



PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Appointment of an Auditor to Conduct a Financial Audit of the Victorian Auditor-General's Office

TWENTIETH REPORT TO THE PARLIAMENT
MAY 1997



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**APPOINTMENT OF AN AUDITOR TO CONDUCT A
FINANCIAL AUDIT OF THE
VICTORIAN AUDITOR-GENERAL'S OFFICE
FOR 1996-97**

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Duties of the Committee

The Public Accounts and Estimates Committee is constituted under the *Parliamentary Committees Act 1968*, as amended. It presently consists of nine members of Parliament drawn from the Legislative Council and the Legislative Assembly.

The Committee carries out investigations and reports to Parliament on matters associated with State financial management. Its functions under the Act are to inquire into, consider and report to the Parliament on:

- a) any proposal, matter or thing connected with public administration or public sector finances;
- b) the annual estimates or receipts and payments and other Budget papers and any supplementary estimates of receipts and payments presented to the Assembly and the Council;

if the Committee is required or permitted so to do by or under the Act.

Appointment of an Auditor to Conduct a Financial Audit of the Victorian Auditor-General's Office

Introduction

Pursuant to the *Audit Act* 1994 the Public Accounts and Estimates Committee is required to recommend to the Parliament the appointment of an independent auditor to conduct an audit of the Victorian Auditor-General's Office.

Section 17 of the *Audit Act* 1994 provides in part:

- (1) *A person may be appointed by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Public Accounts and Estimates Committee of the Parliament, as an independent auditor of the Victorian Auditor-General's Office.*
- (2) *An appointment -*
 - (a) *must not be made for a period exceeding 3 years, but may be renewed; and*
 - (b) *may provide for the payment of remuneration.*
- (4) *The function of the independent auditor is to carry out audits of the Victorian Auditor-General's Office in accordance with this Part.*

Sections 17 and 18 of the *Audit Act* 1994 are attached as Appendix One.

Sections 17 and 18 do not explicitly state what the audit comprises. *The Audit Act* 1994 defines an audit as including an examination and inspection. The audit is intended to comprise an audit of the financial statements of the Victorian Auditor-General's Office and this is the basis upon which the Committee has recommended the appointment of the Auditor. Sections 17 and 18 also do not explicitly empower the Committee to give directions to the Auditor or to determine the terms and conditions of the appointment, as is the case with the Committee's responsibilities under the same Act in respect of the appointment of the performance auditor of the Auditor-General.

Previous reports¹ of this committee and its predecessor, have recommended that the *Audit Act* be amended to provide that the Public Accounts and Estimates Committee can give directions to the independent Auditor and to determine the terms and conditions of the appointment.

To date, no action has been taken on this recommendation. This Committee reiterates its earlier advice and recommends that the Government include this provision when the *Audit Act* is next amended.

¹ Public Accounts and Estimates Committee, Reports on the Appointment of an Auditor to Conduct a Financial Audit of the Victorian Auditor-General's Office, dated April 1995 and June 1996.

Previous Arrangements

In 1995, after an invited quotations process, the previous Public Accounts and Estimates Committee recommended the appointment of Mr Douglas N. Bartley, a partner of KPMG, to conduct the financial audit of the Victorian Auditor-General's Office for 1994-95.

This Committee recommended the renewal of Mr Bartley's appointment for the 1995-96 financial audit and indicated in its report² that it intended to call tenders for the 1996-97 audit.

Selection of Auditor for 1996-97

As the Government requires agencies to produce audited financial statements by 29 August 1997 to facilitate the preparation of whole of government accounts for 1996-97 for tabling in the Spring Session, the Auditor-General's Office has asked that action be taken to appoint the independent auditor as soon as possible so that there is no delay in preparing the financial statements in the new format.

After reviewing the arrangements that have operated for the past two years, the Committee believes there would be merit in renewing the appointment of Mr Bartley for another and final year on the basis that:

- he is highly qualified and experienced in undertaking audits in both the private and public sectors;
- with the move to audited whole of government accounts and reporting on an accrual basis there is an obvious benefit, during this transitional phase, in appointing an independent auditor who is familiar with the operations of Government and has a knowledge of the Auditor-General's Office;
- the legislation governing the Auditor-General's Office is presently being reviewed by the Government and hence it may be more appropriate to call for tenders for the following year's audit when it will be clearer what the future requirements of the Office will be.

Recommendations

The Committee recommends: That in accordance with section 17 of the *Audit Act 1994*:

- (1) The Legislative Council and the Legislative Assembly appoint Mr Douglas N. Bartley of KPMG, in accordance with Appendix Two, to conduct the audit of the Victorian Auditor-General's Office for the 1996-97 financial year, and**
- (2) The level of remuneration for the audit be \$9,750.**

² Public Accounts and Estimates Committee, Report on the appointment of an Auditor to conduct a financial audit of the Victorian Auditor-General's Office, June 1996, page 2.

APPENDIX ONE**EXTRACT FROM THE *AUDIT ACT 1994*****17. *Independent auditor to audit Victorian Auditor-General's Office***

- (1) A person may be appointed by resolution of the Legislative Council and Legislative Assembly, on the recommendation of the Public Accounts and Estimates Committee of the Parliament, as an independent auditor of the Victorian Auditor-General's Office.
- (2) An Appointment -
 - (a) must not be made for a period exceeding 3 years, but may be renewed; and
 - (b) may provide for the payment of remuneration.
- (3) Remuneration payable under the appointment shall be paid out of the Consolidated Fund which is to the necessary extent appropriated accordingly.
- (4) The function of the independent auditor is to carry out audits of the Victorian Auditor-General's Office in accordance with this Part.
- (5) Subject to any directions given by the Public Accounts and Estimates Committee of the Parliament, sections 11, 12, 13 and 14 apply in relation to the independent auditor as if references in those sections to the Auditor-General were references to the independent auditor.

18. *Report of independent auditor*

- (1) The independent auditor may make a report on an audit carried out under section 17.
- (2) A report under sub-section (1) may include such information and such recommendations as the independent auditor thinks fit for the more effective, efficient and economic operation of the Victorian Auditor-General's Office.
- (3) The independent auditor must not make a report of an audit under this section unless -
 - (a) at least 10 days before making the report, the independent auditor
 - (i) has given the Auditor-General a copy of the report or a summary of the findings and proposed recommendations; and
 - (ii) has, in writing, asked the Auditor-General for submissions or comments before a specified date, being at least 7 days after the report is given to the Auditor-General;
 - (b) has included in the report any submissions or comment received, before the specified date, from the Auditor-General or a summary, in an agreed form, of any such submissions or comment.
- (4) The independent auditor must, within 7 sitting days after making the report, transmit the report to each House of Parliament.

APPENDIX TWO

APPOINTMENT, AND REMUNERATION, OF AN AUDITOR PURSUANT TO SECTION 17 OF THE *AUDIT ACT 1994* AS RECOMMENDED BY THE PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

WHEREAS

- A. An independent auditor shall carry out audits of the Victorian Auditor-General's Office in accordance with sections 17 and 18 of the *Audit Act 1994*.
- B. Mr Douglas N. Bartley is appointed by resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Public Accounts and Estimates Committee of the Parliament, to conduct the Audit.

DEFINITIONS

1. In this document unless otherwise specified or unless the context otherwise requires:
 - 1.1 "Act" means the *Audit Act 1994*.
 - 1.2 "Committee" means the Public Accounts and Estimates Committee.
 - 1.3 "Liaison Officer" means the Executive Officer of the Committee.
 - 1.4 "Auditor" means Mr Douglas N. Bartley.
 - 1.5 "Audit" means an audit as described in sections 17 and 18 of the *Audit Act 1994*.
 - 1.6 "Office" means the Victorian Auditor-General's Office.

APPOINTMENT

2. The Auditor shall:
 - 2.1 conduct an independent audit of the Office, being an audit of the Office's financial statements, for the year ended 30 June 1997;
 - 2.2 form an opinion as to whether the financial statements of the Office present fairly the financial position of the Office as at 30 June 1997 and the results of its operations and its cash flows for the financial year ended on that date in accordance with Australian Accounting Standards and comply with the requirements of the *Financial Management Act 1994*;
 - 2.3 furnish his opinion (refer part 2.2) to the Office for inclusion with the Office's annual report to the Parliament under the provisions of the *Financial Management Act 1994*;
 - 2.4 conduct the audit in compliance with the *Audit Act 1994*; and
 - 2.5 conduct the audit in compliance with relevant Auditing Standards and Statements.
3. Section 18 of the Act provides that the Auditor may make a report. The Auditor must, within seven sitting days after making a report in accordance with the Act, transmit the report to the Legislative Assembly and the Legislative Council.
4. The Auditor shall liaise with the Liaison Officer as reasonably required by the Liaison Officer during the period of the audit.
5. All documents (other than working papers) prepared pursuant to the audit and all documents supplied to the Auditor for the purpose of the audit (excluding those

documents returned to the originating source) shall be and remain the property of the Victorian Parliament and shall be delivered by the Auditor to the Committee upon the completion of the audit. The Committee will keep the documents delivered by the Auditor to the Committee for a period of at least seven years and provide the Auditor, or his representative, with access to such documents as is appropriate.

All working papers are to be made available to future auditors.

The documents supplied to the Auditor pursuant to the audit shall not without the prior approval of the Committee be used, copied or reproduced for any purpose other than for the execution of the work contained in the audit.

6. The Auditor shall not without the prior written approval of the Committee disclose to any person any material obtained or produced during the course of the audit.
7. The Auditor warrants that, at the date of this document, no conflict of interest exists or is likely to arise in the performance of his obligations under the audit. If, during the term of the audit, a conflict or risk of conflict of interest arises, the Auditor undertakes to notify the Committee immediately in writing of that conflict or risk.
8. Pursuant to section 17 of the Act, sections 11, 12, 13 and 14 of the Act apply to the Auditor as if references in those sections to the Auditor-General were references to the Auditor.
9. Copyright of all documents developed or produced by the Auditor pursuant to the audit shall vest in the Crown in right of the State of Victoria.
10. The Auditor is an independent contractor and the personnel employed or engaged by him shall not by virtue of this document become or be deemed to have become employed by or in the service of the State for the purpose of the Income Tax or Income Tax Assessment Acts and the Accident Compensation Act or for any other purpose.
11. The Auditor releases and shall indemnify the State, its officers and employees from and against liability for or in respect of any physical injury to persons (including death) or damage to property in so far as the injury or damage is attributable to any negligent or unlawful action of the Auditor in the course of carrying out the audit.
12. If either the Committee or the Auditor is rendered unable to carry out the whole or any part of this audit by any reason beyond its control including, but not limited to, acts of God, acts of governments or governmental authorities, strikes or riots and any other causes of like nature, then the performance of such obligations as are effected by such cause, shall be excused during the continuance or any inability so caused. Save that this part shall not excuse the State from its obligations to pay fees to the Auditor as they become due.
13. If any provision of this document is held invalid, unenforceable, or illegal for any reason, this document remains otherwise in full force, apart from such provision which is deemed deleted.
14. By resolution of the Legislative Council and the Legislative Assembly, on the recommendation of the Committee, the Legislative Council and the Legislative Assembly at any time giving written notice to the Auditor of its intention so to do may abrogate or constrict this audit or any part of or further part thereof and upon such notice being given the Auditor shall cease or reduce work according to the notice and shall forthwith do everything possible to mitigate the losses consequent thereto.

In the event the Auditor may submit a claim for compensation for such sums as are fair and reasonable in respect of the loss or damage sustained by the Auditor in

unavoidable circumstances provided always the Auditor shall not be entitled for the loss of prospective profits.

REMUNERATION

15. The amount to be paid to the Auditor for all work done in undertaking the audit shall be **nine thousand seven hundred and fifty dollars** (\$9,750.00). This amount shall be paid on transmission of the financial statements of the Office for the year ended 30 June 1997, including a report of the Auditor detailing his opinion on those financial statements, to the Legislative Assembly and the Legislative Council or, if earlier, on transmission of the Auditor's report to the Legislative Assembly and the Legislative Council.

The Auditor warrants to meet all expenses incurred during the audit without any further recourse to the Parliament of Victoria.