

TASMANIA

**JOINT STANDING COMMITTEE ON
FINANCIAL OPERATIONS BILL 2002**

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SCHEDULE 1 – ACTS REPEALED

JOINT STANDING COMMITTEE ON FINANCIAL OPERATIONS BILL 2002

*(Brought in by the Premier, the Honourable James
Alexander Bacon)*

A BILL FOR

An Act to provide for the establishment of a Joint Standing Committee on Financial Operations, to repeal the *Public Accounts Committee Act 1970* and the *Public Works Committee Act 1914* and to amend other Acts

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

Short title

1. This Act may be cited as the *Joint Standing Committee on Financial Operations Act 2002*.

Commencement

2. This Act commences on the day on which this Act receives the Royal Assent.

Interpretation

3. In this Act, unless the contrary intention appears –

“Agency” has the same meaning as in the *State Service Act 2000*;

“Committee” means the Joint Standing Committee on Financial Operations referred to in section 4(1);

“Government Business Enterprise” has the same meaning as in the *Government Business Enterprises Act 1995*;

“member” means a member of the Committee;

“presiding officers” means the President of the Legislative Council and the Speaker of the House of Assembly;

“public sector finances” includes –

- (a) any money forming part of, or payable to, the Consolidated Fund or an account in the Special Deposits and Trust Fund; and
- (b) any money received by –
 - (i) an Agency; or
 - (ii) a Government Business Enterprise; or
 - (iii) a statutory authority; or
 - (iv) a local authority; and
- (c) any expenditure which is made or authorised by –

- (i) an Appropriation Act or any other Act; or
 - (ii) an Agency; or
 - (iii) a Government Business Enterprise; or
 - (iv) a statutory authority; or
 - (v) a local authority; and
- (d) any liability for the satisfaction of which any expenditure by the Crown is, or may be, required;

“repealed Act” means the *Public Accounts Committee Act 1970* or the *Public Works Committee Act 1914*;

“statutory authority” means a body or authority, whether incorporated or not, which is established or constituted by or under an Act or under the royal prerogative, being a body or authority which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority and includes the governing authority of a statutory authority.

**PART 2 – JOINT STANDING COMMITTEE ON
FINANCIAL OPERATIONS****Constitution of Committee**

4. (1) There is to be a joint committee of the Legislative Council and House of Assembly, to be known as the Joint Standing Committee on Financial Operations.

(2) The Committee is to be appointed at the commencement of the first session of each Parliament according to the practice regulating the appointment of members of Parliament to serve on select committees of the Legislative Council and House of Assembly respectively.

(3) The Committee is to consist of 6 members, of whom 3 are to be members of the Legislative Council and 3 are to be members of the House of Assembly.

(4) A person is not to be appointed, or continue, as a member if he or she is or becomes –

- (a) a Minister of the Crown; or
- (b) the President of the Legislative Council; or
- (c) the Speaker of the House of Assembly; or
- (d) the Leader of the Government or the deputy Leader of the Government in the Legislative Council.

(5) Subject to this Act, the members –

- (a) hold office as a joint committee for the duration of the House of Assembly for the time being; and

- (b) cease to hold office when that House expires by dissolution or effluxion of time; and
- (c) may exercise the powers and functions conferred, and must perform the duties imposed, on the Committee by this Act.

Vacancies

5. (1) A member may resign his or her office as a member by writing addressed to the Governor.

(2) The office of a member becomes vacant for any reason that would vacate his or her seat as a member of the Legislative Council or House of Assembly, as the case may be.

(3) Where a vacancy occurs in the office of a member, it is to be filled by appointment as provided in section 4(2) within the next 10 sitting days of the House of Parliament by which the member was appointed.

(4) If the vacancy arises when the Parliament is not in session or if the vacancy, having arisen when the Parliament was in session, remains unfilled when the Parliament is not in session, the Governor is to appoint a member of Parliament to fill the vacancy temporarily until it is filled by appointment as provided by this section.

Functions of Committee

6. (1) The Committee must inquire into, consider and report to the Parliament on any matter referred to the Committee by either House relating to –

- (a) the management, administration or use of public sector finances; or

- (b) the accounts of any statutory authority or other organisation controlled by the State or in which the State has an interest.

(2) The Committee may inquire into, consider and report to the Parliament on –

- (a) any matter arising in connection with public sector finances that the Committee considers appropriate; and
- (b) any matter referred to the Committee by the Auditor-General.

(3) Subject to this Act, the Committee is to consider and report –

- (a) on any proposed public works the cost of which is to be paid out of the Consolidated Fund; and
- (b) whether those works are a continuation, completion, repair, reconstruction, extension or new works –

in all cases where the estimated cost of completing the works exceeds \$2 000 000.

(4) Subsection (3) does not apply to any public works which may be excluded from the operation of this Act by a resolution to that effect passed by each House of Parliament.

(5) In considering and reporting on any works, the Committee is to have regard to –

- (a) the stated purpose of the works; and
- (b) the necessity or advisability of carrying out the works and, where the works purport to be of a revenue-producing character, the amount of

revenue which they may reasonably be expected to produce; and

- (c) the present and prospective public value of the works –

and generally the Committee is in all cases to take such measures and procure such information as may enable it to inform or satisfy Parliament as to the expediency of carrying out the works.

PART 3 – PROCEEDINGS OF COMMITTEE**Proceedings of Committee**

7. (1) Any 4 members constitute a quorum of the Committee.

(2) There is to be a chairperson and deputy chairperson of the Committee, who are to be elected by the members at the first meeting of the Committee or as soon as practicable after that meeting.

(3) The chairperson must be a member of the Legislative Council.

(4) If the chairperson is absent from a meeting of the Committee, the deputy chairperson is to preside at all meetings of the Committee at which he or she is present.

(5) At a meeting of the Committee at which a quorum is present, the members in attendance may, in the absence of the chairperson and deputy chairperson, appoint one of them to be temporary chairperson, and the temporary chairperson has, during the absence of the chairperson and deputy chairperson, all the powers of the chairperson.

(6) At meetings of the Committee –

- (a) the chairperson or, in his or her absence, the deputy chairperson has a deliberative vote only; and
- (b) when the votes on a question are equal the question passes in the negative.

(7) Where a division is called for on any question, the names of the members voting are to be stated in the minutes and in the report of the Committee.

(8) The Committee may sit and transact business during any adjournment or recess of Parliament and may sit at such times and in such places, and conduct its proceedings in such manner, as it thinks proper.

(9) Where the Committee reports on a matter under this Act, the report is to include, if a member so requests, any dissenting view on any matter before the Committee.

Secretary of Committee

8. (1) The presiding officers, acting jointly, are to appoint an officer of either of the Houses of Parliament to be the secretary of the Committee.

(2) Notwithstanding section 21(1) of the *Acts Interpretation Act 1931*, in the event of the sickness or absence of the secretary, or his or her inability to act, the presiding officers may jointly select an officer of either of the Houses of Parliament to act in the place of the secretary for the period or until the date that the presiding officers may jointly determine, and while so acting that officer is, for all purposes, to be regarded as the secretary.

Conduct of meetings

9. (1) Subject to this Act, the Committee may regulate the calling of, and the conduct of business at, its meetings as it considers appropriate.

(2) The Committee may permit members to participate in a particular meeting or all meetings by –

- (a) telephone; or
- (b) video conference; or

- (c) any other means of communication approved by the Committee.

(3) A member who participates in a meeting under a permission granted under subsection (2) is taken to be present at the meeting.

(4) Without limiting subsection (1), the Committee may allow a person to attend a meeting for the purpose of advising or informing it on any matter.

Resolutions without meetings

10. (1) If all members appointed sign a document containing a statement that they are in favour of a resolution in the terms set out in the document, a resolution in those terms is taken to have been passed at a meeting of the Committee held on the day on which the document is signed or, if the members do not sign it on the same day, on the day on which the last of the members signs the document.

(2) If a resolution is taken to have been passed under subsection (1), each member is to be –

- (a) advised of the matter as soon as practicable; and
- (b) given a copy of the terms of the resolution.

(3) For the purposes of subsection (1), 2 or more separate documents containing a statement in identical terms, each of which is signed by one or more members, are taken to constitute one document.

Reports

11. (1) The Committee, before the commencement of each session of Parliament, must make a report to the Governor of its proceedings under this Act.

(2) The report is to be laid before both Houses of Parliament within 14 days after it is made, if Parliament is then sitting, and, if not, within 14 days after the commencement of the next session.

Minutes

12. The Committee is to keep full and accurate minutes of its proceedings.

Evidence taken before previous committees

13. Where –

- (a) any matter was referred to a committee appointed under a repealed Act; and
- (b) that committee has not reported on the matter –

the evidence taken before that committee may be considered by the Committee appointed under this Act as if –

- (c) the matter had been referred to the Committee for report under this Act; and
- (d) that evidence had been given before and for the information and guidance of the Committee.

Assessors

14. (1) The Committee may, in the exercise of any powers conferred on it by this Act, call in the aid of one or more assessors, who are to be persons of engineering or other technical knowledge, or possessing special local knowledge or experience.

(2) Any such assessor is entitled to be paid such remuneration as the Committee may recommend and the presiding officers may approve.

Disclosure of interests

15. (1) If a member has a direct or indirect pecuniary interest in a matter being considered, or about to be considered, by the Committee, the member must, as soon as practicable after the relevant facts come to the member's knowledge, disclose the nature of the interest to the Committee.

Penalty: Fine not exceeding 10 penalty units or a term of imprisonment not exceeding 3 months, or both.

(2) Unless the Committee otherwise determines, a member who has made a disclosure under subsection (1) in respect of a matter must not –

- (a)** be present during any deliberation of the Committee in respect of the matter; or
- (b)** take part in any decision of the Committee in respect of the matter.

(3) During any deliberation of the Committee for the purpose of making a determination under subsection (2), the member to whom the matter for determination relates must not –

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- (a) be present during any deliberation of the Committee for the purpose of making the determination; or
- (b) take part in making the determination.

PART 4 – WITNESSES BEFORE COMMITTEE**Power to summon witnesses**

16. (1) The Committee may summon witnesses to appear before it to give evidence and to produce documents, and for that purpose has all the power and authority of a select committee of the House of Assembly.

(2) A summons to a witness must be in accordance with a form approved by the presiding officers and is to be signed by the chairperson or deputy chairperson.

(3) A summons to a witness may be served on the witness either personally or by being left at or sent by post to his or her usual place of business or abode.

(4) A witness who is summoned to appear, or who appears, before the Committee has the same protection and privileges as a witness in an action in the Supreme Court.

(5) Except where the Committee considers that there is good and sufficient reason to take evidence in private, all evidence is to be taken by the Committee in public.

(6) Notwithstanding subsection (5), the Committee, when requested by a witness, is to take in private any evidence that, in the opinion of the Committee, relates to a secret or confidential matter.

(7) Subject to subsection (8), the Committee may disclose or publish, or authorise the disclosure or publication of, evidence taken in private.

(8) Where –

- (a) any evidence of a witness is taken in private;
and
- (b) the Committee is of the opinion that the
evidence relates to a secret or confidential
matter; and
- (c) the witness requests that that evidence be not
published –

the Committee must not, without the consent in writing of the witness, disclose or publish, or authorise the disclosure or publication of, that evidence, unless it has already been lawfully published.

(9) Where evidence is taken by the Committee in private, a person (whether a member or not) must not, without the authority of the Committee, given in writing by the chairperson, disclose or publish that evidence unless it has already been lawfully published.

(10) References in this section to evidence are taken to include references to documentary evidence, and references to evidence given by a witness are taken to include references to any part of the evidence so given.

(11) Any person who discloses or publishes any evidence contrary to this section is guilty of an offence punishable on summary conviction and is liable to a fine not exceeding 100 penalty units or imprisonment for a term not exceeding 12 months, or both.

(12) Section 2A of the *Parliamentary Privilege Act 1858* applies to any matter being examined by the Committee under this Act.

Power to take evidence

17. The Committee may examine a witness on his or her solemn declaration, and that examination is to be conducted in accordance with the Standing Orders of either House relating to select committees.

Witnesses' expenses

18. A witness appearing before the Committee to give evidence is entitled to be paid fees and travelling expenses as the chairperson or deputy chairperson considers proper in accordance with a scale approved by the presiding officers.

PART 5 – MISCELLANEOUS AND SUPPLEMENTAL

Power of House of Assembly to extend Act

19. The House of Assembly may, by resolution, in respect of any public works the estimated cost of which does not exceed \$2 000 000, direct that the works are to be referred to the Committee, in which case the application of this Act extends to those works.

Conditions precedent to commencing public works

20. (1) If the estimated cost of completing proposed public works to which section 6 applies exceeds \$2 000 000, whether the works are a continuation, completion, repair, reconstruction, extension or new works, the works must not be commenced unless the works have first been referred to, and reported on, by the Committee in accordance with this section.

(2) Subsection (1) does not apply to any public works which are excluded from the operation of this Act by a resolution to that effect passed by each House of Parliament.

(3) Before the submission to Parliament of any such proposed public works, the Governor, by writing addressed to the Committee, is to refer the proposed works to the Committee for its report.

(4) With every such reference to the Committee there is to be furnished to the Committee an estimate of the cost of those works when completed, together with such plans and specifications or other descriptions as the Minister having the administration of the *Public Works Construction Act 1880* considers proper, the prescribed reports on the probable cost of construction and

maintenance and an estimate of the probable revenue, if any, to be derived from the works.

(5) The estimates, plans, specifications, descriptions, and reports are to be authenticated or verified as prescribed by the regulations.

(6) The Committee is to deal with the matter as soon as practicable, having regard to the nature and importance of the proposed works, and is to report to the House of Assembly, if that House is then in session, and, if not, to the Governor, the result of its inquiries.

(7) If, in a report under subsection (6), the Committee does not recommend the carrying out of the works to which the report relates, those works must not be commenced unless and until the works have been authorised by an Act.

Power to enter land, &c.

21. (1) The Committee may, either itself or by a person appointed by it to prosecute any inquiry, enter and inspect any land, building, place or material, the entry or inspection of which appears to it necessary or desirable for the purposes of this Act.

(2) The Committee must give notice of the intended entry or inspection, in accordance with the regulations, to the owner or occupier of that land, building, place or material.

Proceedings to be instituted by Attorney-General only

22. Proceedings for offences against this Act are to be instituted only by the Attorney-General or by his or her direction.

Membership of Committee not an office of profit

23. The office of a member does not constitute an office of profit or emolument within the meaning of the *Constitution Act 1934* and the acceptance and holding of that office does not –

- (a) render the holder of the office incapable of sitting or voting as a member of either House of Parliament; or
- (b) make void the election of the holder of the office as a member of either House of Parliament.

Regulations

24. (1) The Governor may make regulations for the purposes of this Act.

(2) Regulations may be made so as to apply differently according to matters, limitations or restrictions, whether as to time, circumstance or otherwise, specified in the regulations.

(3) The regulations may –

- (a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

- (b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units and, in the case of a continuing offence, a further fine not exceeding one penalty unit for each day during which the offence continues.

(4) The regulations may authorise any matter to be from time to time determined, applied or regulated by the Minister or an officer or person nominated in the regulations.

(5) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or complementary legislation.

(6) A provision referred to in subsection (5) may take effect on and from the day on which this Act commences or a later day.

Administration of Act

25. Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

- (a) the administration of this Act, except section 20, is assigned to the Premier; and
- (b) the administration of section 20 is assigned to the Treasurer; and
- (c) the department responsible to the Premier in relation to the administration of this Act, except section 20, is the Department of Premier and Cabinet; and
- (d) the department responsible to the Treasurer in relation to the administration of section 20 is the Department of Treasury and Finance.

Government Business Enterprises Act 1995 amended

26. Section 56(4) of the *Government Business Enterprises Act 1995* is amended as follows:

- (a) by omitting “Parliamentary Standing Committee of Public Accounts” and substituting “Joint Standing Committee on Financial Operations”;
- (b) by omitting “section 6 (1) (b) of the *Public Accounts Committee Act 1970*” and substituting “section 6(1)(b) of the *Joint Standing Committee on Financial Operations Act 2002*”.

Public Account Act 1986 amended

27. Section 4(2) of the *Public Account Act 1986* is amended by omitting paragraph (a) and substituting the following paragraph:

- (a) the commencement of any public works contrary to section 20 of the *Joint Standing Committee on Financial Operations Act 2002*;

Roads and Jetties Act 1935 amended

28. Part VII of the *Roads and Jetties Act 1935* is repealed.

Acts repealed

29. The Acts specified in Schedule 1 are repealed.

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SCHEDULE 1 – ACTS REPEALED

Section 29

Public Accounts Committee Act 1970 (No. 54 of 1970)

Public Works Committee Act 1914 (No. 32 of 1914)

Public Works Committee Amendment Act 2001 (No. 108 of 2001)