

PUBLIC SUPPLY AND TENDER ACT, 1914-1975**SUMMARY OF PROVISIONS**

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PUBLIC SUPPLY AND TENDER ACT, 1914-1975

being

Public Supply and Tender Act, 1914, No. 1161 of 1914 [Assented to 29th October, 1914]¹;

as amended by

Public Supply and Tender Act, 1930, No. 1976 of 1930 [Assented to 20th November, 1930];

Public Supply and Tender Act Amendment Act, 1940, No. 7 of 1940 [Assented to 19th September, 1940];

and

Public Supply and Tender Act Amendment Act, 1971-1972, No. 3 of 1972 [Assented to 16th March, 1972]²;

and

Statute Law Revision Act, 1975, No. 24 of 1975 [Assented to 27th March, 1975].

An Act to make better provision for regulating the supply and custody of stores for the public service, and to make consequent amendments of the South Australian Railways Commissioners Acts, and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. This Act may be cited as the "Public Supply and Tender Act, 1914-1975".

Short title.
Citation
amended by 24,
1975, s. 3 (1)
(2nd Sched.).

2. This Act shall come into force on a day to be fixed by the Governor by proclamation published in the *Government Gazette*¹; and such day is in this Act referred to as the commencement of this Act.

Commencement
of Act.

3. (1) In this Act, except where some other meaning is clearly intended—

Interpretation
S. 3
redesignated
s. 3 (1) by 3,
1972, s. 3.

"board" means the Supply and Tender Board hereby constituted:

"chairman" means the chairman of the board:

"member" means member of the board:

"Minister" means the Minister of the Crown to whom, for the time being, the administration of this Act is committed by the Governor:

"prescribed" means prescribed by this Act or by regulations made under this Act:

"public service" includes every department of the Government of the said State, and every person or department employed for the purposes of such Government, whether such person or department is or is not directly or indirectly under the control of the Governor or of any Minister of the Crown.

¹ Came into operation 17th December, 1914: *Gaz.* 17th December, 1914, p. 1265.

² Came into operation 20th April, 1972: *Gaz.* 20th April, 1972, p. 1496.

Subsec. (2)
inserted by 3,
1972, s. 3.

(2) On and after the day of commencement of the Public Supply and Tender Act Amendment Act, 1971-1972, a reference, in any Act, rule, regulation or document of any kind whatsoever, to the chief storekeeper by that name, shall, unless from the context of that Act, rule, regulation or document, a contrary intention appears, be read as a reference to the Director, State Supply Department.

Amendment of
Acts 414, 1887,
and 612, 1894.

4. (1) Section 57 of "The South Australian Railways Commissioners Act, 1887", and section 6 of "The South Australian Railways Commissioners Act Amendment Act, 1894", are hereby repealed; and, from the commencement of this Act, section 58 of the first-mentioned Act shall, in so far as it applies to materials, be read as applying only to engines and other power and rolling-stock, not including materials for making such engines, power, or stock.

(2) All proclamations heretofore made under section 57 of "The South Australian Railways Commissioners Act, 1887", are hereby revoked.

(3) Such amendments and revocation shall not affect anything done or suffered, or the effect of the doing, suffering, or omitting of anything, before the commencement of this Act; and anything begun by the Supply and Tender Board in existence before such commencement may be continued by the board constituted by this Act.

Act to apply to
all stores except
railway engines
and rolling
stock.
Subsec. (1)
amended by 24,
1975, s. 3 (1)
(2nd Sched.).

5. (1) This Act shall apply to and in respect of all stores, materials, and requisites for the public service, excepting engines and other power and rolling-stock required by the South Australian Railways Commissioner¹ for the purposes of any powers or duties conferred or imposed upon him by any Act, and dredging, excavating, or pumping plant required by the Minister of Marine or any department of the public service, for the purposes of any of his or its powers or duties, but including materials for making such engines, power, stock, and plant.

Subsec. (2)
amended by 24,
1975, s. 3 (1)
(2nd Sched.).

(2) Section 12 of the South Australian Railways Commissioner's Act, 1936, as amended², shall apply to and in respect of such engines, power, and stock.

Existing Supply
and Tender
Board
abolished.

6. The Supply and Tender Board constituted under "The South Australian Railways Commissioners Act Amendment Act, 1894", is hereby abolished.

Constitution
and
appointment of
Supply and
Tender Board

7. (1) A board, to be called "The Supply and Tender Board", is hereby constituted.

(2) The board shall consist of five members appointed by the Governor.

(3) Only officers employed in the public service shall be eligible for appointment on the board.

Incorporation
of board.
S. 7a enacted by
7, 1940, s. 2.

7a. (1) The board shall be a body corporate under the name of "The Supply and Tender Board", and shall have perpetual succession and a common seal, and by its corporate name shall be capable of suing and being sued and of acquiring and disposing of real and personal property: Provided that the board shall not dispose of any real property without the consent of the Governor.

(3) Judicial notice shall be taken of the incorporation and of the common seal of the board, and the production of any deed, instrument or writing, if

¹ For interpretation of references in Acts to the South Australian Railways Commissioner see now s. 6 (4) and (5) of Railways Act, 1936-1975.

² Now Railways Act, 1936-1975.

sealed with the said seal, shall be *prima facie* evidence of the due making and execution of the deed, instrument or writing.

8. (1) Each member shall, subject to subsection (2) hereof, be appointed for a term of one year, and may, from time to time, at the expiration of his term of office, be re-appointed for a further term of one year.

Term of office of members of board.

(2) Any member shall cease to hold office as a member upon—

- (a) his resigning such office by writing signed by him and delivered to the Governor or to the Clerk of the Executive Council,
- (b) his ceasing to be employed in the public service, or
- (c) his dismissal from such office by the Governor.

9. No act or proceeding of the board shall be invalid or be prejudiced by reason only of the fact that at the time when it is done, taken, or commenced, there is a vacancy in the office of any member.

Acts of board not invalidated by vacancy.

10. In case of the illness or other incapacity or absence from the State of any member, the Governor may appoint some person to be the deputy of such member. The person so appointed shall, until his appointment is terminated by the Governor by notice in writing, carry out, exercise, and discharge all the functions, powers, and duties, and be entitled to all the privileges, of the member in whose place he is appointed.

Deputy members of board.

11. The Minister may fix such (if any) salaries or fees as he deems proper for the remuneration of members, in addition to any other salaries or fees received by them as officers in the public service.

Remuneration of members.

12. (1) The Minister may appoint one of the members to be the chairman of the board.

Chairman.

(2) The chairman shall preside at all meetings of the board when he is present, and in his absence another member chosen for the purpose by the majority of those present shall preside.

(3) The member presiding for the time being at any meeting of the board shall have a casting as well as a deliberative vote.

13. At all meetings of the board any three members shall constitute a quorum.

Quorum.

14. (1) The Minister may appoint a Director, State Supply Department, and such (if any) other officers as he deems necessary for the purposes of this Act.

Officers.
Subsec. (1) amended by 3, 1972, s. 4 (a).

(1a) The chief storekeeper in office under this Act immediately before the commencement of the Public Supply and Tender Act Amendment Act, 1971-1972, shall, on the commencement of that Act, be deemed for the purposes of this Act to be a Director, State Supply Department, appointed under subsection (1) of this section.

Subsec. (1a) inserted by 3, 1972, s. 4 (b).

(2) The Director, State Supply Department shall be the chief executive officer of the board, and may attend any meeting of the board, and shall have, exercise, and discharge such (if any) other functions, rights, and duties as are prescribed.

Subsec. (2) amended by 3, 1972, s. 4 (c).

Functions of the board.
Cf. 414, 1887, s. 57,
N.S.W. 31, 1902, s. 20 (h).

15. The board shall, subject to section 5 and to anything prescribed—

- I. control the purchase and procuring, and the care, custody, inspection, and stocktaking, and the issue, of all stores, materials, and requisites for the public service;
- II. control the taking and keeping of the accounts relating to such stores, materials, and requisites;
- III. investigate and examine all contracts, accounts, invoices, requisitions, orders, and vouchers in any way relating to such stores, materials, and requisites; and
- IV. carry out, exercise, and discharge all such other functions, powers, and duties as are prescribed.

Power of board as to wornout, obsolete material, etc.
S. 15a enacted by 1976, 1930, s. 3.

15a. (1) The board shall—

- (a) control the custody, inspection, and stocktaking of all wornout, obsolete, unserviceable, or surplus material, plant, and equipment in the possession of any department of the public service, or held on behalf of the Crown by any person in the employment of the Crown;
- (b) dispose of such material, plant, and equipment to the best advantage in such manner and at such times as the board considers expedient.

(2) No person shall dispose of any such material, plant, or equipment except with the permission of the board.

(3) The board, with the approval of the Minister, may require any person in the employment of the Crown to furnish the board with a return of any material, plant, or equipment held by such person for the public service, and every such person shall furnish a return accordingly.

Contracts by board.
S. 15b enacted by 7, 1940, s. 3.

15b. (1) The board may enter into, vary, and discharge contracts for the purposes of this Act, and every such contract may be made, varied, or discharged as follows:—

- I. Any contract which, if made between private persons, would be by law required to be in writing and under seal, the board may make in writing and under the common seal of the board, and may be varied or discharged in the same manner;
- II. Any contract which, if made between private persons, would be by law required to be in writing signed by or on behalf of the parties to be charged therewith, the board may make in writing under the common seal as aforesaid, or in writing signed by any person acting under the authority of the board, express or implied, and may be varied or discharged in the same manner as it was or might have been made;
- III. Any contract which, if made by private persons, would be by law valid although only made by parol, may be made by the board in either of the two ways aforesaid, or by parol by any person acting under the authority of the board, express or implied, and may be varied or discharged in the same manner as it was or might have been made.

(2) All contracts made according to the provisions herein contained shall be effectual in law and binding on the parties thereto.

(3) Every deed, conveyance, contract or document made in writing under the common seal of the board shall be signed by any three members of the board.

15c. (1) Any contract made in the name of the board before the passing of the Public Supply and Tender Act Amendment Act, 1940, shall be deemed to be as valid as if, at the time of the making of the contract, the board was a body corporate and the board was empowered to enter into contracts in the name of the board.

Provisions as to previous contracts and dealings in property.
S. 15c enacted by 7, 1940, s. 3.

(2) All real and personal property acquired by the board before the passing of the Public Supply and Tender Act Amendment Act, 1940, shall be deemed to have been legally acquired and any such real or personal property shall be vested in the board as a body corporate.

16. (1) The Governor may make all such regulations as are contemplated by this Act, or as may be necessary or convenient for giving effect to the provisions of this Act or more fully carrying out its objects, including (though without in any way limiting the operation of this section) regulations as to—

Regulations.

- I. the times and places when and where meetings of the board are to be held;
- II. the calling, holding, and conduct of such meetings;
- III. the minutes and records to be kept by the board;
- IV. the functions, powers, and duties to be carried out, exercised, and discharged by the board, and by the Director, State Supply Department and any other officers appointed under this Act, and the manner in which they are to be carried out, exercised, and discharged.

Para. IV amended by 3, 1972, s. 5.

(2) All such regulations—

(a) shall be published in the *Government Gazette*:

(b) from the date of such publication, or from a later date fixed by the order making the same, shall (subject as by subsection (3) hereof provided) be of the same effect as if they were contained in this Act:

(c) shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is in session, and if not, then within fourteen days after the commencement of the next session.

(3) If either House of Parliament passes a resolution disallowing any such regulation, of which resolution notice has been given at any time within fourteen sitting days of such House after such regulation has been laid before it, such regulation shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done, or of the omission of anything, in the meantime.

This subsection shall apply notwithstanding that the said fourteen days, or some of them, do not occur in the same session or Parliament as that in which the regulation is laid before it.

17. The moneys required for the purposes of this Act shall be paid out of moneys from time to time provided by Parliament.

How moneys for purposes of Act to be provided.