



Proposed amendments to the Public Accounts Act 1970

Public Accounts Committee Act 1970

An Act to provide for the establishment of a Joint Parliamentary standing committee of public accounts

1. Short title

This Act may be cited as the Public Accounts Committee Amendment Act 2017.

1A. Interpretation

In this Act, unless the contrary intention appears –

Accounts means the annual financial accounts including balance sheets.

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

Appropriation Act has the same meaning as in section 36 of the Constitution Act 1934;

Committee means the Parliamentary Joint Standing Committee of Public Accounts established under section 2(1);

Government Business Enterprise has the same meaning as in the Government Business Enterprises Act 1995; and any State owned company.

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 State Owned Company; 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 State Owned Company; 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 in the future, required;

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.

2. Constitution of Committee

(1) There shall be a Joint Statutory committee of the Legislative Council and House of Assembly, to be known as the Joint Parliamentary Standing Committee of Public Accounts.

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

(3) The Committee shall consist of eight members, of whom four shall be members of the Legislative Council and four shall be members of the House of Assembly.

(4) A person shall not be appointed, or continue, as a member of the Committee if he is or becomes –

(a) a Minister of the Crown;

(b) the President of the Legislative Council;

(c) the Speaker of the House of Assembly; or

(d) A Parliamentary Secretary .

(e) the Government Leader or Deputy Government Leader in the Legislative Council.

(5) Subject to this Act, the House of Assembly members of the Committee –

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

(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 shall perform the duties imposed, on the Committee by this Act.

3. Vacancies

(1) A member of the Committee may resign his office as a member by writing under his hand addressed to the Governor.

(2) The office of a member of the Committee becomes vacant for any reason that would vacate his 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 of the Committee, it shall be filled by appointment as provided in subsection (2) of section 2 within the next ten sitting days of the House of Parliament from which they are to be appointed as a member of the Committee.

4. Proceedings of Committee

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

(2) There shall be a chairman and two vice-chairman of the Committee, who shall be elected by the members of the Committee at the first meeting of the Committee or as soon thereafter as is practicable.

(3) The chairman, or, in the case of his absence or other disability, either vice-chairman, shall preside at all meetings of the Committee at which he is present.

(4) At a meeting of the Committee at which a quorum is present, the members in attendance may, in the absence of the chairman and vice-chairmen, appoint one of their number then present to be temporary chairman, and the temporary chairman has, during the absence of the chairman and vice-chairmen, all the powers of the chairman.

(5) At meetings of the Committee –

- (a) the chairman or, in his absence, the vice-chairmen, has a vote; and
- (b) when the votes on a question are equal, the question passes in the negative.
- (6) Where a division is called for on any question, the names of the members voting shall be stated in the minutes and in the report of the Committee.
- (7) The Committee shall cause minutes of its proceedings to be kept.
- (8) The Committee may sit and transact business during any adjournment or recess, and may sit at such times and in such places, and conduct its proceedings in such manner, as it thinks proper.
- (9) The Committee shall be provided with a Secretariat from the Joint House Department of the Parliament of Tasmania consisting of such staff that is considered by the committee as necessary for it to discharge its statutory responsibilities.

The requests for additional staffing from time to time to assist the committee in its deliberations shall not be reasonably refused by the Government of the day.

Such requests shall be by motion to both Houses of Parliament so as to be on the public record.

5. Secretary of Committee

- (1) The Governor shall, on the joint recommendation of the President of the Legislative Council and the Speaker of the House of Assembly, appoint an officer of one of the Houses of Parliament to be the Secretary of the Committee.
- (2) Notwithstanding subsection (1) of section twenty-one of the *Acts Interpretation Act 1931*, in the event of the sickness or absence of the secretary, or their inability to act, the President of the Legislative Council and the Speaker of the House of Assembly may jointly select one of the officers of the Houses of Parliament to act in the place of the secretary for such period or until such date as the President and Speaker may jointly determine, and while so acting that officer shall, for all purposes, be regarded as the secretary.
- (3) The secretary shall perform all duties required of him by the Committee as its secretary, and may be paid such remuneration as the Governor may approve.
- (4) The Secretary shall report only to the Chairman, Deputy Chairmen and members of the committee; the Clerks of the Parliament; and to no other person.

6. Functions of Committee

(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 public authority or other organisation controlled by the State or in which the State has an interest or direct or indirect shareholding.

(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) Annual Financial Statements to be presented to the committee

(a) Each Agency, Government Business Enterprise, or State owned Company shall provide to the committee Secretary by the 31st day of August each year, the annual financial accounts of their activities in the financial year ending the 30th of June in that same year.

(b) The accounts shall be presented in accordance with the National accounting standards and the instructions of the Treasurer of Tasmania.

(c) The accounts shall in the case of State owned companies and State companies operating under the Government Business Enterprises Act 1995, be accompanied by the relevant full audit certificates.

(d) The Committee will cause the names of each Government Business Enterprise (if any), who do not meet the submission of annual accounts deadline of the 31st of August each year to the committee, published in the media.

7. Evidence before Committee

(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.

The issue of a summons or subpoena shall be from the Parliament, and shall be declared by members of the Committee at the first sitting day of both houses after the issue of the summons by the Committee.

(2) 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 tried in the Supreme Court.

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

(4) Notwithstanding anything in subsection (3) of this section the Committee, when requested so to do by a witness, shall take in private any evidence that, in the opinion of the Committee, relates to a secret or confidential matter.

(5) Subject to subsection (6) of this section, the Committee may, in its discretion, disclose or publish, or authorize the disclosure or publication, of evidence taken in private.

(6) Where there is taken in private any evidence of a witness that the Committee is of opinion relates to a secret or confidential matter and the witness requests that that evidence be not published the Committee shall not, without the consent in writing of the witness, disclose or publish, or authorize the disclosure or publication of that evidence, unless it has already been lawfully published.

The committee shall report all breaches of security in respect of its private evidence and secrecy to the Chairman of the Privileges Committee of the Parliament for the appropriate action to be taken under the Privilege Act 1957.

(7) Where evidence is taken by the Committee in private no person (whether a member of the Committee or not) shall, without the authority of the Committee, given in writing by the Chairman thereof, disclose or publish that evidence unless it has already been lawfully published.

(8) References in this section to evidence shall be construed as including references to documentary evidence, and references therein to evidence given by a witness shall be construed as including references to any part of the evidence so given.

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

(10) ...Repealed

(11) Section 2A of the Parliamentary Privilege Act 1957 applies to any matter being examined by the Committee under this Act as it applies to the matters referred to in that Division.

8. Continuation of proceedings

Where the Committee, as constituted at any time, has taken evidence in relation to any matter, but the Committee as so constituted has ceased to exist before reporting on that matter, the Committee as next constituted may consider that evidence as if it had been given before it.

9. Witnesses' expenses

A witness who appears before the Committee to give evidence is entitled to be paid such fees and travelling expenses as the chairman or vice-chairman of the Committee sees fit to allow, being fees and travelling expenses calculated in accordance with the scale for the time being prescribed under section twenty-seven of the *Public Works Committee Act 1914*.

10. General

The committee is authorised by this Act and by the Parliament to ensure that the financial affairs of Tasmania are properly examined and given appropriate oversight.

The committee shall report to the Parliament on any matter it sees fit, and have cause for its report to be entered into Hansard, but shall make known any urgent matters it considers;

- (a) render the People of Tasmania and their financial well being to be at risk;
- (b) is evidential of fraud, corruption or nepotism;
- (c) is considered by the Committee not to be in the interests of the people of Tasmania;

to both the Speaker of the House of Assembly and the President of the Legislative Council by letter.

11. Membership of Committee not an office of profit

The office of a member of the Committee is not an office of profit or emolument within the meaning of the *Constitution Act 1934* and the acceptance and holding of such an 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.

Proposed amendments to the Public Accounts Act 1970

Clause notes:

1. Redefinition of the Act, so that it establishes and empowers a joint Parliamentary standing committee on public accounts. In reality that's what this committee years but it needs to have this expressed in the provision statement of the Act.
2. At clause 1 A interpretation the following is added:

Accounts means the annual financial accounts including balance sheets.

This is to provide for the absolute definition of what accounts are, and they include the balance sheets which provides the capital position of the entity, agency or company.

3. Government Business Enterprise has an expanded definition by the addition of the words "and any state owned company". This is also added at **b(ii); c(iii); and at (d)** is out of the words after may be "in the future,".
This ensures that all present and future liabilities are reported. It just tidies up the section.

(2) Constitution of the Committee

(1) the words Joint Statutory are added to this clause, and the Word Joint is added before the words Parliamentary Standing Committee Of Public Accounts.

This provides for continuation of the establishment and determination of the committee as a joint statutory committee of the Parliament. It reflects the reality of the committee.

- (3) Subclause three changes the composition of the committee by adding two additional members one from The House of Assembly and one from The Legislative Council this additional membership is seen as prudent in order to make sure that the committee has substantial corporate memory in relation to the members, and to ensure as a result that the committee's work proceeds in a seamless manner.
- (4) Under clause (d) of this section is out of the words "A Parliamentary Secretary"

This provides for the disqualification of a member of the Parliament who was appointed as a member of the government and entitled "Parliamentary Secretary". They are in effect a sub-minister or a junior minister and thus a member of the executive branch of the government,

and it would be inappropriate for such a member of either house appointed as a Parliamentary Secretary to be remaining on the committee.

- (5) Amendments are necessary to clause 5 as it only applies to The House of Assembly in real terms as members of the legislative Council are elected in a cycle that does not mimic in any way the electoral cycle of the legislative assembly. Therefore the act should only express a durational meaning for membership as relates to the House of Assembly members.

3. Vacancies

Similarly under clause 3 vacancies subclause(3) the words added after house of Parliament" from which they are to be appointed" are added to give clear meaning.

4. Proceedings of the committee

The changes to this clause expand the committee and allow the appointment of two vice-chairman to enable the committee to have as necessary a continual function notwithstanding the Parliamentary duties of the chairman and other vice-chairman.

New clause (9) formally established shares in the legislation the Secretariat for the committee via the joint house Department of the Parliament, and determined that the committee can decide how it discharges its statutory responsibilities.

It also provides a mechanism for the request by the committee to the government of the day for staffing for reviews either provided to it from the Parliament, or initiated by the committee itself. It provides a mechanism for the request to be recorded on the public record.

Lastly the legislation provides for such additional staffing from time to time to be not reasonably refused by the government of the day, trying to neuter the work of the committee. It protects the democracy.

In any case the staffing of the committee is a relatively minor expense to government in the scheme of things, but the legislation empowers the committee and takes away any option the government of the day may have to attempt to control the committee's activities.

5. Secretary of the Committee

A new clause(4) provides for the reporting pathway for the secretary of the committee and determines the committee's independence from the executive branch of government. This reporting statement is a necessary to ensure that the Secretary and the clerks of the Parliament are empowered.

6. Functions of the Committee

At 1.(b) is out of the words after interest "or direct or indirect shareholding:. This absolutely defines any fiscal interest held by the people of Tasmania and allows the committee to see through front companies to establish an oversight of those activities.

New clause (3).

(3) Annual Financial Statements to be presented to the committee

(a) Each Agency, Government Business Enterprise, or State owned Company shall provide to the committee Secretary by the 31st day of August each year, the annual financial accounts of their activities in the financial year ending the 30th of June in that same year.

This clause is added to ensure that all government entities report annually to the committee so that a formal oversight programme is established.

(b) The accounts shall be presented in accordance with the National accounting standards and the instructions of the Treasurer of Tasmania.

This clause establishes the format of that accounting presentation and defines it.

(c) The accounts shall in the case of State owned companies and State companies operating under the Government Business Enterprises Act 1995, be accompanied by the relevant full audit certificates.

This clause directs that all statements presented by the required presentation date need to have audit certificates. In other words the accounts have to be complete and true, or contain an adverse audit report attached.

(d) The Committee will cause the names of each Government Business Enterprise (if any), who do not meet the submission of annual accounts deadline of the 31st of August each year to the committee, published in the media.

This empowers the committee to name and shame, and will be the single most argued about feature of this clause.

7. Evidence before Committee

- (1) there is a new subclause one that deals with the issues of subpoenas and or a summons, spelling out that it shall be from the Parliament, and that such an issue of a summons or a subpoena shall be placed on the public record in both Houses of Parliament at the first available sitting day after the issue of the summons by the committee.

This clause simply codifies the present powers of the committee, but places them within the act in such a way as things become perfectly clear to those having to deal with the committee.

(10).. This was the section whereby any action taken by the committee had to be endorsed or agreed to by the attorney general. This section is to be repealed as it is anomalous that a member of the executive government is able to control the actions of a Parliamentary committee created by statute, where it may be that the committee has to take action against for example the Chief Executive Officer of the State owned company in question whose husband or wife is the attorney general. The clause shouldn't be there and it adds nothing to the functions of the committee.

In any case the warrants are signed by the president of the legislative Council.

New clause 10 General

I have added a new clause 10 to provide for a general reason why the committee is established, to codify the examination powers of the committee in a different manner, to codify the reporting to Hansard of any urgent matters at the first available date, but allow the committee to report to the Presiding Officers of both Houses of Parliament.

This will mean that should the committee discover some fraud, corruption, or significant nepotism, then there is a method for the committee to report this immediately.

You can imagine that such a report to the presiding officers would have, and thus it will confine the actions of the government of the day to full rectification, in the knowledge that it was a formal report to the Parliament.

It's the fundamental you can run but can't hide clause.

Summary:

these small changes to the Parliamentary accounts act in power a change to a joint statutory committee defined, and an additional member from each house, so as to expand the committee and increase its corporate memory for the discharge of its function.

Secondly the changes especially the reporting of annual financial statements to the committee will provide an oversight function which everyone will get used to in time.

Thirdly the empowerment of the Secretariat, and the provision of staffing definitions, makes sure the committee is not going to be held captive by the government of the day.

Lastly the new clause 10 provides an alternative reporting methodology to the committee should the Parliament be in recess.