

PUBLIC FINANCE ACT, 1936.

No. 2294 of 1936.

An Act to consolidate and amend the law relating to the Public Debt and the Public Debt Sinking Fund, to enact certain other provisions relating to Public Finance, and for other purposes.

[Assented to 22nd October, 1936.]

Preamble.

WHEREAS by the Financial Agreement dated the twelfth day of December, nineteen hundred and twenty-seven, and made between the Commonwealth and all the States, the Commonwealth has taken over the debts of the States: AND WHEREAS the Financial Agreement provides that the States can no longer borrow money except in accordance with that Agreement: AND WHEREAS by reason of the conversion loans raised by the Commonwealth pursuant to the Commonwealth Debt Conversion Act, 1931, all securities issued by the State in respect of loans previously raised in Australia have been converted into securities of the Commonwealth: AND WHEREAS it is expedient to re-enact the law relating to the public finance of the State, with such amendments as are necessary, having regard to the changes resulting from the Financial Agreement and the conversion loan: Now THEREFORE BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I.

PART I.

GENERAL PROVISIONS.

Short title.

1. This Act may be cited as the "Public Finance Act, 1936".

Interpretation.

2. (1) In this Act unless the contrary intention appears—
" Australian Loan Council " means the Australian Loan Council constituted by the Financial Agreement :
" Financial Agreement " means the Financial Agreement made between the Commonwealth and the States and ratified by the Financial Agreement Act, 1927 :

"Commission" means the Public Debt Commission continued by this Act :

"Commissioner" means member of the Commission :

"Public Debt" means the Public Debt of the State :

"Public Debt Sinking Fund" means the Sinking Fund continued by this Act :

"Public Security" means any security issued in connection with the public debt.

(2) This Act shall be construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State to the intent that if any provision of this Act would, but for this section, have been construed as being in excess of that power it shall, nevertheless, be a valid enactment to the extent to which it is not in excess of that power.

3. (1) The Acts mentioned in the schedule to this Act are repealed. Repeal.

(2) Notwithstanding the repeal, every right, power, and privilege which under any public securities in existence at the commencement of this Act is vested in any person, or would, if the Acts repealed by this Act had remained in force, have accrued to any person, shall continue in full force and effect, or, as the case may be, shall accrue to that person, as if the repealed Acts had remained in force.

4. The Governor may make regulations prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

PART II.

PART II.

PUBLIC SECURITIES.

5. All principal moneys and interest due and payable—

(a) in respect of any public securities issued, whether before or after the commencement of this Act ; and

(b) to the Commonwealth under the Financial Agreement,

shall be paid by the Treasurer out of the General Revenue of the State the necessary amount of which is hereby appropriated for the purpose.

Principal and interest payable out of General Revenue.
Cf. 268, 1882, s. 6.

PART II.

Registrar of
Stock to be
appointed at
Adelaide.
Cf. 619, 1895,
s. 4.

6. (1) There shall be a Registrar of Stock in the Treasury in Adelaide who shall have and exercise the following powers and duties, namely :—

- (a) To inscribe in the books of such Registrar any stock issued before or after the commencement of this Act :
- (b) To effect the conversion of debentures into stock, and to regulate transfers of stock :
- (c) To effect the conversion of stock into debentures :
- (d) To pay interest on public securities :
- (e) And generally to conduct any business connected with public securities in accordance with the Financial Agreement.

(2) The Governor shall from time to time make such appointments to the office of Registrar of Stock as are necessary.

(3) The Governor may appoint any officers to be Deputy Registrars of Stock, and every Deputy Registrar of Stock shall have and exercise such of the powers and duties of a Registrar of Stock as are delegated to him by the Registrar of Stock.

Power to enter
into an agree-
ment in
respect of
public
securities in
London.
Cf. 268, 1882
s. 7.

7. (1) The Treasurer may from time to time enter into an agreement with the Commonwealth Bank of Australia or any other bank in London to provide for all or any of the following matters in respect of public securities issued outside Australia, namely :—

- (a) For the issue of stock and the inscription of stock in the books of the bank ;
- (b) For effecting the conversion of debentures into stock and regulating transfers of stock ;
- (c) For paying interest on public securities ;
- (d) For issuing stock certificates to bearer, and, as often as occasion requires, re-issuing or re-inscribing stock certificates ;
- (e) For receiving all moneys raised by means of public securities and for paying those moneys into the public account with the bank in which that account is kept, or into any bank which is duly appointed in that behalf ;
- (f) For issuing scrip for deposits on loans raised by the sale of stock :

- (g) For paying off capital of stock or loans ;
- (h) Generally for conducting all business connected with stock or loans in accordance with the provisions of the Financial Agreement ; and
- (i) For the protection and remuneration of any such bank under and in respect of any such agreement.

(2) Any agreement entered into pursuant to subsection (1) of this section may be determined by either party to the agreement by six months' notice in writing given to the other contracting party.

8. If any person forges or counterfeits, or utters or puts off knowing the same to be forged or counterfeited, any public security or coupon, or any document purporting to be a public security or coupon, he shall be guilty of felony, and liable to imprisonment for any term not exceeding fourteen years.

Forging stock.
619, 1895, s. 8.

9. If any person falsely personates any owner of any share or interest of or in any public security or coupon, and thereby obtains or endeavours to obtain any certificate or coupon, or receives or endeavours to receive money due to such owner, he shall be guilty of felony, and, being convicted thereof, shall be liable to be imprisoned for any term not exceeding fourteen years with hard labour.

Falsely person-
ating owner of
stock.
619, 1895, s. 9.

10. If any person without lawful authority or excuse (proof of which shall lie upon the accused)—

Engraving
plates, &c.,
without law-
ful authority.
619, 1895, s.
10.

- (a) engraves or makes upon any plate, wood, stone, or other material, any public security or coupon, or anything purporting to be a public security or coupon, or to be a part of any public security or coupon, and whether in blank or filled up ; or
- (b) uses any plate, wood, stone, or other material for the making or printing of any such public security or coupon, or any blank form, or any part thereof ; or
- (c) knowingly has in his possession any such plate, wood, stone, or other material on which is engraved any public security or coupon or blank form, or any part thereof, or any paper on which is made or printed any stock certificate or coupon, or blank form, or part thereof ; or

PART II.

(d) knowingly disposes of or puts off any such paper, he shall be guilty of felony, and liable to be imprisoned for any term not exceeding eight years.

False entries in
stock register.
619, 1895,
s. 11.

11. If any person wilfully makes any false entry in any stock register or other book kept for the inscription of stock, he shall be guilty of a misdemeanour and liable to be imprisoned for any term not exceeding two years.

PART III.

PART III.

REDEMPTION OF PUBLIC SECURITIES.

Of. U.K.
51 Vict. c. 2;
52 Vict. c. 4.

Paying off, re-
purchasing,
redeeming, or
converting
loans.
1975, 1930,
s. 4.

12. The Treasurer may pay off, repurchase, or redeem any public security issued either before or after the commencement of this Act, or convert any such security into any other security issued by or on behalf of the State.

Borrowings for
redemption,
conversion, &c.
1975, 1930, s. 5.

13. The Treasurer may from time to time, arrange for the necessary money to be borrowed in accordance with the Financial Agreement, for the purpose of paying off, repurchasing, redeeming, or converting any public security in accordance with this Act.

Flotation
expenses of
conversion
loans to be
debited to
special loan
account.
1975, 1930,
s. 6.

14. The discounts, flotation expenses, and other costs of borrowing money under this Part shall in the first instance be debited to a special loan account in the Treasury, and every such debit shall subsequently be extinguished as a result of the cancellation of the public securities purchased by the National Debt Commission of the Commonwealth, and cancelled in accordance with the provisions of the Financial Agreement.

Purpose for
which
borrowed
moneys may
be used.
1975, 1930,
s. 7.

15. (1) The amounts borrowed under this Part shall be issued and applied only for the purpose of paying off, repurchasing, redeeming, or converting public securities, and for costs of conversion of such public securities.

(2) This Act shall be a sufficient authority for such issue and application.

PART III.

16. The Treasurer shall, before the thirty-first day of July in every year, lay before Parliament a return showing—

Annual return
to Parliament.
1975, 1980,
s. 9.
Cf. U.K.
38 & 39 Vict.
c. 45, s. 4.

(a) all public securities paid off, repurchased, redeemed, or converted by the Treasurer during the period of twelve months ending on the preceding thirtieth day of June; and

(b) all public securities, the time for payment of which will become due during the period of twelve months ending on the succeeding thirtieth day of June.

PART IV.

SINKING FUNDS.

PART IV.

17. (1) The Public Debt Commission established under the Sinking Fund Act, 1924, shall continue to exist.

Cf. U.K.
38 & 39 Vict.
c. 45.

(2) The Commission shall be a body corporate, with perpetual succession and a common seal, and capable of suing or being sued.

Continuance
of Public Debt
Commission.
1629, 1924,
s. 4.

(3) All courts, judges, and persons acting judicially shall take judicial notice of the seal of the Commission affixed to any document or notice, and shall, until the contrary is shown, presume that it was duly affixed.

18. (1) The Commission shall consist of the persons for the time being holding the offices of Under Treasurer, Crown Solicitor, and Under Secretary respectively, in the Public Service of the State.

Members of
Commission.
1629, 1924,
s. 5.

(2) The person for the time being holding the office of Under Treasurer shall be the chairman of the Commission.

(3) If any Commissioner is ill or absent from South Australia or otherwise incapacitated from acting in his office, the Governor may appoint a person to act during the illness, absence, or incapacity, as the case may be, and the person so acting shall have all the powers and perform all the duties of a Commissioner.

(4) At any meeting of the Commission two Commissioners shall form a quorum.

19. (1) The Commission shall be charged with the general control of all moneys received by it pursuant to this Part, and shall, subject to this Act, decide when and how such of

Powers of
Commission
1629, 1924
s. 20.

PART IV.

those moneys as are available for the purpose shall be invested or used for the reduction of debits in the Loan Accounts of the Treasurer.

(2) The Commission shall exercise such other powers and perform such other duties as are conferred upon it by this Act, and such other powers and duties as are prescribed.

Public Debt
Sinking Fund.
Cf. 1824, 1927,
s. 6.

20. The Treasurer shall pay to the Commission for the Public Debt Sinking Fund in each year the Sinking Fund payments payable by the State under the Financial Agreement.

Appropriation
of moneys.
1629, 1924,
s. 10.

21. All moneys payable to the Commission in accordance with section 20 of this Act shall be paid out of the General Revenue of the State, the necessary amount of which is hereby appropriated for the purpose.

Time for
making pay-
ments.
1629, 1924,
s. 11.

22. Payments to be made by the Treasurer to the Commission shall be made monthly.

Investment of
Public Debt
Sinking Fund.
1629, 1924,
ss. 7, 13.
1824, 1927,
s. 6.

23. (1) The Commission shall from time to time out of the moneys paid to it under section 20 of this Act pay to the National Debt Commission constituted under the National Debt Sinking Fund Act, 1923-1934, of the Commonwealth all Sinking Fund payments payable by the State under the Financial Agreement.

(2) After providing for the payments required under subsection (1) of this section the Commission may invest any moneys standing at the credit of the Public Debt Sinking Fund in the purchase of any securities of or guaranteed by the Government or the Parliament of South Australia, or the Government or the Parliament of the Commonwealth, or the Government or the Parliament of any Australian State, or the Government or the Parliament of the United Kingdom, and may at any time sell such securities at such price (whether at, above, or below par) as the Commission thinks fit.

(3) Upon the balance of the moneys standing at the credit of the Public Debt Sinking Fund in the books of the Treasurer, and not for the time being invested in pursuance of subsection (2) of this section, the Treasurer shall pay interest at the rate of three pounds per centum per annum, calculated on the average monthly credit balance of those moneys.

(4) All sums received by the Commission as interest in respect of any investments, or on the realisation of any investments, made in pursuance of this section shall be paid into the Public Debt Sinking Fund.

(5) The Commission may from time to time apply any amounts credited to the Public Debt Sinking Fund and not required for the purposes set out in subsection (1) of this section in reduction of such debits in the Loan Accounts of the Treasurer as the Commission thinks fit.

24. (1) Any sum or sums of money appropriated by Parliament, either before or after the commencement of this Act, from the General Revenue of the State to provide for the depreciation of wasting assets the property of the Crown, and not immediately applied for that purpose, shall be paid to the Commission, and shall be invested by the Commission in accordance with the last preceding section.

Investment of moneys set apart for depreciation. 1629, 1924, s. 14.

(2) Any sums so paid to the Commission shall be held by the Commission as a depreciation fund or funds on behalf of the Government Departments concerned for the replacement or renewal of the assets under the control of those departments, and may be applied by the Commission from time to time to the replacement or renewal of those assets, or applied in reduction of the debits in the Loan Accounts in the books of the Treasurer in respect of the Government Department concerned.

(3) The Commission may invest any moneys allocated to any particular depreciation fund in any securities mentioned in subsection (2) of the last preceding section, and the interest receivable on those securities shall be credited to the particular depreciation fund in respect of which the investment was made.

(4) The Commission shall at the end of each financial year allocate to every depreciation fund its due proportion of the interest receivable by the Commission during that financial year and derived from the general investment of depreciation funds pursuant to subsection (3) of the last preceding section.

(5) This section shall be deemed to have come into operation on the first day of July, nineteen hundred and thirty-four.

25. The accounts of the Commission shall be audited yearly by the Auditor-General. Audit.

26. The Commission shall, in the month of August in each year furnish to the Treasurer for presentation to Parliament, a report on the operations of the Commission for the year ended on the preceding thirtieth day of June. Annual report.

PART V.

PART V.

DEPRECIATION OF WASTING ASSETS.

Provision for
depreciation on
wasting
assets.
2177, 1934,
s. 3.

27. (1) Out of the moneys appropriated for sinking fund purposes pursuant to the Financial Agreement the Treasurer shall in each financial year allocate to each Government Department such sum as the Auditor-General certifies in writing to the Treasurer to be necessary to be provided in that financial year for the depreciation of wasting assets of that department.

(2) Any amount allocated to a Government Department pursuant to subsection (1) of this section shall be included as part of the working expenses of that department.

(3) The amounts debited against General Revenue in respect of sinking fund payments shall, pursuant to subsection (1) of section 23 of this Act, be paid to the National Debt Commission of Australia for the redemption and cancellation of securities comprised in the Public Debt of South Australia, and when the total amount of securities so cancelled is ascertained at the end of the financial year the Treasurer shall credit the loan accounts of each Government Department with an amount equivalent to the sums debited against that department pursuant to subsection (2) of this section.

(4) (a) In the departmental accounts of each Government Department any amounts credited to the departmental loan account pursuant to subsection (3) of this section shall be applied to reduce the loan indebtedness to the Treasurer of the department, and a depreciation reserve of a corresponding amount shall be created.

(b) When wasted assets have to be written off, the assets shown in the departmental account and the departmental depreciation reserve shall both be reduced by an amount equivalent to the book value of the wasted assets so written off.

(5) The balance of the amounts comprised in the face value of the securities cancelled by the National Debt Commission of Australia and not allocated to Government Departments pursuant to subsection (3) of this section shall be applied by the Treasurer pursuant to section 14 of this Act to the reduction in his accounts of the debits in respect of flotation costs, discounts, and other charges in connection with conversion loans, and any balance remaining may be applied by the Treasurer to the reduction of such other debits as he thinks fit.

PART VI.

PART VI.

SURPLUS REVENUE.

28. The surplus of thirty-six thousand two hundred and twenty-five pounds seventeen shillings and twopence, disclosed in the Revenue Accounts of the Treasurer for the financial year ended on the thirtieth day of June, 1935, is hereby appropriated to the reduction of the debits in the Wheat Pools loan account in the books of the Treasurer.

Appropriation
of surplus
disclosed for
1934-35.

29. The surplus of one hundred and forty-eight thousand nine hundred and sixty-four pounds eleven shillings and sixpence disclosed in the Revenue Accounts of the Treasurer for the financial year ended on the thirtieth day of June, 1936 is hereby appropriated in the following manner :—

Appropriation
of surplus
disclosed for
1935-36.

- (a) Eighty-seven thousand pounds shall be credited to a special deposit account in the books of the Treasurer and shall be used at the rate of eight thousand seven hundred pounds per annum for ten years in full satisfaction of any contribution required from the State pursuant to the Act of the Parliament of the Commonwealth, called the States Grants (Local Public Works) Act, 1936 ;
- (b) Fifty thousand pounds shall be credited to the Main Roads Fund in the books of the Treasurer, and shall be used for the construction and maintenance of main roads ; and
- (c) Eleven thousand nine hundred and sixty-four pounds eleven shillings and sixpence shall be credited to the Treasury Suspense Account, and shall be used to reduce the debits in the Wheat Pools loan account or the debits in such other loan accounts in the books of the Treasurer as the Treasurer thinks fit.

30. Any surplus disclosed in the Revenue Accounts of the Treasurer in any financial year, subsequent to the financial year ended on the thirtieth day of June, nineteen hundred and thirty-six, may be applied, without any further authority than this Act, to the reduction of such debits in the Loan Accounts of the Treasurer as the Treasurer thinks fit.

Appropriation
of surpluses
disclosed in
future.

31. (1) In every calendar month commencing with the month of July, 1936, the interest which falls due on the Public Debt in that calendar month shall be debited to the Revenue Account, and credited to an Interest on Public Debt Account in the books of the Treasurer.

Method of
debiting
interest on the
Public Debt.

PART VI.

(2) From time to time, as the interest is paid to the persons entitled thereto, the Interest on Public Debt Account shall be debited with the amounts so paid and the Public Account at the Commonwealth Bank credited accordingly.

Appropriation
of balance of
Interest
Account as at
30th June,
1936.

32. (1) The balance standing to the credit of the Public Debt—Interest on Loans Account in the books of the Treasurer on the thirtieth day of June, 1936, after allowing for any outstanding interest warrants and any other amounts which should properly be brought to the debit of that account, shall be transferred to the Public Debt Commission for credit to a Loan Reserve Account in the books of the Commission.

(2) The amount credited to the Loan Reserve Account may be applied by the Commission from time to time to the reduction of the debits in the loan accounts of the Treasurer in respect of Drought Relief, Farmers' Relief, Farmers' Assistance, Frost Relief, Advances to Settlers, Loans to Producers, or Advances for Homes, or of the debits in such other loan accounts as the Commission thinks fit.

(3) The Treasurer shall not be required to allow interest on any moneys paid to the credit of the Loan Reserve Account in the books of the Commission, and those moneys shall not be invested by the Commission, but shall be utilized solely in accordance with the provisions of subsection (2) of this section.

PART VII.

PART VII.

TRUST FUNDS AND MISCELLANEOUS.

Treasurer may
accept money
on trust or on
temporary
deposit.

33. Subject to the Financial Agreement, the Treasurer may—

- (a) accept temporary deposits and credit such deposits to a temporary deposit account or to a trust fund account, according as he thinks fit; and
- (b) allow interest on such temporary deposits at such rates as are from time to time approved in accordance with the Financial Agreement.

Trust funds
may be drawn
upon by orders
upon the
Treasurer.

34. (1) Where deposits have been credited to a trust fund account pursuant to the last preceding section, the Treasurer may authorise a suitable person or persons to draw upon the trust fund account by means of an order drawn upon the Treasurer and payable to a person named therein or his order.

(2) All such orders shall be payable at the Treasury, Adelaide, or through the Commonwealth Bank, Adelaide.

(3) If the Treasurer or the Commonwealth Bank of Australia, as the case may be, pays the amount mentioned in any such order in good faith and in the ordinary course of business to the holder of the order, and at the time of the payment the order bears the endorsement of—

(a) the payee or any subsequent endorsee ; or

(b) any person purporting to have endorsed the order by the authority of the payee or any subsequent endorsee,

then notwithstanding that the endorsement was not made by or under the authority of the payee or endorsee—

(i.) if the payment was made by the Treasurer he shall be deemed to have discharged all his obligations in respect of payment of the amount mentioned in the order and shall not incur any further liability to any person in respect of such payment and shall be entitled to re-imburse himself for that amount from the trust fund upon which the order was drawn ; or

(ii.) if the amount was paid by the Commonwealth Bank that Bank shall be in the like position as if the order were a cheque drawn upon it by the Treasurer and paragraph (i.) shall apply to the Treasurer as if he had paid the amount mentioned in the order.

35. Where the Commonwealth has made or makes any grant to the State pursuant to any Act of the Commonwealth and that Act prescribes the purpose for which the grant must be applied the Treasurer may accept that grant from the Commonwealth and credit a suitable trust fund account therewith, and may, without any other authority than this Act, authorise the disbursement of that grant for the purposes set out in the Commonwealth Act.

Treasurer may credit suitable trust funds with special grants from the Commonwealth.

36. (1) The Treasurer may, in respect of any Government Department, authorise the opening of a special deposit account to which shall be credited all moneys received by that Department.

Treasurer may open special deposit accounts for Government Departments.

(2) Any refunds which are made by a Department shall be debited against its special deposit account, and at the end of each month the net credits to that deposit account shall be transferred to the credit of General Revenue or Loan Account, as the case may be.

PART VII.

Treasurer may provide moneys for purchase of stores and supplies.

37. (1) The Treasurer may, without any other authority than this Act, provide moneys for the purchase of stores and supplies for the use of Government Departments, and may open such Departmental Stores Accounts as he thinks fit in connection with the purchase and issue of such stores and supplies.

(2) Whenever stores and supplies are purchased, the appropriate Stores Accounts shall be debited with the amount expended and when the stores and supplies are sold or issued for use by the various Government Departments concerned, the appropriate Stores Accounts shall be credited with the value of the stores and supplies so sold or issued.

SCHEDULE.

SCHEDULE OF ACTS REPEALED BY SECTION 3 OF THE PUBLIC FINANCE ACT, 1936.

Number of Act.	Title.	Extent of Repeal.
No. 268 of 1882 ..	Inscribed Stock Act of 1882	The whole
No. 619 of 1895 ..	The Inscription of Stock Amendment Act, 1895..	Do.
No. 648 of 1896 ..	The Consolidated Stock Act, 1896	Do.
No. 665 of 1896 ..	An Act to provide for the Half-yearly Payment of Interest under The Consolidated Stock and Sinking Fund Act, 1896.	Do.
No. 764 of 1901 ..	The British Investors in South Australian Government Securities Act, 1901	Do.
No. 836 of 1903 ..	The Consolidated Stock and Sinking Fund Amendment Act, 1903	Do.
No. 911 of 1906 ..	The Surplus Revenue Act, 1906	Do.
No. 1091 of 1912 ..	The South Australian Government Inscribed Stock for Friendly Societies Act, 1912	Do.
No. 1221 of 1915 ..	Consolidated Stock and Sinking Fund Act Suspension Act, 1915	Do.
No. 1232 of 1915 ..	Inscription of Stock Further Amendment Act, 1915	Do.
No. 1256 of 1916 ..	Consolidated Stock and Sinking Fund Act Further Suspension Act, 1916	Do.
No. 1629 of 1924 ..	Sinking Fund Act, 1924	Do.
No. 1824 of 1927 ..	Sinking Fund Act Amendment Act, 1927.....	Do.
No. 1852 of 1928 ..	Inscription of Stock Amendment Act, 1928	Do.
No. 1975 of 1930 ..	Redemption of Public Securities Act, 1930	Do.
No. 2177 of 1934 ..	Funding Loan and Public Finance Act, 1934	Do.