

Version No. 003
Financial Management Regulations 2004
S.R. No. 42/2004

Version incorporating amendments as at 24 October 2006

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PART 1—PRELIMINARY

1. Objective

The objective of these Regulations is to facilitate—

- (a) economic, effective and efficient financial management; and
- (b) the efficient and fair investigation of losses of and deficiencies in public money and other property of the State.

2. Authorising provision

These Regulations are made under section 59 of the **Financial Management Act 1994**.

3. Commencement

- (1) These Regulations, except regulation 18, come into operation on 24 May 2004.
- (2) Regulation 18 comes into operation on the day on which section 10.1.1 of the **Gambling Regulation Act 2003** comes into operation.

4. Application

- (1) These Regulations (other than Part 3) apply to—
 - (a) all departments; and
 - (b) the bodies specified in the Schedule with respect to the money specified in the Schedule.

Reg. 4(1)
amended by
S.R. No.
152/2006
reg. 3(1).

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Part 1—Preliminary

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- (2) Part 3 of these Regulations applies to all departments.

Reg. 4(3)
revoked by
S.R. No.
152/2006
reg. 3(2).

* * * * *

- (4) The bodies specified in the Schedule are prescribed as authorities for the purposes of the Act.

5. Definitions

In these Regulations—

"employee" has the same meaning as in the **Public Sector Management and Employment Act 1998**;

"empowered officer" means an accountable officer or a chief finance and accounting officer;

"incident" means either or both—

- (a) loss of or deficiency in public money;
- (b) loss or destruction of or damage to other property of the State;

"investigator" means a person appointed under regulation 10;

"relevant employee" in relation to an investigation, means the employee in relation to whom the investigation is being or proposed to be held;

"relevant incident" in relation to an investigation, means the incident to which the investigation relates;

"the Act" means the **Financial Management Act 1994**.

**PART 2—ADMINISTRATION OF INCOME AND
EXPENDITURE**

**6. Unidentified and surplus money and unrepresented
cheques**

- (1) Money received that cannot be identified or that is surplus must be paid to the Treasury Trust Fund pending clarification.
- (2) Cheques that remain unrepresented after 15 months must be paid to the Treasury Trust Fund.

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Reg. 7
revoked by
S.R. No.
152/2006
reg. 4.

**8. Expenditure of Royal Commissions and Boards of
Inquiry**

- (1) Expenses and obligations may only be incurred or met by a Royal Commission or Board of Inquiry—
 - (a) if authorised by an Order in Council; and
 - (b) to the extent of the maximum amount provided in the Order.
 - (2) The Order must be published in the Government Gazette within 14 days after the making of the Order and laid before both Houses of Parliament within that time or, if a House is not sitting, within 14 days after the next meeting of that House.
 - (3) The maximum amount may be increased by a further Order in Council that must be published and tabled in the manner referred to in sub-regulation (2).
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PART 3—LOSSES AND INVESTIGATIONS

9. Preliminary notice before investigation

If under section 57(3) of the Act an empowered officer directs that an investigation be held, the empowered officer must cause to be served on the relevant employee a preliminary notice—

- (a) specifying the name, position and address of the empowered officer; and
- (b) informing the relevant employee of the direction that an investigation is to be held; and
- (c) specifying the relevant incident; and
- (d) drawing the attention of the relevant employee to section 57 of the Act and these Regulations.

10. Appointment of investigator

- (1) If an empowered officer has caused a preliminary notice to be served on a relevant employee under regulation 9, the empowered officer must appoint a person to carry out the investigation.
- (2) A person who is, or was at the time of the relevant incident, an empowered officer of the department employing the relevant employee cannot be appointed investigator.

11. Relevant employee representation

- (1) A relevant employee may nominate an employee of the department or another person to assist in the conduct of the investigation.
- (2) If a nomination has not been made under sub-regulation (1) within 7 days after the preliminary notice is served on the relevant employee, the empowered officer may nominate a suitable

person to assist the relevant employee during the conduct of the investigation.

12. Notice of appointment of investigator

Within 7 days after appointing an investigator, the empowered officer must cause to be served on the relevant employee a notice—

- (a) specifying the name of the investigator and the person nominated under regulation 11; and
- (b) specifying the place, date and time appointed for holding the investigation; and
- (c) inviting the relevant employee to make a written submission with respect to the relevant incident within the period specified in the notice or such other period as may be agreed by the investigator; and
- (d) specifying the address to which the written submission must be sent; and
- (e) informing the relevant employee of his or her entitlement to make an oral submission to the investigator instead of, or in addition to, a written submission.

13. Conduct of investigation

- (1) At the investigation—
 - (a) the procedure is at the discretion of the investigator; and
 - (b) the investigation must be conducted in private with as little formality and technicality and with as much expedition as the matters being investigated permit; and

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Part 3—Losses and Investigations

r. 14

- (c) the investigator is not bound by the rules of evidence; and
 - (d) the relevant employee must be given a reasonable opportunity to make oral and written submissions; and
 - (e) any reasonable request by the relevant employee for a witness must be agreed to by the investigator.
- (2) If the investigator considers that a witness (other than the relevant employee) who is an employee may have caused or contributed to the relevant incident, the investigator must as soon as practicable provide the witness with a notice informing him or her of section 57 of the Act and of the requirements of these Regulations.
- (3) Upon the request of an investigator, the empowered officer may make available officers or engage other persons to assist the investigator to carry out the investigation.
- (4) For the purpose of the investigation and report, the investigator—
- (a) is entitled to full and free access to accounts and records relating to the relevant incident; and
 - (b) may make copies of, and take extracts from, any such accounts and records.

14. Report on completion of investigation

- (1) The investigator must make a report to the empowered officer within 3 months after completing the investigation or within such further period as the empowered officer allows.

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- (2) In addition to stating all relevant facts and findings, the report must include—
- (a) reasons for the findings of the investigator;
and
 - (b) a statement of any defects in official practices and procedures that, in the opinion of the investigator, contributed to the relevant incident; and
 - (c) a statement of the amount that, in the opinion of the investigator, is equal—
 - (i) in the case of loss of or deficiencies in money, to the amount of the loss or deficiency;
 - (ii) in the case of loss or destruction of property, to the value of the property lost or destroyed;
 - (iii) in the case of damage to property, to the expense of repairing the damage to the property or the value of the property, whichever is the less; and
 - (d) if the report contains a finding that the relevant employee has caused or contributed to the relevant incident, particulars of any mitigating circumstances, including—
 - (i) the extent of the work experience of the employee;
 - (ii) the extent to which the employee was supervised in the performance of such of his or her duties as related to the money or property in relation to which the relevant incident occurred;
 - (iii) the adequacy of official instructions given to the employee with respect to those duties;
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- (iv) the conditions under which, at the time of the relevant incident, the employee was required to perform his or her duties, including the workload and the facilities for the performance of those duties;
 - (v) the reliability and efficiency of the employee in the performance of his or her duties generally;
 - (vi) the amount of any allowances to which the employee was entitled by way of compensation for the assumption of responsibility for public money or other property of the State; and
- (e) a record of any objection made by the relevant employee or any witness in relation to the procedure followed at the investigation; and
- (f) the reasons for refusing any request by the relevant employee for a witness to be examined.

15. Copies of report

Upon receiving the report of the investigation, the empowered officer must send a copy to the relevant employee.

Pt 4 (Heading
and reg. 16)
revoked by
S.R. No.
152/2006
reg. 5.

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PART 5—MISCELLANEOUS

**17. Records of authorities subject to inspection by
Department of Treasury and Finance**

A person employed in the Department of Treasury and Finance may inspect the accounting and financial records of an authority and report to the Minister any lack of uniformity in the form of the accounts or deficiency in the authority's system of accounts or internal controls.

18. Victorian Commission for Gambling Regulation

In the Schedule, for "Victorian Casino and Gaming Authority" **substitute** "Victorian Commission for Gambling Regulation".

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| Sch. |
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Sch.
amended by
S.R. No.
42/2004
reg. 18.

SCHEDULE

Regulation 4

| <i>Authority</i> | <i>Specified Money</i> |
|--|--|
| Environment Protection Authority | Money forming part of the Public Account |
| Roads Corporation | Money forming part of the Public Account |
| Victorian Commission for Gambling Regulation | Money forming part of the Public Account |
| Victorian Health Promotion Foundation | Money forming part of the Public Account |

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Endnotes

ENDNOTES

1. General Information

The Financial Management Regulations 2004, S.R. No. 42/2004 were made on 18 May 2004 by the Governor in Council under section 59 of the **Financial Management Act 1994**, No. 18/1994 and came into operation as follows:

Regulations 1–17 on 24 May 2004: regulation 3(1); regulation 18 on 1 July 2004: regulation 3(2).

The Financial Management Regulations 2004 will sunset 10 years after the day of making on 18 May 2014 (see section 5 of the **Subordinate Legislation Act 1994**).

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| Endnotes |
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2. Table of Amendments

This Version incorporates amendments made to the Financial Management Regulations 2004 by statutory rules, subordinate instruments and Acts.

Financial Management Regulations 2004, S.R. No. 42/2004

Date of Making: 18.5.04

Date of Commencement: Reg. 18 on 1.7.04: reg. 3(2)

Financial Management (Amendment) Regulations 2006, S.R. No. 152/2006

Date of Making: 24.10.06

Date of Commencement: 24.10.06

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Endnotes

3. Explanatory Details

No entries at date of publication.