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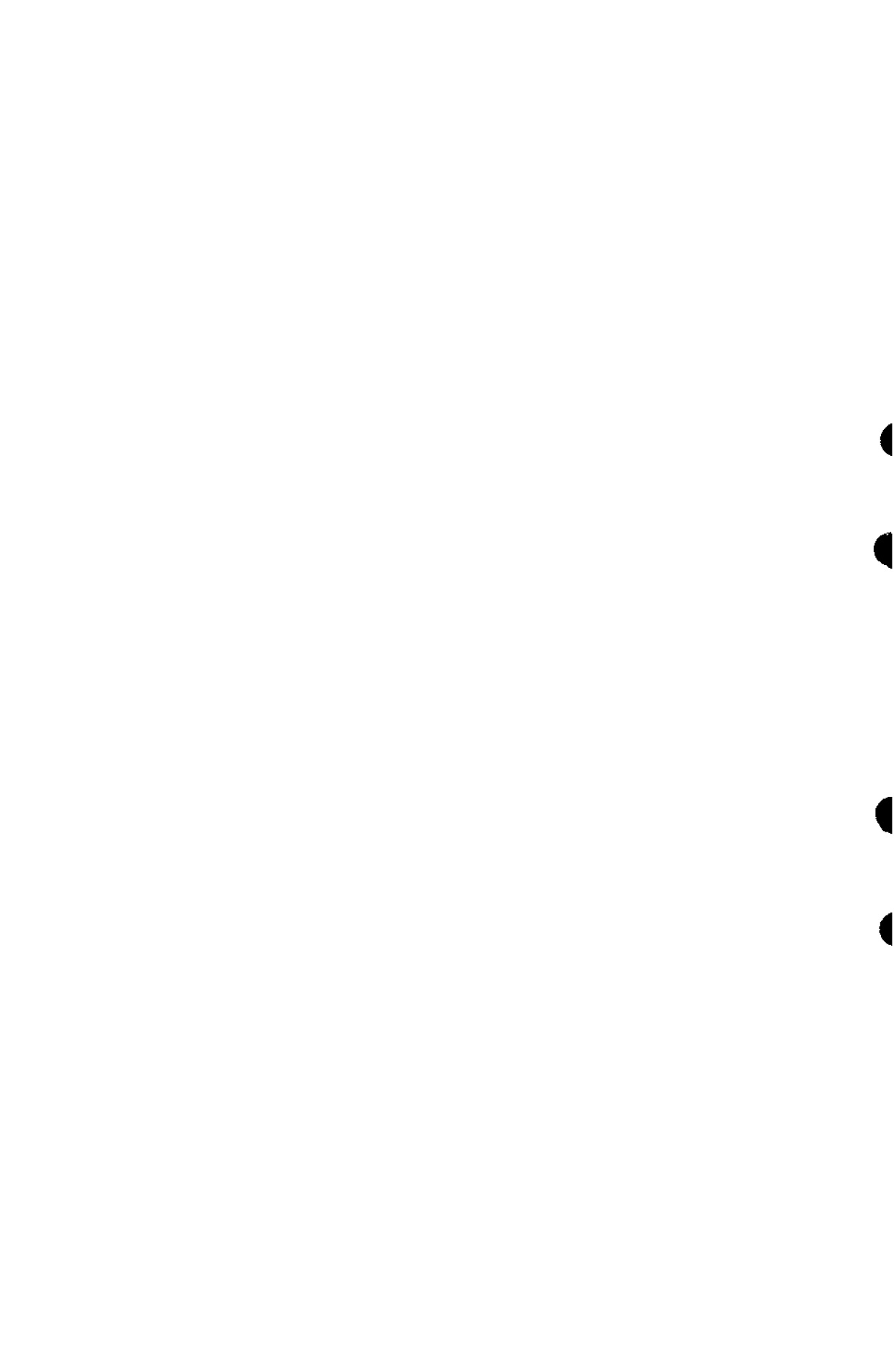
The Parliament of the Commonwealth  
of Australia

House of Representatives

Audit Amendment Bill 1984

Explanatory Memorandum

(Circulated by authority of the Minister for Finance,  
The Hon J S Dawkins)



## OUTLINE

The Audit Amendment Bill 1984 proposes amendments to the Audit Act 1901 which makes provision for the collection and payment of public moneys and the audit of the public accounts. The last major amendments to that Act were made in 1979.

The principal amendment in the Bill is ancillary to the proposal to consolidate, in the Appropriation Bills, the appropriations for "Salaries and Payments in the nature of Salary" and "Administrative Expenses". In future these appropriations will be shown in the appropriating Bills at sub-division level only. The amendments proposed in Clause 8 of this Bill are necessary to ensure that during the early stages of the new arrangements, expenditure against those sub-divisions may be controlled at the equivalent of item level, as directed by the Minister for Finance.

The consolidation of these appropriations is one of the Government's initiatives that are intended to improve Public Service administration. It is designed, along with the progressive implementation of another initiative - the Financial Management Improvement Program - to increase flexibility and to progressively devolve financial control to departmental managers.

A number of minor amendments has been made to the provisions related to the appointment of the Auditor-General and associated matters. They bring the legislation into line with current appointment practices and drafting policy.

Other proposed minor amendments to the Act are explained in the accompanying Notes on Clauses.

## NOTES ON CLAUSES

### CLAUSES 1 AND 2

Clauses 1 and 2 of the Bill provide for :

- (a) its short title;
- (b) the Principal Act, as referred to in the Bill to be identified as the Audit Act 1901; and
- (c) for Clauses 3 to 6 and 15 of the Bill to commence operation on the date of Royal Assent and for Clauses 7 to 14 to commence operation on 1 July 1984.

### CLAUSES 3 AND 4

Clause 3 inserts new sections 4A and 4B. Section 4A allows for the Minister to grant leave of absence to the Auditor-General. Section 4B provides for the Auditor-General to resign by writing to the Governor-General. The resignation becomes effective upon delivery rather than on acceptance by the Governor-General, as is the case at present.

Clause 4 makes consequential amendments to section 5 of the Act.

### CLAUSE 5

This Clause amends section 7 of the Act by clarifying that incapacity leading to suspension can be either physical or mental.

### CLAUSE 6

This Clause substitutes for sections 8 and 9 of the Act new sections 8 and 9. The amendment removes the need for the Auditor-General and the Acting Auditor-General to make a declaration before the Executive Council before taking up office. The new section 8, which provides for the appointment of a person to act as Auditor-General, has been written to conform with current drafting practice. The new section 9 allows for the retirement of the Auditor-General on invalidity grounds to be recognised for the purposes of the Superannuation Act 1976.

## CLAUSE 7

Section 25 of the Principal Act is concerned with private moneys which, when received by officers, must be credited to the Trust Fund. Sub-section 25(5) provides, inter alia, that subsequently such moneys may be credited to the Consolidated Revenue Fund, where:

- (a) they have been credited to the Trust Fund for six years, continuously, without;
  - (i) any portion being expended; or
  - (ii) any claim being made by the person entitled to them; or
- (b) the purpose for which they are held can no longer be fulfilled.

Clause 7 amends sub-section 25(5) to make it mandatory for such Trust Fund moneys to be credited to the Consolidated Revenue Fund in the circumstances outlined above. This will ensure that balances do not remain in the Trust Fund for periods in excess of six years.

## CLAUSE 8

Clause 8 introduces a new section 29 which will provide that, where a sub-division in a Schedule to an Appropriation Act is not divided into items, the Minister for Finance may:

- (a) direct, in writing, that for the purposes of Part V of the Audit Act 1901 and of the regulations, that sub-division shall be taken to be divided into notional items as detailed in the direction; and
- (b) approve, in writing, a variation of a direction referred to in (a) above.

This amendment is ancillary to the proposal that certain appropriations, initially those for "Salaries and Payments in the nature of Salary" and "Administrative Expenses", be consolidated in Appropriation Bill No 1 at sub-division levels. At the same time, however, the consolidated votes will be controlled by departments at the equivalent of item level.

Under this arrangement, departments will furnish their estimates and explanations thereof to Parliament in the same detail as is currently provided. For control purposes expenditure will then be charged to the appropriation on a notional item basis. In addition,

whilst it is intended that, in the future, departments will be permitted progressively greater scope to reallocate amounts between previously estimated items of expenditure, such reallocations will, for the present, be subject to the approval of the Minister for Finance.

Proposed section 29 will give the Minister for Finance the necessary powers, to be exercised during the initial stage of the new arrangements, to control the allocation and reallocation of the appropriations at an item level.

Clause 8 also introduces a new section 30 which is consequential to section 29. It will provide that, for the purposes of sections 34, 35, 36A and 36C, (all of which are expenditure control provisions) the notional items dealt with in section 29 will have effect as if they were items of a sub-division.

#### CLAUSE 9

Currently, section 34A of the Principal Act does not permit the Minister for Finance to attach conditions to approvals of act of grace payments; thus, where the Minister does purport to attach a condition, that condition is invalid.

Section 34A is amended by Clause 9 to provide that the Minister, when approving an act of grace payment or payments, may attach conditions to that payment or those payments, a breach of which could give rise to a requirement that the amount of the payment, or payments, be repaid.

Sub-section 34A of the Principal Act also provides, inter alia, that an act of grace payment in respect of an amount exceeding \$25,000, or in respect of periodical payments amounting in aggregate to more than \$5,000 per year, cannot be approved until the person authorised to give the approval has considered a report, on the proposed payment or payments, by a committee of senior public servants.

Clause 9 amends sub-section 34A(2) by increasing the monetary limits of \$25,000 and \$5,000 to \$50,000 and \$10,000 respectively. This will bring these limits into line with the changes in monetary values which have occurred since the provision was first introduced into the Audit Act 1901 in 1979.

#### CLAUSES 10 AND 11

Part XI of the Principal Act sets out standard accounting procedures to be followed by prescribed Statutory Authorities.

Sub-sections 63D(3) and 63E(2) of Part XI are technically deficient in that a bank approved by the Treasurer or an authorised person under either sub-section, for a particular Authority's banking transactions, becomes, unintentionally, an "approved bank" for any other Authority to which Division 2 of Part XI applies.

The amendments proposed in Clauses 10 and 11 will ensure that each approval given under either sub-section 63D(3) or 63E(2) will relate only to the Authority in respect of which it is given.

#### CLAUSE 12

This Clause also relates to an "approved bank". As is the case with sections 63D and 63E of the Principal Act, any approval given pursuant to sub-section 63J(3) of that Act applies, not only to the particular Authority in relation to which it was made, but to all Authorities to which Division 3 applies. It is proposed in Clause 12 that sub-section 63J(3) be amended, in a similar manner to sections 63D(3) and 63E(2), to ensure that any approval given under sub-section 63J(3) applies only to the Authority in relation to which it is given.

#### CLAUSE 13

Sub-sections (1) and (2) of section 63P of the Principal Act provide that the Auditor-General may conduct an audit of a body by arrangement with that body.

Sub-section 63P(3) provides that such an arrangement may include provision for the Auditor-General to charge a fee for any audit work carried out by him.

Sub-section 63P(3), however, refers specifically to audits carried out under an arrangement made in pursuance of sub-section 63P(2), and makes no reference to sub-section 63P(1). Accordingly, it is not possible for the Auditor-General to charge a fee for work done in accordance with an arrangement entered into under sub-section 63P(1). The original intention of section 63P, however, was to authorise the Auditor-General to charge for all audits performed in pursuance of an arrangement under the section. Thus an amendment is proposed in Clause 13 which will enable the Auditor-General to charge a fee for all audits entered into under either sub-section 63P(1) or sub-section 63P(2).

#### CLAUSE 14

In relation to section 70C of the Principal Act (that section which, in part, relates to the recovery of amounts owing to the Commonwealth) there is considerable doubt as to whether the Minister for Finance has the power to approve the recovery of debts by instalments.

It is intended that the Minister should have such power and, to this end, an appropriate amendment to section 70C is proposed in Clause 14.

Clause 14 provides also that section 70C(4) should be further amended by increasing the monetary limit of \$25,000 to \$50,000 (sub-section 70C(4) provides, inter alia, that the Minister may not waive recovery of a debt in excess of \$25,000 without first considering a report furnished by a committee of senior public servants). The amendment will bring the limit into line with changes in monetary values since the provision was first included in the Audit Act 1901 in 1979.

#### CLAUSE 15

Consequential upon the amendment to section 8, Clause 15 repeals Schedule 1 to the Principal Act.