLANATORY MEMORANDUM

(Circulated by the Minister for Finance,
the Hon Eric L. Robinson, MP)

The Audit Act 1901 makes provision for the collection and payment of public moneys and the audit of the public accounts. There have been a number of amendments over the years, the latest being in 1969, but the last really substantial overhaul was in 1948. Many of the provisions are outmoded and some of them inhibit the application of control procedures more attuned to the needs of modern accounting methods. The provisions to enable the Auditor-General to conduct efficiency audits follow the Government's announced intention to move in this direction and had their genesis in recommendations of the Royal Commission on Australian Government Administration. The Commission also felt that there should be clearer expression of a Permanent Head's responsibility for financial management and the Bill gives effect to this.

CLAUSE 2

This is a machinery provision to bring into effect the provisions of the Bill.

CLAUSE 3

New sub-section 2(4) contains a definition of 'efficiency audits'. (The main provisions relating to efficiency audits are set out in Clause 40.)

Other changes are a combination of amendments or deletions of existing definitions and the inclusion of new definitions necessary to facilitate references throughout the Act.

CLAUSE 4 Application of Act - amendments of section 2A

Sub-section 2A(1) is to be amended as a consequence of the degree of self-government given to the Northern Territory which now administers its own finances in relation to transferred functions. The effect is that the Audit Act will not apply to the financial operations of the Northern Territory Government.

Sub-section 2A(2) is amended as a consequence of the change to section 63 (Clause 51).

CLAUSE 5 Responsibility of Permanent Heads

This clause is an expression of the responsibility of the Permanent Head of a department in relation to implementation of the provisions of the Act and subsidiary legislation. Other clauses place particular responsibilities on Permanent Heads and it is intended that the Finance Regulations and Directions will follow suit.

CLAUSES 6 and 7 Remuneration of Auditor-General or
Acting Auditor-General

The standard provision covering salary and allowances of statutory office-holders is being introduced, but with the addition of a special appropriation (as in the present Act) in recognition of the independent status of the Auditor-General.

CLAUSE 8 Auditor-General may Appoint Persons to Inspect and Audit Accounts and to Carry out Efficiency Audits

Section 11 is amended by redrafting the present sub-section (1) and including new sub-sections (2) and (3) providing for the appointment by the Auditor-General of persons to carry out efficiency audits.

Sub-clause (2) is a transitional provision.

CLAUSE 9 Reports by Auditor-General to Minister for Finance

The revision of sub-section 12(1) enables the Auditor-General to exercise his discretion to decide the particular matters which he should bring to the notice of the Minister for Finance. It is not essential that all matters be reported to the Minister as is currently required - it becomes a matter of professional

judgment which matters merit reference. New sub-sections (2) to (4) provide for matters relating to efficiency audits to be brought to the notice of appropriate Ministers or controlling bodies.

CLAUSES 10 and 11

These are drafting improvements only.

CLAUSE 12 Secrecy

In addition to making a drafting improvement, section 14C is amended by including section 11 in sub-sections (2), (3) and (4). This has the effect of applying the provisions of those sub-sections to reports made to the Auditor-General by persons appointed by him to carry out audits.

CLAUSE 13

This is a drafting improvement only.

CLAUSE 14 Security, Overdrafts and Official Bank Accounts

The amendments in sub-clause (1) are:

(a) Section 17 is repealed. The requirement for security to be given by accounting officers has not been exercised since 1908. It is unlikely that the occasion would arise when serious consideration would now be given to invoking this little used provision.

(b) Section 18 is amended. The requirement that a bank shall not permit an overdraft without the Minister's approval has been removed as it is unrealistic to impose a responsibility on banks to prevent overdrafts in official accounts. The section is to be amended to provide that overdrafts shall not be arranged without the authority of the Minister.

(c) Section 19 is redundant and is repealed because official bank accounts are now expressed either in the name of a department or an officer's official title.

Sub-clause (2) is a transitional provision.

CLAUSE 15

This Clause substitutes a new heading for Part IV.

CLAUSE 16 Amendment of Section 20

The provision in the new sub-section (3) was previously in section 18 but it is considered to be more appropriate in section 20.

Sub-clause (2) is a transitional provision.

CLAUSE 17 Commonwealth Public Account

Sub-clause (1) amends section 21 as a consequence of the removal of the definition of 'Commonwealth Public Account' from section 2. (See Clause 3)

Sub-clause (2) is a transitional provision.

CLAUSE 18 Amendment of Sections 22 and 23.

The provision relating to the handling of securities (other than cheques and other negotiable instruments) has been taken from section 22 and inserted as a new section 26 (see Clause 19). Other amendments are drafting improvements together with a consequential transitional provision.

CLAUSE 19

Section 25 has never been used and is repealed.

New section 25 replaces sections 27-30 and covers the procedures in accounting for private moneys coming into the hands of an officer by virtue of his office or employment and for the interest accruing on such moneys. The changes are summarised thus:

- (a) the types of private moneys involved are more clearly spelt out;
- (b) moneys are to be dealt with as if they were public moneys and paid to the Trust Fund unless provided otherwise in any other legislation or unless the Minister considers another course more appropriate;
- (c) the Minister may direct how the private moneys are to be dealt with when he considers payment to the Trust Fund inappropriate eg moneys paid into a Court of a Territory pending the outcome of litigation, bail moneys, etc. A penalty provision has been inserted for failure to comply with a direction given by the Minister; and
- (d) the Minister has the power to direct the payment of interest on moneys invested to the credit of the Trust Fund, to the person entitled to the interest or to be dealt with in the same manner as the principal.

The effect of these changes would be that -

- (a) administration would be simplified without impairing control;
- (b) where circumstances warrant, the Minister would have the power to issue directions as to how the moneys are to be treated; and
- (c) the procedures for the payment of interest would be simplified.

A new section 26 replaces the existing sub-section 22(2) (see notes on Clause 18).

CLAUSE 20 Governor-General's Warrant (Section 32)

The amendments in sub-clause (1) relate to the obtaining of a Governor-General's Warrant. The present law requires the Minister to notify the Auditor-General that it appears to him that an amount, which is lawfully available for expenditure by virtue of a stated appropriation, will be required to be drawn from the Public Account in a particular period; the Auditor-General certifies that the amount is lawfully available; the Governor-General then issues the Warrant. Certain appropriations, however, contain a stated or implied condition which must be met before the moneys can be expended.

In these cases it has been the practice since Federation for Warrants to be obtained before the condition has been satisfied. However, the previous Auditor-General questioned this practice and a subsequent legal opinion stated that under the present law the better view is that Warrants should not be issued for amounts subject to a condition not yet satisfied. This interpretation presents many practical problems. For example an appropriation in the Income Tax Assessment Act covers refunds of excess tax instalments; in accordance with the legal opinion, Warrants ought not to be given until the refunds have been calculated and ought to be restricted to the amounts so calculated. This would cause substantial delay in the issue of tax refund cheques and greatly increase the work of preparing the Warrant.

The intention of the amendment is to enable the Minister to seek a Warrant to cover his estimate of amounts that are required or are likely to be required to be withdrawn from the Commonwealth Public Account for expenditure in accordance with appropriations which have been passed by Parliament.

Sub-clause (2) is a transitional provision.

CLAUSES 21 and 22

These are a drafting improvement and a drafting change only.

CLAUSE 23 Amendment to Section 33B

This is a drafting improvement to clarify that the Warrant procedures do not apply to the class of expenditure covered by this section.

CLAUSE 24

Sub-clause (1) removes the present sub-section 34(4). A replacement procedure has been included in a new section 34A which is explained in Clause 25.

Sub-clause (2) amends section 34 by up-dating the principles relating to the payment of accounts by allowing the Minister some flexibility to approve procedures governing computer - based and other payment systems. The main difficulty of the present law is that in spite of the vast changes in accounting procedures within the Commonwealth it still retains the characteristics of the 1901 Act which, inter alia, provide that the Certifying Officer shall ascertain that an "account is correct in every particular" and that the expenditure is "in accordance with the laws and regulations applicable thereto". With the preparation of certain classes of accounts by computer the Certifying Officer is no longer able to comply with the letter of these requirements although they are followed in principle by the requirement to observe specific checks and

controls designed for the computer system. The proposed changes will also allow the Minister to agree to the application of sampling or limited checking procedures to some accounts and this will improve efficiency.

The amendments may be summarised thus:

- (a) The Minister would be empowered to issue directions to Certifying Officers as to the checks to be imposed and procedures to be followed in situations where the prescribed standard procedure cannot be followed or would clearly be inefficient;
- (b) machinery provisions relating to certificates as to rates of charge and faithful performance and also the obtaining of receipts are removed as these can be better dealt with by regulation.

Sub-clauses (3) and (4) are transitional provisions.

CLAUSE 25

A new Section 34A dealing with act of grace payments is inserted.

The new section spells out more clearly than the present section 34(4) the Minister's power to approve act of grace payments and words it in a way which permits him to delegate this power.

CLAUSE 27 Transfer of Functions between Departments - New
Section 35A

When a function is transferred from one department to another or where one department is abolished and its functions taken over by two or more other departments there are legal difficulties in reapplying the funds which were appropriated for the former department. Difficulties also arise in relation to the continuing appointment of persons carrying out duties connected with the incurring of expenditure and the checking and payment of accounts, particularly where the transfer of function requires the staff of a department to be placed on the unattached list pending the promulgation of an establishment to absorb them in another department. The purpose of the amendment is to:

- (a) provide that where an appropriation has been made for expenditure which includes expenditure on a particular function, service or purpose to be carried out by a department, and the Administrative Arrangements are changed so that that function is to be carried out by another department or departments, the Minister may issue to the transferee department or departments such funds from the balance of that appropriation as are required to meet the cost of the corresponding function; and

CLAUSES 29, 30 and 31

These are drafting improvements only.

CLAUSE 32

Section 39 is redundant and is repealed; section 40 is out of date and is amended.

The provisions in section 40 were appropriate when the Audit Act was originally enacted and for many years later when the accounts and records were kept by hand. With the use of modern accounting systems the section is out of date as there is now no single record which can be related to "The Cash Book". Instead various records and accounts are kept by computer and other means which are completely satisfactory for control of the Public Account. The amendment would place a specific obligation on the Minister to ensure that proper accounts and records of receipts and expenditure are kept. Currently, no section in the Act places this specific obligation on the Minister.

CLAUSE 33 Audit

Section 41 is amended as a consequence of the amendment made to section 40 by Clause 32 and by adding a further provision that the Minister shall cause to be made available to the Auditor-General such documents and records as he requires to audit the accounts and records referred to in section 40.

CLAUSES 34 and 35

These are drafting improvements only.

CLAUSES 36 and 37

Section 42(2) which requires the Auditor-General to surcharge the person responsible for the loss of public moneys or stores or damage to stores caused by the fraud, mistake, default, neglect or error of that person, or for other reasons set out in the Section is to be repealed. The Auditor-General's Office has found that, because of difficulties associated with establishing default or neglect it has been almost impossible to invoke the surcharge provisions. Recent legal advice indicated that the existence of the surcharge provisions precludes the Government in certain situations from availing itself of common law remedies. Furthermore, the surcharge provision places a responsibility on the Auditor-General akin to that of a judge, without providing proper means for the person surcharged to give evidence in his defence. This concept is no longer appropriate to the role of the Auditor-General whose responsibilities should be more in line with those of a professional auditor. Clause 58 will replace these surcharge provisions with other more equitable procedures which would enable the Commonwealth to pursue losses of moneys or stores through the courts (if need be). As a consequence of this amendment, sections 43 and 44 are no longer necessary and are repealed. A drafting improvement is also made to section 42(1).

CLAUSE 38 Amends Section 45

This is a drafting improvement only.

CLAUSE 39

Sections 46, 47 and 48 are repealed.

- (a) Section 46 provides that in the absence of a written voucher no amounts shall be recognized as having been received or paid except by order of the Minister. A typical example of its use is to approve reimbursement of expenses to public servants in circumstances where their claim is legitimate except for the fact that it is unsupported by a receipt for an amount paid. It is now proposed that this kind of situation be dealt with as part of the payment process under section 34 to which it more properly relates. Section 46 is therefore no longer necessary.
- (b) Section 47 provides the Auditor-General with a discretion to enable him to admit a voucher which, on examination, is defective for want of a certificate or supporting document. However, there are adequate provisions elsewhere in the Act to enable the Auditor-General to obtain such further information or to make such reports as he deems appropriate. Section 47 is therefore redundant.

- (c) Section 48 provides for the recovery of amounts disallowed under sections 46 and 47. There is no record of it ever having been used, and besides being an inappropriate provision in present day circumstances, the repeal of sections 46 and 47 would make the provision redundant.

CLAUSE 40 Efficiency Auditing by Auditor-General - new provisions covering Efficiency Audits, and audit of the Auditor-General's Office by an independent auditor.

Efficiency Audits

There are inserted in Part VI a new Division 2 relating to Efficiency Audits, and a new Division 3 relating to the independent audit of the Auditor-General's Office. Earlier Clauses which contain matters relating to the introduction of Efficiency Audits are:-

Clause 3 - which inserts a new sub-section (4) in section 2 defining an efficiency audit.

Clause 8 - which amends section 11 by adding sub-sections (2) and (3), to enable the Auditor-General to appoint persons to undertake efficiency audits, without affecting his right to require his officers to do so.

Clause 9 - which substitutes a new section 12 including provisions to enable the Auditor-General to draw the attention of appropriate Ministers etc to matters arising out of the performance of an efficiency audit. This complements the existing provision which gives the Auditor-General a similar authority in relation to audits other than efficiency audits.

The following notes explain the purpose of each section within the two new Divisions.

Division 2 Efficiency Audits

Section 48A Interpretation.

Sub-section (1) contains definitions relevant to Division 2 and describes the scope of the Auditor-General's authority to undertake efficiency audits.

Sub-section (2) provides that regulations may exempt certain bodies from the provisions for efficiency audits, or may include newly formed bodies within the scope of such audits.

Sub-section (3) provides that the operations of staff employed under the Naval Defence Act 1910, the Supply and Development Act 1939 and the Trade Commissioners Act 1933 shall be deemed to be carried out by the Department of State administered by the Minister administering the respective Act. It also provides

that the Auditor-General's Office shall be deemed not to form part of a Department - this is to facilitate the provisions in Division 3 for the independent audit of the Auditor-General's Office.

Section 48B Public Authorities of the Commonwealth.

Sub-section (1) provides that where the accounts and records of a body established under an enactment for a public purpose are audited by the Auditor-General or the staff of the body is provided under the Public Service Act 1922, the body comes within the scope of Division 2 unless it is declared by the Regulations not to do so.

Sub-section (2) excludes the application of sub-section (1) to unincorporated bodies established under an enactment for the purpose of assisting, or performing functions connected with a Department or public authority of the Commonwealth, but provides that the operations of such a body shall for the purposes of efficiency audits be deemed to be operations of that Department or public authority.

Sub-section (3) provides that a person holding an office established by an enactment, or a person holding an appointment made by the Governor-General or by a Minister otherwise than by an enactment, comes within the scope of Division 2 unless declared by the regulations not to do so.

Sub-section (4) provides for the exclusion of Ministers of State, judicial and quasi-judicial officers, Members of Territorial Legislative Assemblies and Royal Commissioners from the liability to efficiency audits.

Sub-section (5) provides for the exclusion of individual members of an authority from efficiency audits, and also an office established by an enactment for the purpose of a public authority of the Commonwealth or by a Commonwealth organisation, but makes it clear that the operations carried out by such persons shall be deemed to have been carried out by that authority or organisation for efficiency audit purposes.

Sub-section (6) makes a similar provision in respect of an officer of a Department who in association with his departmental functions performs the functions of an office to which he has been appointed under an enactment or by the Governor-General or a Minister.

Section 48C Auditor-General to carry out Efficiency Audits.

Sub-section (1) enables the Auditor-General to carry out an efficiency audit of all or any of the operations of a Department, a public authority of the Commonwealth or a Commonwealth organisation.

Sub-sections (2) and (3) enable the Auditor-General to carry out an efficiency audit of an eligible incorporated company (defined in Section 48A(1)) at the request of a Minister.

Sub-section (4) enables the Auditor-General, at the request of a Minister, to carry out an efficiency audit of a body established under an agreement between the Commonwealth and one or more States.

Sub-section (5) provides that a Minister may not make a request under sub-section (4) unless the relevant State or States have consented.

Sub-section (6) enables the Auditor-General to carry out an efficiency audit of the body or persons responsible for the administration of a fund established by or under an enactment.

Sub-sections (7) and (8) enable the Auditor-General at the request of a Minister to carry out an efficiency audit of a body (other than a State or State authority) or persons to which financial assistance is paid by the Commonwealth where the body or person agrees. If the payment was made on condition that the body or person would permit the Auditor-General to carry out such an audit agreement is deemed to have been given.

Section 48D Efficiency Audit extends to Examination of Certain
Procedures

This section provides that the efficiency audit of the operations of a Department or public authority of the Commonwealth may include an examination of the procedures followed by that Department or authority for assessing the efficiency and economy with which specific purpose grants by the Commonwealth to a State, or another body, are applied.

Section 48E Investigation.

Sub-section (1) gives the Auditor-General discretion about the manner in which he conducts an efficiency audit.

Sub-section (2) provides that an efficiency audit may be combined with a financial audit, and that information obtained during a financial audit may be treated as having been obtained for the purposes of an efficiency audit.

Sub-section (3) gives the Auditor-General access to all records relating to operations of a relevant body or to procedures followed by a relevant body for reviewing any such operations.

The secrecy provisions of section 14C apply to the information in these records in the same way as if they were financial records (see Note to Clause 12).

Sub-section (4) gives the Auditor-General access to any place where the operations of a relevant body take place.

Section 48F Reports concerning Efficiency Audits.

Sub-section (1) enables the Auditor-General to prepare and sign a report of the results of an efficiency audit carried out by him.

Sub-section (2) enables the Auditor-General to include in such a report such information as he thinks desirable in relation to matters referred to in the report, his reasons for opinions expressed in the report and any recommendations he thinks fit to make.

Sub-section (3) provides that the Attorney General may issue to the Auditor-General a certificate to the effect that the disclosure of certain information would be contrary to the public interest for one of a number of stated reasons.

Sub-section (4) provides that where the Attorney-General has given a certificate under sub-section (3), the Auditor-General may include information referred to in the certificate in a restricted report, but may not include the information in a report prepared under sub-sections (1) and (2).

Sub-section (5) provides that copies of restricted reports shall be forwarded to the Prime Minister, the Minister for Finance, the relevant person in respect of the body (referred to in sub-section (9)) and the Public Service Board.

Sub-section (6) provides that, subject to sub-section (7), where the Auditor-General prepares a report on an efficiency audit (other than a restricted report) he may

- (a) include the report in the next report made by him under section 51 that includes his report on the financial audit of the body;
- (b) include the report in another report on the financial audit of the body which is required by law to be tabled in Parliament; or
- (c) treat the report as a special report and transmit signed copies to the Parliament.

Sub-section (7) makes provision for a relevant body or class of bodies to be specified in the regulations as not being subject to public reporting under sub-section (6). The Government feels that it may be appropriate to apply this provision to protect the competitive position of public commercial enterprises. The Parliament will of course be able to scrutinise any regulation which proposes to exempt a body from the public reporting procedure.

Sub-section (8) provides that where a body or class of bodies has been specified in regulations in force under sub-section (7), the Auditor-General shall furnish copies of his report to the body which is the subject of the report, to the relevant person in respect of the body and to the Public Service Board.

Sub-section (9) defines the "relevant person" referred to in sub-sections (5) and (8) in respect of different classes of relevant bodies.

Section 48G Annual Report concerning Efficiency Audits.

Sub-section (1) requires the Auditor-General to prepare a general report each year concerning efficiency audits carried out by him during the year, giving particulars of the costs of undertaking the audits and the benefits which in his opinion have been derived from them.

Sub-section (2) provides that this report may be included in a report made by the Auditor-General under section 51, or may be made as a special report transmitted to the Parliament.

Sub-section (3) provides that the first such report shall be in respect of the year ending on 30 Jun 1979.

Section 48H Audit Fees.

This section provides that audit fees may be payable to the Commonwealth for efficiency audits carried out by the Auditor-General in respect of bodies or classes of bodies to be determined by the Minister for Finance. In Clause 54, a similar section is proposed in relation to financial audits (Section 63Q).

Division 3 - Audits of Auditor-General's Office.

This Division, containing sections 48J to 48P makes provision for the appointment of a suitable person as an independent auditor to carry out financial and efficiency audits of the Auditor-General's Office.

Section 48K sets out the method of appointing the independent auditor.

Sections 48L and 48M give to the independent auditor the necessary powers and responsibilities, similar to those of the Auditor-General, to undertake such audits.

Sections 48N and 48P set out the reporting procedures to be followed by the independent auditor in relation to financial and efficiency audits respectively.

CLAUSE 41 Statement of Receipts and Expenditure

- (a) Sub-section 49(1) is amended.

Sub-section 49(1) requires the Minister to publish a monthly statement of the receipts and expenditure of the Consolidated Revenue Fund and of the expenditure of the Loan Fund. This requirement is too inflexible as information in that limited form has little meaning. What is now published each month is in the same form as summaries of financial transactions attached to the Budget Speech and although it covers the receipts and expenditures of the Consolidated Revenue Fund, the Loan Fund, and the Trust Fund, it is a comprehensive overall statement of the receipts and outlays by function rather than a statement of transactions by fund. It also shows the financing transactions which have taken place including changes in cash balances.

Parliamentary control over the form of the statement is preserved by power to disallow the Minister's determination of the form in which the statement is to be made.

- (b) Sub-section 49(2) is repealed and a new sub-section substituted.

Sub-section 49(2) requires the publication in the Gazette of a statement of the receipts and expenditure of the Consolidated Revenue Fund, the Trust Fund and the Loan Fund for the first half of each financial year with a comparative statement of the receipts and expenditure of the Consolidated Revenue Fund and the Loan Fund during the corresponding period of the previous financial year. This half yearly statement in the Gazette is not used for any departmental purposes and, so far as is known, is not used by either the Press or the public. As the monthly statement currently prepared and as now proposed under sub-section 49(1) includes both cumulative and comparative figures, the December monthly statement meets the requirements of sub-section 49(2) which can therefore be repealed.

CLAUSE 42 Annual Financial Statements (Section 50)

This Clause will effect substantial changes to the form of the Minister's annual statement of receipts and expenditure which the Auditor-General is currently required to report upon and explain.

It is proposed that with effect from 1978-79 the annual statements of the Minister for Finance will comprise statements for each department grouping all departmental receipts and

expenditure. Transactions affecting the Consolidated Revenue Fund, Loan Fund and Trust Fund will be identified within each departmental account which will also reflect expenditures made under special as well as annual appropriations.

The statements will include explanatory notes furnished by Permanent Heads together with such further explanations which the Minister considers appropriate.

Apart from the departmental statements, there will be summaries of those statements and such further information (which may be presented as financial tables) which the Minister thinks desirable.

The statements will also contain information as to the number and aggregate amounts of act of grace payments, waiver of recoverable debts, amounts written off and cases of losses pursued under Part XII A of the Act.

CLAUSE 43 Auditor-General to Audit and Report

As a consequence of the change proposed in Clause 42, section 51 is to be remade. The requirement in the present section 51 that the Auditor-General shall explain the statement in full has been omitted in view of the requirement for explanations from Permanent Heads and the Minister for Finance, but provision is made for the Auditor-General to include further information and explanations if he thinks it desirable.

CLAUSE 44 Annexures to Auditor-General's Report

A new sub-section is added to section 52 to provide that opinions of the Attorney-General arising from efficiency audits may be appended to the report on the efficiency audit and not necessarily to the main annual report of the Auditor-General.

CLAUSE 45 Amendment to section 53

These amendments are consequential on the amendments to section 50 (Clause 42).

CLAUSE 46 Amendment to Section 55

This section is amended as a consequence of the amendment in Clause 3 omitting the definition of "Commonwealth Public Account". Also, as overdrafts arranged in accordance with section 20 do not constitute part of the Loan Fund, the amendment excludes them from the provisions of this Section.

CLAUSE 47 Amendment to Section 58A

Section 58A provides that the Minister may take in reduction of expenditure charged to the Loan Fund various receipts specified in the Section. The Section was included in the Audit Act during the 1914-1918 War and several of the provisions are

obviously relics of that war which have little or no relevance to present circumstances. The Section has been reviewed to bring it up to date and to meet all current requirements and foreseeable eventualities.

CLAUSE 48 Amendment to Section 62A(7)(a)

This is a drafting improvement only.

CLAUSE 49 Investment of Moneys Standing to Credit of the
Trust Fund

Section 62B provides that moneys standing to the credit of the Trust Fund may be invested. Unless otherwise stated in an Act of Parliament, interest received from the investments must be credited to the Consolidated Revenue Fund. This leads to a need for an appropriation where interest is to be dealt with in some other way. In order to save accounting work it is proposed to amend the Section to give the Minister power to direct how the interest shall be dealt with.

CLAUSE 50 Amendment to Heading of Part X

This amendment is necessary as the provisions currently in Part XI of the Act have been incorporated in Part X.

CLAUSE 51 Moneys, etc, outside Australia

Section 63 empowers the Governor-General to give directions in relation to accounting outside Australia. However, the Section is deficient in that the Act does not provide for supplementary directions to be issued in elaboration of the Governor-General's Directions and therefore the status of certain Finance Directions given by the Secretary is in doubt. The amendment would provide for the making of regulations in place of the Governor-General's Directions. This would overcome the above defect, when read in conjunction with the proposed section 72(1).

CLAUSE 52 Repeal of Heading

As section 63A has now been grouped under a new heading in Part X the need no longer exists for the heading preceding section 63A.

CLAUSE 53 Australian Navy

Clause 53(1) amends section 63A. This amendment would remove confusion that has arisen in the past because of an apparent conflict between the opening words of section 63A(1) and the wording of section 63A(2). These provisions were intended to authorize the making of regulations which could override other sections of the Act (except those dealing with the powers and

c) the making of arrangements for the audit of other bodies;
and

(d) the payment of audit fees.

In particular, Part XI is divided into four Divisions. Division 1 deals with the interpretation of the meaning of "appropriate Minister" and "public authority" and the application of Divisions 2 and 3. The "standard" accounting and auditing provisions are set out in Division 2 (authorities required to keep accounts and records in accordance with commercial practice) and Division 3 (authorities not so required) and have been proposed on the initiative of the First Parliamentary Counsel with the object of simplifying the task of drafting future public authority legislation. The purpose of Division 4 is to provide proper authority for the Auditor-General to undertake "by arrangement" and other audits including audits of certain incorporated companies in which the Commonwealth has an interest.

Division 4 also includes a provision that the Auditor-General may charge any body or public authority for audit work carried out on its records and financial statements.

CLAUSE 55

Section 67 is amended to take account of the provisions for the appointment of an independent auditor to audit the Auditor-General's Office (Clause 40).

CLAUSE 56

Section 68 is amended to take account of the independent auditor (Clause 40).

CLAUSE 57

Section 70 is repealed as amendments to the Judiciary Act have made it unnecessary, and adds new Part XIIA - Losses of and Damage to Public Property.

As a consequence of Clause 36 which would repeal the surcharge provisions of section 42, this new Part has been inserted to provide for more equitable procedures for the recovery of losses in certain circumstances including where money or stores are made the personal responsibility of an officer and where the loss was due to gross negligence, the lack of personal care or misconduct of an officer. The proposed provisions include a right of appeal by the officer to the Administrative Appeals Tribunal or to a court, at his option and for the making of

regulations concerning the determination of the amounts to be recovered. Whereas the surcharge provisions which it would replace were virtually incapable of application, the purpose of the new provision is to enable the Government to recover losses and deficiencies of public moneys and stores where an officer has failed in the duty of personal care of public moneys under his control or of stores placed in his strict care, or has been grossly negligent in the performance of his duties.

The procedures require action for recovery to be taken by the officer's Permanent Head.

CLAUSE 58

Sub Clause (1) reflects a drafting improvement to section 70A.

Section 70B relating to guarantees given by the Commonwealth is to be repealed and replaced by a new section. The effect will be to require, for the future, that guarantees shall not be given by or on behalf of the Commonwealth unless expressly authorized by an Act. Guarantees already in existence are not affected.

A new section 70BA has been included to permit the Auditor-General to authorize an officer to sign for him reports in respect of particular bodies nominated in regulations. The

CLAUSE 60

A new Section 70D is inserted to provide for the exemption of certain accounts of prescribed departments and organisations from inspection, examination and audit by the Auditor-General, and introduces procedures for reporting to Parliament in respect of expenditure from such exempt accounts. The exempt accounts would comprise highly confidential expenditures the disclosure of which would prejudice operations being carried on or would be contrary to the national interest.

CLAUSE 61 Regulations - Section 71

The purpose of the amendment in sub-clause (d) is to enable regulations to be made concerning the disposal of unclaimed property found on Government premises. At present no statutory authority exists for the disposal of such unclaimed property. Legal advice indicates that it would be appropriate to provide for this in the Finance Regulations but there is serious doubt whether such a regulation could validly be made under the regulation-making power presently expressed in section 71(1).

Sub-clause (e) repeals section 71(2) which is replaced by a new section 72 inserted by Clause 62.

Other changes are of a minor and drafting nature.

CLAUSE 62 Directions by Officers etc

New section 72 is inserted

This section provides that any of the regulations, whether made under section 63, 63A or 71, may authorise the Minister or the Secretary to the Department of Finance to give directions to persons who are subject to the provisions of the Audit Act, not inconsistent with that or any other Act or regulation thereunder and that the Secretary to the Department of Finance may delegate his powers. It also provides for other prescribed persons to give subsidiary directions in their areas of responsibility.

CLAUSES 63 and 64

These are changes of a minor and consequential nature.

CLAUSE 65 Regulations and Directions

This Clause provides that regulations may be made under the amended provisions of the Act set out in sub-sections 2(2) and 2(3), before those provisions come into operation, so that the regulations can be brought into operation concurrently with those provisions.

CLAUSE 66

Sub-clause (1) provides that the first audit of the Auditor-General's Office by an independent auditor shall apply to the current financial year.

Sub-clause (2) provides that the new format of the annual financial statements shall apply to the current and subsequent financial years.