

ACT

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THE GOVERNMENT BUDGETING AND ACCOUNTABILITY ACT, 2005

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PART I—PRELIMINARY

Com-
mencement. **1.** This Act shall come into operation on such date as the Minister shall fix by order made by statutory instrument.

Interpretation. **2.** In this Act, unless the context otherwise requires—

“accountable” means, the requirement to record, report, explain and justify actions, as the case may be, to a superior officer, to Parliament or to the public;

“appropriation” means any money charged on the Consolidated Fund or other public fund or public account;

“budget” means the annual estimates of the revenues and other receipts and the expenditures of the Government, including grants to local councils of Sierra Leone submitted for the approval of Parliament;

“budgetary agency” means a government department or other public body to which a specific head or division or both of expenditure is allocated in the annual estimates;

Act No. 6
of 1991. “Constitution” means the Constitution of Sierra Leone, 1991;

“departmental accounts” has the meaning assigned thereto in subsection (2) of section 50;

“financial year” means a period of twelve months starting on 1st January in one year and ending on 31st December of the same year;

“general revenue” means the revenue accruing to and collected in favour of the Government during any financial year;

“Government” means the Government of Sierra Leone;

Act No. 1
of 2004. “local council” means a local council established under the Local Government Act 2004;

“Minister” means the Minister responsible for finance, and “Ministry” shall be construed accordingly;

“medium term expenditure framework budget” means the three-year rolling budget containing the budget estimates for the year to which it relates together with indicative budgets for the succeeding two years;

“money” means any coin, note or negotiable instrument;

“money received” includes all moneys that are paid to a public officer under or pursuant to an enactment, trust, treaty, undertaking or contract;

“principal officer” includes any of the following officers of the Ministry:—

- (a) the Financial Secretary;
- (b) the Deputy Financial Secretary;
- (c) the Director of the Budget Bureau;
- (d) the Accountant-General; and
- (e) the Director of Internal Audit;

“public accounts” has the meaning assigned thereto in subsection (1) of section 50;

“public money” means money held by, held in or paid out of the Consolidated Fund;

“public office” includes an office the emoluments attaching to which are paid directly from the Consolidated Fund or directly out of monies provided by Parliament.;

“public officer” means a person holding or acting in a public office;

“vote controller” has the meaning assigned thereto in subsection (1) of section 45.

PART II – CONTROL AND MANAGEMENT OF PUBLIC FINANCES

Minister's functions of control and direction over public moneys.

3. (1) Subject to the Constitution and this Act, the Minister shall have the management of the Consolidated Fund and the control and direction of all matters pertaining to the public moneys of Sierra Leone.

(2) Without prejudice to the generality of subsection (1), it shall be the responsibility of the Minister to–

- (a) develop the Government's macrofiscal policy and the medium-term expenditure framework for the budget;
- (b) control and manage the preparation, monitoring and implementation of the budget, including any adjustments to the budget, and to ensure that all interested parties are able to participate fully in the decisions taken on the budget within the medium term expenditure framework developed by the Minister under paragraph (a) ;
- (c) publish by Government Notice and by any other appropriate means, the progress of budget implementation on a quarterly basis;
- (d) manage and control government cash, banking and payment arrangements, forecasting of cash flows, public sector accounting, the public debt and government financial assets and liabilities;
- (e) coordinate the management of external grants and loans made to Sierra Leone;
- (f) promote and enforce transparency and sound management in respect of the revenue, expenditure, assets and liabilities of budgetary agencies;

(g) inspect the financial operations and asset management of budgetary agencies; and

(h) maintain, subject to subsection (3) of section 119 of the Constitution and any other enactment, the annual accounts of Sierra Leone and submit them to the Auditor-General for audit and cause copies to be published for general public interest.

(3) For the purposes of his functions under this section–

(a) there shall be established or continue to exist within the Ministry, as the case may be, such departments, divisions or units, including the Accountant-General's Department, the Budget Bureau, an aid coordination and management division, the Internal Audit Department, as the Minister may consider necessary or expedient, and

(b) the Minister may–

(i) establish treasury offices in large budgetary agencies for the receipt, custody and disbursement of public money as may be required in the implementing of the approved budget;

(ii) issue such instructions and directions as he may find necessary or expedient.

4. (1) The Minister may delegate in writing any of his functions under section 3 to the Financial Secretary or to any other public officer in the Ministry. Minister may delegate authority.

(2) Any function delegated under subsection (1) does not divest the Minister of the responsibility for the function or the exercise of any power thereunder.

Powers of
Financial
Secretary.

5. Subject to the Constitution and this Act, it shall be the principal function of the Financial Secretary to ensure the effective application of this Act, to advise the Minister and to supervise the staff of the Ministry in the performance of their duties under the general direction and control of the Minister.

Internal
audit.

6. (1) There shall be an Internal Audit Department within the Ministry which shall be responsible for—

- (a) the internal audit in the Ministry;
- (b) ensuring that the internal audit division or other unit in every budgetary agency or other establishment required by the Minister under subsection (2) to establish or maintain such division or unit is appropriate to the needs of the organisation concerned and conform to internationally recognised standards, and
- (c) the control of the staff of the internal audit division or other unit referred to in paragraph (b).

(2) The Minister may require any vote controller to establish or maintain an internal audit division or other unit in the budgetary agency under him, and such division or unit shall be responsible to the Minister responsible for the budgetary agency.

(3) For the purposes of this section—

- (a) “internal audit” means the function within an organisation which measures, evaluates and reports upon the effectiveness of internal controls, both financial and otherwise, as a contribution to the efficient use of resources within the organisation; and

(b) “internal controls” means a system which ensures—

- (i) that financial and other records are reliable and complete, and
- (ii) adherence to the organisation’s management policies, the orderly and efficient conduct of the organisation and the proper recording and safeguarding of the assets and other resources of the organisation.

(4) An internal audit department, division or other unit shall have the following duties in the performance of its functions:—

- (a) ensure strict adherence to all control procedures introduced to safeguard the assets and records of Government;
- (b) monitor the implementation of the budget as approved by Parliament and report promptly on any irregularity;
- (c) make periodic audit reports on audits completed;
- (d) review management response to Auditor-General’s reports;
- (e) review external audit reports and management letters on parastatals for the attention of the Minister;
- (f) review all contracts ensuring effective performance and value for money;
- (g) continuously review systems and procedures to ensure adequacy, effectiveness and efficiency;

- (h) offer professional advice on accounting and auditing matters to the Minister;
- (i) review operations and programmes to ascertain whether results are consistent with the objectives and goals.

(5) Reporting by the Internal Audit Department within the Ministry and within any other budgetary agency shall, ordinarily, be to the vote controller but shall be made to the Minister in any matter concerned with the management of internal controls by the vote controller.

PART III – CONSOLIDATED FUND AND GOVERNMENT BANKING ARRANGEMENT

Composition of Consolidated Fund.

7. Pursuant to section 111 of the Constitution, the Consolidated Fund shall consist of–

- (a) all revenues or other moneys raised or received for the purpose of, or on behalf of, the Government;
- (b) any other moneys raised or received in trust for or on behalf of the Government; and
- (c) all revenues and moneys payable by or under any bilateral or multilateral agreement;

except revenue or other moneys–

- (i) that are payable by or under an Act of Parliament into some other fund established for a specific purpose; or
- (ii) that may, by or under an Act of Parliament, be retained by the department of Government that received them for the purpose of defraying the expenses of that department.

8. (1) Money shall be paid into the Consolidated Fund by depositing it into the following bank accounts:–

Modes of payment into Consolidated Fund.

- (a) the treasury main account held at the Bank of Sierra Leone;
- (b) such other account as the circumstances may require, including–
 - (i) treasury transit account;
 - (ii) any account for any external loan or grant, if a donor's conditionality so requires; and
 - (iii) any account for revenues raised by a budgetary agency for such administrative fees or charges as may be prescribed by the Minister.

(2) The Minister may, on behalf of the Government, enter into agreement with any bank for the receipt, custody, payment or transmission of public money, whether within or outside Sierra Leone; or for any other matter dealing with the banking business of Government.

(3) A public officer who receives any public money shall promptly pay it into a bank account under subsection (1) and no officer shall authorize another person who is not a public officer to receive or keep any public money.

9. (1) There shall continue to be an Accountant-General whose office shall be a public office and who shall receive all public moneys payable into the Consolidated Fund, provide secure custody for such moneys and make disbursement on behalf of Government in accordance with or under the authority of this or any other enactment.

Office of Accountant-General.

(2) There shall continue to be an accounting class within the public service to which all accounting staff in that service shall belong and of which the Accountant-General shall be the head in addition to being head of department within the Ministry.

(3) The Accountant-General may station in any Government department any person employed in his office to enable the Accountant-General more effectively to carry out his functions under this Act or any other enactment and such department shall provide the necessary office accommodation for any person so stationed.

(4) Notwithstanding the other provisions of this Act or any other enactment, the Accountant-General shall have free access at all reasonable times to all files, documents and other records relating to the accounts of every budgetary agency and shall be entitled to require and receive from members of a budgetary agency such information, reports and explanations as he may deem necessary for the proper performance of his functions.

Accountant-General as chief accounting officer.

10. (1) The Accountant-General shall be the chief accounting officer of the Government, and responsible for keeping, rendering and publishing statements of the public accounts as required by this or any other enactment.

(2) In this capacity as the chief accounting officer, the Accountant-General shall also—

- (a) be the principal adviser to the Minister and the Government on accounting matters;
- (b) approve all departmental accounting instructions; and
- (c) promote the development of efficient accounting systems within all budgetary agencies.

11. (1) The Accountant-General shall establish on behalf of the Government such accounts with the Bank of Sierra Leone and its agents as he deems necessary. Banking of public moneys.

(2) No bank account shall be opened for any Government department except under the authority of the Minister signified by the Accountant-General, and no bank may open any such account without such authority.

(3) Every person who collects or receives any public moneys shall keep a record of receipts and deposits thereof in such form and manner as the Accountant-General may determine.

(4) Every person who collects or receives any public moneys without having the prior authority of the Accountant-General for so doing, shall immediately pay such moneys into the Consolidated Fund and explain to the Accountant-General the circumstances in which those moneys came into his possession.

(5) All persons authorised to collect or receive public moneys shall pay all such moneys promptly into the Consolidated Fund in accordance with section 8.

12. (1) The Accountant-General shall be responsible for —

- (a) the compilation of the public accounts;
- (b) the conduct of the treasury functions of the Government,

Accountant-General to prevent fraud and other irregularities.

and may for that purpose give general instructions to vote controllers not inconsistent with this Act or any regulations or instructions issued under this Act.

(2) Without prejudice to subsection (1), the Accountant-General shall—

- (a) ensure that a proper system of accounts is established in every budgetary agency and that all moneys received by the Government are brought to account promptly and properly;
- (b) refuse payment of any voucher—
 - (i) which is wrong in content;
 - (ii) which contravenes any enactment, directions or instructions properly made or given under this Act or any other enactment for the management of public money;
 - (iii) which is in any way unacceptable in support of a charge on public funds;
- (c) report to the Minister in writing any apparent defect in departmental control of revenue, expenditure, cash, stamps, stores and other property of the Government or any breach or non-observance of financial regulations, directions or instructions which may come or are brought to his notice;
- (d) ensure, as far as is practicable, that adequate provision is made for the safe custody of public money, stamps, securities, revenues, counterfoil receipts and other accountable documents; and
- (e) prevent as far as practicable the occurrence of fraud, embezzlement or carelessness by maintaining efficient checks, including surprise inspections.

(3) The Accountant-General shall, in the performance of his duties under this Act or any other enactment, act in accordance with the general or specific directions of the Minister.

13. (1) The Minister may invest, within Sierra Leone or outside, money from the Consolidated Fund not immediately required to be expended to meet any obligation of the Government. Investment out of Consolidated Fund.

(2) When money from the Consolidated Fund is invested, the interest it earns together with the principal sum shall be regarded as part of the Consolidated Fund.

14. Where a service is provided by the Government to any person, and the Minister is of the opinion that a charge for that service shall be borne by that person, the Minister may, subject to the provisions of any enactment relating to that service, prescribe the fees to be charged. Payment of service provided by Government.

15. (1) Where any money is received by a public officer from any person as a deposit to ensure the doing of any act or thing, the public officer shall hold or dispose of the money in such a manner as the Minister may prescribe. Receipt and payment of deposits.

(2) Where money is paid by any person to a public officer for any purpose that is not fulfilled, the money may be returned or repaid or otherwise dealt with as the Minister may direct less such sum as in the opinion of the Minister is properly attributed to any service rendered.

(3) Money paid to the credit of the Consolidated Fund, not being public money, may be returned or repaid in such manner as the Minister may prescribe.

(4) The Minister may determine the amount of cash or securities held to meet obligations under this section.

Establishment of special funds.

16. (1) Moneys received by or on behalf of the Government for a special purpose and paid into the Consolidated Fund, may be paid out of that fund subject to the provisions of any enactment or agreement relating thereto.

(2) Subject to the provisions of any other enactment, interest may be allowed in respect of any money to which subsection (1) applies at rates to be fixed by the Minister by regulation.

Temporary advance on account of development expenditures as permissible investment.

17. Where at any time, a resolution has been passed by Parliament authorising the Government to raise a loan, the Minister may, pending the receipt of the proceeds of the loan, authorise the temporary advance on development expenditure of any moneys in the Consolidated Fund which are available, after making adequate provision for—

- (a) statutory expenditure;
- (b) all other expenditure for which moneys have been appropriated by Parliament,

and any such advance shall constitute a permissible investment from the Consolidated Fund.

Remission of tax, fees and penalties.

18. (1) Without prejudice to the powers conferred on any person by any other enactment, the Minister may, when he considers it in the public interest so to do, remit any tax, fee or penalty but, with monthly reports to Parliament for the information of the members thereof.

(2) A remission under this Act may be total or partial, conditional or unconditional and may be granted—

- (a) before, after or pending any suit or proceeding in any court for the recovery of the tax, fee or penalty in respect of which it is granted;
- (b) before or after any payment thereof has been made or enforced by process of execution; and
- (c) in the case of a tax or fee, in any particular case or class of case and before the liability thereof arises.

(3) A remission under this Act may be granted—

- (a) by forbearing to institute a suit or proceedings for recovery of the tax, fee or penalty in respect of which the remission is granted;
- (b) by delaying, staying or discontinuing any such suit or proceedings already instituted;
- (c) by forbearing to enforce, staying or abandoning any execution or process upon any judgement;
- (d) by the entry of satisfaction upon any judgement; or
- (e) by repaying any sum of money paid to or recovered from a public officer for the tax, fee or penalty.

(4) Where a remission is granted under this section subject to a condition and the condition is not performed, it may be enforced, and proceedings may be instituted or continued as if there had been no remission.

(5) A conditional remission upon performance of the condition, and an unconditional remission shall have effect as if the remission granted had been sued for and recovered.

(6) Where any tax, fee or penalty has already been paid, any remission granted thereof under this Act or any other enactment shall be a charge on the Consolidated Fund.

(7) Where a penalty imposed by any enactment relating to revenue has been wholly and unconditionally remitted under this section, the remission shall have the effect of a pardon for the offence for which the penalty was incurred, and thereafter the offence shall have no legal effect prejudicial to the person to whom the remission was granted.

(8) A statement of all remissions made under this Act or any other enactment together with the reasons therefor shall be included in the annual financial statement of the department or other authority responsible for the collection of the tax, fee, or penalty.

(9) The Minister may, by regulations delegate his powers of remission, subject to such terms and conditions as he may require, to any public officer except that such delegated powers shall be personally exercised by the public officer concerned.

(10) For the purposes of this section –

- (a) ‘tax’ includes any tax, import and export duty or toll payable to the Government imposed or authorised to be imposed by any enactment,

- (b) ‘penalty’ includes any forfeiture, pecuniary penalty imposed or authorised to be imposed by any enactment for any contravention of the laws relating to the collection of revenue or the management of any public work producing toll or revenue, notwithstanding that part of such forfeiture or penalty is payable to the informer or prosecutor or any other person.

19. (1) The Minister may, subject to the approval of Parliament and if he considers it in the public interest, authorise the deletion from the public accounts or other Government accounts, in whole or in part, any obligation or debt due to the Government or any claim by the Government. Deletion from accounts.

(2) Any deletion made under subsection (1) from the accounts does not constitute a remission of such obligation, debt or claim, and does not debar subsequent proceedings for recovery if the Minister deems it necessary.

(3) The Minister may, by regulations, delegate his powers of deletion under this section, subject to such terms and conditions as he may require, to any public officer except that such delegated powers shall be personally exercised by such public officer.

(4) The obligations, debts and claims deleted from the public accounts or departmental accounts under this section shall be reported as follows:–

- (a) if from the public accounts, by inclusion with the statement of the public accounts for the year in which the deletion has been made;
- (b) if from other departmental accounts, by inclusion in the annual financial statement of the department concerned.

PART IV – PREPARATION AND APPROVAL OF BUDGET

Budget Bureau and budget committees in Ministries, etc.

20. (1) There shall continue to exist within the Ministry, a unit to be known as the Budget Bureau which shall, under the supervision of the Financial Secretary, be responsible for the preparation and monitoring of the budget in collaboration with the budgetary agencies.

(2) Each budgetary agency shall establish a budget committee comprising the vote controller, the professional head, if any, programme managers and provincial and district managers, to be responsible for preparing the strategic plans and annual estimates of the agency, apportioning quarterly allocations and monitoring expenditure and results.

(3) Regulations shall provide for the monitoring of budget committees by the Budget Bureau and the Internal Audit Department to ensure the personal involvement of the vote controllers in the work of the budget committees.

District budget oversight committees.

21. (1) The Budget Bureau shall establish in every district, a district budget oversight committee with the following functions:–

- (a) to assist in the formulation and monitoring of all poverty-related activities within the district;
- (b) to serve as focal point at the community level for all discussions and consideration of the medium term expenditure framework budget and the public expenditure tracking surveys;
- (c) to monitor the expenditure of all central government allocations to all local councils in the district and coordinate them for maximum effectiveness;

(d) to report to the Budget Bureau every four months on the progress of the execution of budget programmes in the district, and

(e) generally, to serve as an intermediary between the Government and the people concerning all budgetary allocations for their district.

(2) A district budget oversight committee shall consist of between ten and sixteen members, being people of note in the district who are not members of the public service, or local council selected by the Budget Bureau after consultation with the people in the communities concerned to represent each ward or chiefdom in the district.

22. The budget shall be laid before Parliament by the Minister not later than two months before the beginning of the financial year to which it relates.

Budget to be laid two months before beginning of financial year.

23. The budget documents to be laid before Parliament shall include–

Budget documents.

(a) a brief statement on the macro-economic conditions of Sierra Leone and the policies contained in the budget speech;

(b) the medium term expenditure framework budget;

(c) summary of revenues and expenditures, including the financing of the budget deficit, if any, and, in the case of a budget surplus, how such surplus is to be used;

- (d) estimates of revenues of each budgetary agency according to their revenue items;
- (e) estimates of expenditure of each budgetary agency, including both the recurrent and development expenditures in the same document, classified as follows:–
 - (i) recurrent expenditure of each programme, broken down by expenditure items; and
 - (ii) development expenditure of each development project, broken down by expenditure items;
- (f) a statement of government guarantees to third parties; and
- (g) the Appropriation Bill and other enactment required for the implementation of the budget, including the imposition or alteration of taxes.

Government revenues and expenditure. 24. (1) Government revenues and other receipts shall consist of –

- (a) tax revenues, including taxes on income and profits, goods and services, and taxes on international trade and other transactions;
- (b) non-tax revenues, including profits from public enterprises, administrative fees and charges, fines and forfeitures and repayment of loans;
- (c) domestic and external grants;
- (d) other revenues paid to Government under any enactment; and
- (e) domestic and external borrowing for financing the budget deficit.

(2) Government recurrent and development expenditure and other payments shall consist of –

- (a) current expenditure, including salaries, wages and allowances, expenditure on goods and services, current transfers and payments;
- (b) capital expenditures, including the acquisition of capital assets and capital transfers;
- (c) lending and equity participation; and
- (d) payment of principal on domestic and external borrowing.

(3) Subject to subsection (4) and as an exceptional case, where the Minister finds it acceptable, a budgetary agency may be permitted to retain and spend in support of Government budget programme, any revenues raised by such agency if its revenue and expenditure are included in the approved budget estimates.

(4) A separate column shall be added under revenue and expenditure in the estimates to show the amount of revenue expected to be raised by a budgetary agency and the external grants that it is likely to receive from donors.

25. (1) The expenditure classification outlined in paragraph (e) of section 23 shall constitute the structure for appropriation by Parliament, the spending limits, accounting and reporting. Structure of appropriations.

(2) The appropriation for public debt service payments shall be included under the vote of the Ministry.

(3) The Minister shall have the authority to make all payments to meet the debt obligations of Sierra Leone by their due dates, even if they exceed the appropriations therefor or have no appropriation by then; and the Minister shall report such payments to Parliament within three days after they have been made.

(4) There shall be provided in the budget, within the vote of the Ministry, an unallocated head of expenditure under the same heading, for emergencies and for situations of exceptional nature which cannot be predicted in advance and which have not been included under any budget classification:

Provided that the total amount of unallocated expenditure in the budget, excluding external grants, shall not exceed two percent of total revenues in any financial year.

(5) The Minister shall be in charge of the unallocated expenditure head, and any transaction under that head shall be allocated to the appropriate vote and –

- (a) reported to Parliament and the Auditor-General within fifteen working days; and
- (b) published for the information of the general public.

(6) The Minister shall maintain and provide the following revenue and expenditure data–

- (a) actual data for the year before the current year;
- (b) revised estimates for the current year;
- (c) estimates for the budget year; and

- (d) preliminary projections, in broad categories, for revenue and expenditures of two years after the budget year.

(7) The Speaker may, by resolution of Parliament, hire temporarily, or permanently a small core of technical staff to assist in gathering information, making research and analysis on issues pertinent to its deliberation and resolution on the budget submitted to Parliament by the Minister.

PART V–BUDGET EXECUTION, ADJUSTMENT AND CONTROL

26. (1) Pursuant to section 113 of the Constitution, the Minister may, with the approval of Parliament, authorise expenditure from the Consolidated Fund for a period not exceeding four months from the coming into operation of the Appropriation Act or the beginning of the financial year to which that Act relates, whichever is earlier. Expenditure ahead of appropriation.

(2) Funds expended under subsection (1) shall be regarded as forming part of the appropriation for the financial year to which the Appropriation Act relates.

27. (1) No payment shall be made out of the Consolidated Fund except in the manner provided by law. Payment out of Consolidated Fund.

(2) No payment shall be made in excess of the amount granted under an appropriation for any service.

28. (1) When budget estimates of expenditure are approved by Parliament, public moneys shall be deemed to have been appropriated for the service of the different budgetary agencies. Appropriations of public moneys.

(2) When an appropriation for a budgetary agency has been approved it shall be used only in accordance with the purpose described and within the limits set by the different classifications within the agency's estimates.

(3) The Minister may, by regulations made under this Act, authorise the re-allocation of expenditure within the ambit of an agency's appropriation.

Payment for work done.

29. (1) No payment shall be made for work done, goods supplied or services rendered, whether under a contract or not, in connection with any part of the public service, unless in addition to any other voucher or certificate that is required, the head of the budgetary agency concerned, or any other officer authorised by such head of the agency certifies—

- (a) that the work has been performed, the goods supplied or the service rendered, as the case may be, and that the price charged by the contract, is reasonable; or
- (b) where payment is to be made before the completion of the work, delivery of the goods or rendering of the service, as the case may be, that the payment is in accordance with the contract.

(2) Where in respect of any contract under which a cost audit is required to be made, the Accountant-General reports that any cost or charges claimed by the contractor should not, in his opinion, be allowed, such costs or charges shall not be allowed to the contractor unless the Minister otherwise directs in writing.

Payment for contracts.

30. (1) No contract providing for the payment of any money by the Government shall be considered valid except there is in support of such contract a certificate signed by the Minister to the effect that there is sufficient unencumbered balance available out of an appropriation or out of an item included in the estimates, to discharge any commitments under such contract that would under the provisions thereof, come in course of payment during the financial year in which the contract was entered into.

(2) In the case of forward commitments, the certificate shall state that if and when Government grants an appropriation such commitments shall be entered as an encumbrance against such appropriation.

(3) A copy of every contract under this section shall be submitted to the Auditor-General and to the Accountant-General as soon as it is made.

(4) The Accountant-General shall establish and maintain a record of all commitments chargeable to each appropriation and such record shall indicate in relation to each commitment whether the commitment is to be paid in leones or other currency.

31. (1) Subject to this or any other enactment, the Minister may make regulations or orders with respect to all or any of the following matters:—

- (a) the conditions under which contracts may be entered into; and
- (b) the security to be given in the name of the Government to secure the due performance of contracts.

(2) Where any payment under a contract is withheld to ensure the due performance of the contract, such payment may, subject to this Act or any other enactment, be charged to the appropriation for the contract, and the amount so charged may be placed to the credit of a special account to be paid out in accordance with such contract and in such manner as the Minister may prescribe.

32. (1) Every payment out of the Consolidated Fund relating to any appropriation shall be made under the direction and control of the Accountant-General by cash, cheque or other instrument in such form and authenticated in such manner as the Minister may by regulations prescribe.

(2) Every cheque or instrument issued under the direction of the Accountant-General when paid, shall, unless otherwise directed by the Minister, be delivered into his custody for examination and adjustment with the statement of cheques or other instruments issued.

(3) The Minister may, after consultation with the Auditor-General, make regulations relating to the destruction of cheques or other instruments.

Balance of appropriation.

33. (1) The balance of an appropriation made for a financial year that remains unexpended at the end of the financial year shall lapse, and the subordinate authorisations made under the appropriation shall lapse with it.

(2) Within ten days after the end of the financial year each vote controller shall prepare and submit to the Minister a statement of all commitments entered into but undischarged before the end of the financial year in which they were incurred.

(3) If the Minister is satisfied that such undischarged commitments may be properly carried forward, and that unexpended balances of the previous year's appropriations are available to finance their discharge, he may issue a warrant to be known as a **Revote Warrant**, to provide for their due discharge.

(4) The moneys specified in the **Revote Warrant** shall, as soon as possible thereafter, be included in the first supplementary estimates of the new financial year to be presented for the approval of Parliament.

Investment of public moneys in securities.

34. (1) The Minister may, from time to time, cause public moneys to be invested on behalf of the Government in the purchase of securities for such periods and on such terms as he thinks fit.

(2) All interest received in respect of securities shall be paid into the Consolidated Fund as revenue, except where such securities are held on behalf of a trust fund and an enactment or agreement requires that that interest shall be paid into the trust fund.

(3) The Minister may, where it appears to him to be convenient, from time to time, cause such investment to be sold and converted into money and the proceeds either placed to the credit of the Consolidated Fund or re-invested on behalf of the Government.

(4) Profits and losses realised on the sale of securities shall be charged to revenue or expenditure, as the case may be, except where such securities are held on behalf of a trust fund and an enactment or agreement provides that profits and losses shall be chargeable to that fund.

(5) At least once in every year certificates in respect of all securities and other investments shall be inspected by the Auditor-General.

(6) The annual returns of all securities and other investments shall be prepared by the Accountant-General and forwarded for verification by the Auditor-General.

35. (1) No moneys shall be advanced from the Consolidated Fund except under the authority of an Act of Parliament.

Advances from Consolidated Fund.

(2) An Act passed under subsection (1) shall specify the terms of release and re-payment of advances and require the completion of an agreement between the Government and the borrower as a condition for release.

(3) Parliament may require that interest be payable in respect of such advances and shall determine the rate to be paid.

(4) The Accountant-General may recover any advance or any portion thereof that is not repaid or accounted for, as required by an Act or agreement, out of any moneys payable by the Government to the person to whom the advance was made.

(5) Every accountable advance that is not repaid or accounted for as required by subsection (4) shall be reported in the public accounts.

(6) The Minister shall, when annual estimates are being submitted for the approval of Parliament, include for approval, schedules showing the amounts by which it is proposed that advances shall be increased or decreased in the ensuing financial year and he shall seek the prior approval of Parliament for any subsequent revision of limits set by him.

Refund of expenditure.

36. An amount received as refund for an expenditure and deposited to the credit of the Consolidated Fund shall be included in the unexpended balance of the appropriation against which it was charged, if received within the same financial year, but otherwise it shall be credited to the public revenue.

Loans from Consolidated Fund.

37. (1) Pursuant to section 118 of the Constitution, Parliament may authorise the Minister to enter into an agreement for the granting of a loan from the Consolidated Fund.

(2) An agreement entered into pursuant to subsection (1) shall be laid before Parliament and shall not come into operation until it has been approved by Parliament and the agreement shall contain a clause to that effect.

(3) The Minister may request Parliament to approve particular classes of loan subject to such limitations as may be required by Parliament.

(4) The Minister shall, when annual estimates are being submitted for approval by Parliament, include for approval a schedule of the loans to be payable or re-payments to be recovered during the year, and shall seek the prior approval of Parliament for any additional amounts that may be required under any general authority to lend given in accordance with subsection (3).

(5) The amount issued as loans from the Consolidated Fund shall be shown in the public accounts as an asset of the Consolidated Fund until recovery has been effected.

(6) All interest on any loans granted from the Consolidated Fund shall be paid into the Consolidated Fund as revenue and all recoveries shall also be paid into the Consolidated Fund.

38. (1) Parliament may authorise the Minister to provide for, acquire by agreement, or purchase all or part of the equity capital of any company or other organisation on grounds of public policy from the Consolidated Fund. Equity investments from Consolidated Fund.

(2) The Minister shall, when annual estimates are being submitted for approval by Parliament, include for approval a schedule of the equity investments to be made or sold or otherwise disposed of during the year.

(3) The amounts issued for provision, acquisition or purchase of equity investments from the Consolidated Fund shall each be shown in the public accounts as an asset of the Consolidated Fund until the asset has been sold or otherwise disposed of by authority of Parliament.

(4) Any profits and dividends or proceeds of sales arising from any equity investments shall, subject to the regulations relating to the right of such investments, be paid into the Consolidated Fund.

(5) A detailed statement of Government's equity investments shall be reported annually in the annual statement of public accounts.

39. Pursuant to section 116 of the Constitution, the Minister may establish a Contingencies Fund which shall consist of not more than ten per cent of the estimated recurrent revenue in the relevant financial year which sum shall, under this Act be appropriated out of the Consolidated Fund. Contingencies Fund.

Authorisation of issue of sums from Contingencies Fund.

40. The Minister may authorise the issue from the Contingencies Fund of such sum as may be necessary for expenditure upon any service which cannot, without serious injury to the public interest, be postponed until provision can be made by a Supplementary Appropriation Act:

Provided that the Minister shall not, without the approval of Parliament authorise the issue of any sum or sums which would reduce the balance remaining in the Fund to not less than two and a half percent of the recurrent revenue in the relevant financial year.

Payment from Contingencies Fund into Consolidated Fund.

41. The amount withdrawn from the Contingencies Fund shall be paid into the Consolidated Fund and the moneys remaining available in the Contingencies Fund shall be reduced accordingly.

Heads of expenditure to be specified in requisition.

42. Each requisition authorising the issue of a sum from the Contingencies Fund shall specify the head or heads of the expenditure estimates under which the expenditure of the sum issued shall be recorded and such expenditure shall be accounted for in the same manner as if it had been authorised by a Supplementary Appropriation Act.

Replacement of sums issued from Contingencies Fund.

43. (1) Subject to the Constitution, all withdrawals shall be reported to Parliament within fourteen days and Parliament shall be asked to appropriate from the Consolidated Fund to the Contingencies Fund a sum equal to the total of the sums withdrawn and not already made good by previous appropriation from the Consolidated Fund so that the Contingencies Fund shall be restored to the amount appropriated under section 39.

(2) Appropriation to the Contingencies Fund shall be effected by inclusion in a Supplementary Appropriation Act and the sums included in accordance with this section shall be set out separately from any sums it is sought to appropriate on the presentation of either the annual estimates or supplementary estimates.

44. No moneys shall accrue to the Contingencies Fund other than moneys appropriated by an Act and any interest or other accruals which might otherwise be received by that Fund shall be paid into the Consolidated Fund.

Accruals and investments.

45. (1) Subject to this Act, the head of a budgetary agency shall be the vote controller of that agency but the Minister may appoint the head of an establishment to which a division of expenditure is applied to be a vote controller for that establishment.

Vote controllers.

(2) Every vote controller shall comply with any financial instructions or directions given by the Minister or the Accountant-General and any regulations made under this Act in respect of the custody and handling of and the accounting for public money, public stores, stamps, investments, securities or negotiable instruments, whether the property of the Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or to any other person.

46. (1) Subject to the general direction and control of his Minister, the vote controller shall control and be accountable for the expenditure of money applied to the appropriate expenditure head or division, as the case may be, by an Appropriation Act and for all public moneys received, held or spent by or on account of the budgetary agency for which the expenditure head or division provides.

Functions of vote Controllers.

(2) Without prejudice to the generality of subsection (1), it shall be the function of a vote controller to—

- (a) advise his Minister concerning the requirements of this Act or any other enactment relating to financial propriety;
- (b) maintain efficient systems of financial management and control;

- (c) ensure that value for money is obtained on use of public funds;
- (d) ensure effective internal audit and the operation of an audit committee;
- (e) operate open, competitive and transparent procurement;
- (f) ensure sound evaluation of projects;
- (g) promptly settle contractual obligations;
- (h) manage departmental assets in accordance with the law;
- (i) collect departmental revenues efficiently;
- (j) report promptly to his Minister or other appropriate authority or both instances of fraud and corruption;
- (k) initiate the disciplining of staff who contravene the law;
- (l) submit timely financial reports;
- (m) cooperate with the Accountant-General's staff in compiling annual accounts on time;
- (n) promptly answer all audit queries;
- (o) chair the budget committee of his agency or establishment; and
- (p) maintain records to show achievement of budgeted activities and projects.

(3) A vote controller may delegate the functions conferred on him to any public officer under his control and he shall give such directions as may be necessary for the proper exercise or performance of such functions.

(4) A vote controller shall, if so required by the Minister, define the extent to which the functions conferred on him are being exercised or performed by a public officer under the vote controller's control.

(5) The delegation of any functions under subsection (3) shall not relieve the vote controller of any personal accountability or responsibility.

47. (1) The authorisation for expenditure conveyed by an approved budget shall lapse on the 31st December. Termination of authority to spend.

(2) Revenues received after 31st December on account of the financial year concluded shall not be disbursed, but instead they shall be recorded as revenues of the budget for the following financial year; and any unpaid expenditure should be paid from the following year's appropriations.

48. A supplementary estimate under subsection (3) (b) (ii) of section 111 of the Constitution shall be submitted to Parliament subject to subsection (3) of section 112 of the Constitution and shall be appropriated by a Supplementary Appropriation Act under subsection (4) of section 112 of the Constitution. Supplementary estimates and Supplementary Appropriation Bill.

PART VI—GOVERNMENT BORROWING AND DEBT MANAGEMENT

49. (1) Pursuant to section 118 of the Constitution, the Government may borrow money by or under the authority of an Act of Parliament. Government borrowing.

(2) The purposes for which Government may borrow money are—

- (a) to finance budget deficits;
- (b) to refinance maturing debt or a loan paid before a redemption date;
- (c) to obtain foreign currency; and
- (d) to maintain credit balances on treasury main account.

(3) The Minister shall maintain a detailed record of the public debt including guarantees in favour of third parties as well as loans granted by the Government.

(4) It shall be lawful for the Government, where the lender is agreeable—

- (a) to repay a loan prior to its date of repayment;
- (b) to renegotiate the terms and conditions of the loan; or
- (c) to convert a loan from one form into another.

(5) The terms and conditions of a loan shall be published by the Minister by Government Notice for general public information.

PART VII—GOVERNMENT ACCOUNTS

Public accounts and departmental accounts.

50. (1) The documents and records pertaining to public moneys received into, and held in and paid out of the Consolidated Fund shall be termed “the public accounts” and shall be kept by the Accountant-General.

(2) The documents and records pertaining to the collection of revenue, the control of expenditure, the administration of trust funds, management of government stores and such other financial business as may be made the responsibility of budgetary agencies shall be termed departmental accounts and shall be kept by vote controllers.

Basis of public accounts.

51. (1) Except as provided for by this or any other enactment, only moneys received by, held in or paid out of the Consolidated Fund shall be recorded in the public accounts.

(2) Where any loss or deficiency, over-payment, surcharge or other recovery is held to be due from any person, the Accountant-General may charge that amount to an advance account in the name of the person and credit the account to which such recovery is due.

(3) Where the Government has received a loan by way of deferred payment under section 71 such loan shall be recorded as public debt against a charge to an appropriation.

(4) Where financial adjustments are required between Government departments, the Accountant-General may, against a duly certified requisition, cause entries to be made to give effect to a transfer of moneys.

52. (1) Except as provided in this section, the public accounts shall be classified and arranged in the same form as the budget approved by Parliament. Classification of public accounts.

(2) The Minister may, by regulations, authorise the exclusion of minor budgetary classifications from separate recording in the public accounts.

(3) The Minister may, by regulations, require a class of transactions to be recorded in greater detail in the public accounts.

(4) No business shall be transacted within any classification of the public accounts until the Accountant-General has first assigned an account to that classification.

53. (1) The vote controller of a budgetary agency shall, within ten days after the end of each month, submit to the Financial Secretary, in the prescribed form, information on actual revenue and expenditure for the preceding month and the amounts anticipated to be collected or expended for that month. Monthly and quarterly budget reporting.

(2) The Minister shall submit a summary of government receipts and payments on a quarterly basis to Parliament not later than one month after the end of each quarter.

54. (1) Where the transactions of each month have been duly recorded in the public accounts, the Accountant-General shall draw up and sign a monthly statement of the public accounts and publish such statement by Government Notice. Monthly statement of public accounts to be published.

(2) The monthly statement of the public accounts shall consist of—

- (a) a statement of the financial assets and liabilities (including contingent liabilities) of the Consolidated Fund at the close of the month compared with the corresponding figures for the same date in the year previous to the date of the statement;
- (b) statements of receipts into and the payments out of the Consolidated Fund for the month and for the financial year up to the end of that month as compared with budgetary estimates for the year.

(3) The financial assets and liabilities of the Consolidated Fund shall consist of —

- (a) the following financial assets namely:—
 - (i) cash in the hands of treasury officers or in bank accounts operated by them or in transit between treasury officers or held by other agents on behalf of the Consolidated Fund and the Contingencies Fund;
 - (ii) securities held on behalf of the Government or special funds;
 - (iii) advances from the Consolidated Fund;
 - (iv) loans from the Consolidated Fund;
 - (v) equity investments of the Consolidated Fund; and
 - (vi) any accumulated deficit of revenue and expenditure of the Consolidated Fund; and

(b) the following financial liabilities, namely:—

- (i) trust moneys held and administered by Government;
- (ii) the public debt, distinguishing between short, medium and long term liabilities and between domestic and foreign debt;
- (iii) accumulated surplus of revenue and expenditure of the Consolidated Fund;
- (iv) balance on the Contingencies Fund;
- (v) balances on other special funds.

55. (1) At the close of business of the last working day of each financial year, all appropriations, warrants and authorizations for expenditure shall lapse and all treasury cash accounts shall be balanced off and no further cash disbursements shall be made. Closure of public accounts.

(2) All subsequent cash transactions shall form part of the public accounts of the new financial year.

(3) Except as provided in any enactment, no moneys shall be transferred from an appropriation to a deposit account or to any other agency for the purpose of meeting payments after the close of a financial year.

(4) Where any payment has been properly charged to an advance account before the end of the financial year, or has been incorrectly charged to an appropriation account, the Accountant-General may adjust such payments to the correct appropriation account after the end of the financial year as if the expenditure authorisations had not lapsed.

(5) Two weeks before the end of the financial year, the Accountant-General shall inform the vote controllers of the date of final closure of the accounts and the vote controllers shall ensure that their own accounts are in agreement with the public accounts before the date of final closure.

(6) On the date of the final closure of the public accounts, the Accountant-General shall close all revenue and expenditure accounts for the financial year by transferring the balances on these accounts to the general revenue balance of the Consolidated Fund

Annual financial statements by vote controllers.

56. Every vote controller shall, within one month after the end of the financial year prepare financial statements for that year, in accordance with generally recognised accounting practice approved by the Auditor-General, and submit them to the Accountant-General to enable him to consolidate and prepare the annual accounts of the Government.

Annual statement of public accounts.

57. (1) As soon as the public accounts of the financial year have been closed, and not later than three months after the end of that financial year, the Accountant-General shall draw up and sign an annual statement of public accounts which, together with his annual report on the public accounts, he shall submit to the Minister.

(2) Upon receipt of the annual statement of accounts, the Minister shall lay a copy before Parliament and transmit a copy to the Auditor-General for audit.

(3) The Speaker of Parliament shall, after consultation with the Minister, ensure that the Auditor-General's copy of the statement of accounts is transmitted to him within the period of three months specified in subsection (1).

(4) The report shall review the transactions of the financial year, drawing attention to significant features and making comparisons with previous years and shall include information as may be required by this or any other enactment, or as may be requested by Parliament.

(5) The annual statement of public accounts shall include—

- (a) details of revenues and expenditures according to the appropriation structure, and comparative figures for the previous year and budgeted amounts for the current year;

(b) a balance sheet showing the assets and liabilities of the Consolidated Fund, with qualifying information on the significance of the figures shown;

(c) a summary statement of the receipts into and payments out of the Consolidated Fund, showing revenues, other receipts, expenditures, and financing of the Fund for the financial year;

(d) a summary of the amounts of outstanding public debt, both external and domestic, at the end of the financial year, shown in terms of debt instruments and debt holders;

(e) a statement of amounts guaranteed by the Government at the end of the financial year in respect of loans and other contingent liabilities;

(f) a summary of outstanding loans at the end of the financial year granted by the Government;

(g) a summary statement of revenue arrears to be collected by each budgetary agency;

(h) a summary statement of expenditures of unallocated expenditure head, as stipulated in subsection (4) of section 25;

(i) a summary statement of investments made from the Consolidated Fund;

(j) a summary statement of unpaid commitments outstanding for the supply of goods and services for each vote at the end of the financial year;

- (k) a summary statement of stores and other assets for each vote; and
- (l) such other information as may be prescribed by the Minister.

(6) As soon as possible after the report and annual statement of public accounts are submitted to the Auditor-General, the Accountant-General shall cause them to be published for the general public information.

(7) On publication, copies of the report and annual statements shall be deposited with institutions of higher learning and public archives.

Qualifying information.

58. (1) The Accountant-General shall include, in any report prepared under section 57, any financial information known to him that materially affects the significance of the figures presented in the annual statements of the public accounts and which is not otherwise required to be recorded in the public accounts.

(2) Without prejudice to the generality of subsection (1), such information shall include—

- (a) the contingent liabilities of the Consolidated Fund;
- (b) the market value of securities;
- (c) subscriptions to international organisations;
- (d) revenue due but uncollected, commitments undischarged, bills unpaid and stocks held as reported by vote controllers at the end of the financial year.

(3) Where the financial information referred to in subsection (1) is required to be furnished by vote controllers by or under this Act or any other enactment, the Accountant-General shall not delay the presentation of his report by reason of their failure to do so.

(4) Where such financial information is not complete by reason of the failure of vote controllers to furnish information, the Accountant-General shall state this fact in his report and inform the Minister of the names of the vote controllers concerned.

59. (1) The report and annual statement of the public accounts drawn up and signed by the Accountant-General shall contain a note to the effect that such report and annual statement are presented before audit examination has been completed and are issued subject to any observations contained in the report of the Auditor-General for that financial year.

Certification of public accounts.

(2) Where the audit of the annual statement has been completed, the Auditor-General shall certify not later than three months thereafter a copy of the statement of all financial assets and liabilities signed by the Accountant-General to the effect that the statement and other statements of the public accounts have been examined and that in the opinion of the Auditor-General they give a true and fair account of the financial position of the Consolidated Fund subject to any observations that might be contained in the Auditor-General's report on the public accounts for the financial year.

(3) This certified copy of the statement of financial assets and liabilities shall be bound, submitted and published with the Auditor-General's report on the public accounts and shall signify the completion of the accounts of that financial year.

Charges to general revenue balance.

60. (1) Parliament may, upon the recommendation of the Minister, approve the direct adjustment of any financial assets or liabilities of the Consolidated Fund to or from the general revenue balance of that Fund.

(2) Any adjustments referred to in subsection (1) shall be noted and explained in the report and annual statement of the public accounts for the year in which they occur.

Responsibility of accounting officers.

61. The responsibility of the Auditor-General for examining and certifying the public accounts, or for auditing other Government accounts does not relieve any officer responsible for the keeping or rendering of such accounts from his duty to comply and to ensure the compliance of his subordinates with the provisions of this or any other enactment or with any regulations made or directions issued thereunder.

PART VIII—AUDIT OF ACCOUNTS

Audit of public accounts.

62. (1) Upon receipt of the statement of annual accounts from the Minister under subsection (2) of section 57, the Auditor-General shall examine the statement of annual accounts and submit his report to Parliament in accordance with section 66.

(2) The Auditor-General, for the performance of his functions under this Act, shall station in any budgetary agency any person employed in his office to make him more effective in carrying out his duties, and such agency shall provide the necessary office accommodation and other facilities for any such officer so stationed.

(3) The Auditor-General shall require every person employed in his office who is to examine accounts of a budgetary agency under this Act to comply with any security arrangements applicable and to take any oath of secrecy required to be taken by the agency and every such person shall comply with the requirement, except that, no such requirement shall prevent that person from carrying out his statutory functions.

63. (1) In his examination of the annual accounts, the Auditor-General shall ascertain whether in his opinion –

Responsibility of Auditor-General.

- (a) the accounts have been properly kept;
- (b) all public moneys have been fully accounted for, and the rules and procedures applicable are sufficient to secure an effective check on the assessment, collection and proper allocation of the revenue;
- (c) moneys have been expended for the purposes for which they were appropriated and the expenditures have been made as authorised and that departments or budgetary agencies have adhered to the law relating to procurement;
- (d) essential records are maintained and the rules and procedures applied are sufficient to safeguard and control public property, and
- (e) financial business has been conducted with due regard to economy in relation to the results achieved.

(2) The Auditor-General shall examine and certify in accordance with the outcome of his examination the several statements required under sections 54 and 56 to be included in the public accounts and any other statement that the Minister may either present for audit certification or be required under any other enactment to be certified by him.

Disallowance and surcharge by Auditor-General.

64. (1) The Auditor-General shall draw the attention of the appropriate authority to any irregularity disclosed during the examination of the accounts as soon as the facts of such irregularity have been established and confirmed.

(2) The Auditor-General shall as a result of the audit conducted by him, make such queries and observations addressed to the Accountant-General or any other person and call for such accounts, vouchers, statements, documents and explanations as he may think necessary.

(3) Every query or observation under subsection (2) received by the Accountant-General or any other person shall, within thirty days after its receipt by that person, be returned by him, with the necessary reply to the Auditor-General.

(4) In the performance of his functions under this Act or any other enactment, the Auditor-General may disallow any item of expenditure which is contrary to law and may surcharge –

- (a) the amount of any expenditure disallowed upon the person responsible for incurring or authorising the expenditure; or
- (b) any sum which has not been duly brought into account upon the person by whom the sum ought to have been brought into account; or
- (c) the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred.

(5) The Auditor-General shall specify the appropriate vote controller, the amount due from any person on whom he has made a surcharge and the reasons for the surcharge and shall report the circumstances of the case to the Minister.

(6) Every sum specified under subsection (5) by the Auditor-General to be due from any person shall be paid by that person to the department, or institution, as the case may be, within thirty days after it has been so specified.

(7) Any person aggrieved by a disallowance or surcharge made by the Auditor-General may appeal to the High Court not later than the expiration of the period of thirty days prescribed in subsection (6).

Act No. 1 of 1998. (8) Subject to section 17 of the Audit Service Act, 1998, any sum which is lawfully due under this section shall, on civil proceedings taken by or in the name of the Accountant-General in a court of competent jurisdiction, be recoverable as a civil debt:

Provided that where the person surcharged is in receipt of any remuneration from the Government or any institution, such remuneration shall be attached to the extent of the sum lawfully due.

(9) In any proceedings for the recovery of any sum due under this section, a certificate signed by the Auditor-General shall be *prima facie* evidence of the facts certified.

(10) The Auditor-General may, at any time, revoke any surcharge made under this section.

(11) The Auditor-General may examine any person on oath on any matter appertaining to any account subject to audit by him.

65. Without prejudice to any other provisions of this Act, every person who fails or refuses to reply to an audit query or observation within the appropriate period specified in subsection (3) of section 64 shall, if the Auditor-General so directs, have his emoluments and allowances withheld for so long as the officer fails to reply.

Failure to answer audit query may result in withholding of emoluments and allowances.

Auditor-General to submit annual report to Parliament.

66. (1) The Auditor-General shall, within twelve months of the end of the immediate preceding financial year submit his report to Parliament and shall, in that report, draw attention to irregularities in the accounts audited and to any other matter which in his opinion ought to be brought to the notice of Parliament.

(2) Without prejudice to the generality of subsection (1), the Auditor-General shall call attention to every case in a report thereunder in which he has observed that—

- (a) any officer or employee has wilfully or negligently omitted to collect or receive any public moneys belonging to Government;
- (b) any public moneys were not duly accounted for and paid to the credit of the Consolidated Fund or other public account;
- (c) any appropriation was exceeded or was applied to a purpose or in a manner not authorised by law;
- (d) an expenditure was not so authorised or was not properly vouched or certified; or
- (e) there has been a loss or deficiency through the fraud, default or mistake of any person.

(3) Parliament shall consider the report of the Auditor-General and either refer it to the Public Accounts Committee or any other committee in the public interest, to deal with any matters arising therefrom and such committee shall review the Auditor-General's report and publish its own report.

(4) Nothing in this section shall prevent the Auditor-General from submitting a special report for tabling in Parliament on matters that should not await disclosure in the annual report.

67. The Auditor-General may, whenever the Minister or Parliament so requires, and may, of his own motion, inquire into and report on any matter relating to—

Parliament may request Auditor-General to audit.

- (a) the financial affairs of the Government or any public property; and
- (b) any person or organisation in receipt of financial aid from the Government or in respect of which financial aid from the Government is sought.

PART IX—GOVERNMENT STORES

68. Every Government department shall maintain adequate records of stores and the Minister may make regulations or orders governing the acquisition, receipt, issue, custody and control of such stores.

Government stores.

69. (1) Every person shall be personally responsible for the proper custody, care and use of government stores under his control.

Responsibility for government stores.

(2) A vote controller shall be responsible for the general supervision and control of all government stores held within the budgetary agency under him and for the due performance of their duties by his subordinate staff in relation thereto.

70. (1) Except as provided in subsections (2) and (4), no order for government stores shall be placed except upon a requisition for payment made under Part V, and no such order shall be valid unless it has been certified by the Accountant-General to the effect that there is a sufficient unencumbered balance available out of the appropriation to discharge any commitments under such order that may come in course of payment during the financial year in which the order is made.

Orders for government stores.

(2) All orders shall be made in sufficient time to allow for delivery and payment within the course of the financial year in which it is made and the Accountant-General shall not certify such order if he is satisfied that this requirement may not be fulfilled.

Terms of payment for government stores.

71. (1) Except in accordance with an agreement approved by the Cabinet upon the recommendation of the Minister, no Government stores shall be purchased upon terms that provide for deferment of payment beyond the limits of ordinary credit sales or that provide for the payment of interest or any other consideration beyond the price of the stores.

(2) Any transaction providing for the deferment of payment or the payment of interest shall be deemed to be a loan of money and shall accordingly be subject to the provisions of this Act or any other enactment on loans already in force.

(3) Any loan arising from the deferred payment for government stores shall be included in the public accounts.

(4) Where the period of deferment exceeds three months, such transaction shall be deemed to be a transaction to which subsection (2) applies.

Transfer of Government stores.

72. Subject to any other enactment, no transfer, lease, loan or sale of Government stores shall be made to any person except by or under the authority of this Act.

Discharge of accountability for government stores.

73. (1) All vote controllers shall be accountable for all government stores from the time of acquisition to the time they are of no further use or value to Government.

(2) Accountability shall be deemed to have been discharged when Government stores have been—

(a) consumed in the course of public business and records are available to show that Government stores have been so consumed;

(b) worn out in the normal course of public business and deletion from the accounts has been approved by the Minister, and such stores have been disposed of in accordance with his directions;

(c) transferred under section 72;

(d) lost, stolen, destroyed, damaged or rendered unserviceable by other than fair wear and tear, and deletion from the accounts has been approved by the proper authority.

(3) The Minister may, by regulations delegate his powers of deletion and disposal under paragraph (b) of subsection (2) to any other Minister or principal officers and such delegated powers shall be personally exercised by such persons.

(4) If the Minister is satisfied that the retention of any government stores is no longer in the public interest, he may authorise disposal of such stores in accordance with section 72, subject to any regulations governing such disposal.

(5) The authority for deletion from the accounts in cases falling within paragraph (d) of subsection (2) is vested in Parliament and Parliament may approve the exercise of such authority by the Minister or, such other principal officer or vote controller as the Minister may nominate, and such delegated powers shall be personally exercised by the nominees.

(6) All deletions from the accounts under subsection (5) shall be reported in the annual financial statements of the departments concerned in such manner as regulations made under this Act may prescribe.

Inspection and verification.

74. (1) The Minister may appoint officers to examine departmental records, accounts and procedures relating to government stores and to verify stocks and to report to the Minister thereon through the Accountant-General.

(2) Any officer appointed under subsection (1) shall have access to records, subject to the same limitations as is provided for the Accountant-General and his staff under subsection (4) of section 9.

(3) In so far as work of any officer so appointed involves the design, management and inspection of stores accounts, that officer shall act after consultation with, and under the supervision of the Accountant-General.

Operation of revolving fund.

75. (1) Subject to this section, when Parliament has authorised any department to operate a revolving fund for the purpose of acquiring and managing stores or for manufacturing, producing, processing or dealing in stores or materials and has fixed the amount that may be charged to the revolving fund at any time—

- (a) payment may be made out of the Consolidated Fund for such purposes, subject to such terms as Parliament may direct; and
- (b) the Accountant-General shall keep an account to which shall be charged –
 - (i) the cost of such of the stores or materials on hand in the department at the time the revolving fund is established as the Minister may specify; and
 - (ii) the payments made under paragraph (a).

(2) There shall be shown as credits in the account kept under paragraph (b) of subsection (1)—

- (a) all moneys received into the Consolidated Fund in respect of the operations of the revolving fund; and
- (b) amounts charged to appropriations as the reimbursements of costs charged to the revolving fund of the stores or materials issued or work performed in respect of services for which the appropriations were made.

(3) Any payment made out of the Consolidated Fund under subsection (1) together with the balance of the revolving fund shall not be greater than the amount fixed by Parliament as the amount that may be charged to the revolving fund at any time or such lesser amount as Parliament may prescribe.

(4) At the end of each financial year, the value of the stores and materials held, and accounts receivable in respect of the operation of a revolving fund shall be determined in such manner as the Minister may prescribe by regulations, and if such value added to the receipts shown in the revolving fund exceed the total of the expenditure shown in such fund and liabilities in respect of the operations of the fund then due and payable, the excess shall be transferred into revenue, but if the value is less, no amount may be credited to the revolving fund to meet the deficiency except with the authority of Parliament.

(5) All accounting transactions with respect to a revolving fund under this Part shall be recorded at cost but for the purpose of valuing stores or materials on hand at the time the revolving fund is established and of valuing inventories and issues of stores and materials, cost may be determined in accordance with such recognised accounting practices as the Minister may direct.

(6) For the purposes of this section “balance of the revolving fund” means, the aggregate of all payments charged to the revolving fund, less all credits to the revolving fund.

PART X—LIABILITY AND OFFENCES

Liability for keeping public money.

76. (1) Where the Accountant-General has reason to believe that any person –

- (a) has received money for the Government and has not duly paid it over;
- (b) has received money for which he is accountable to the Government and has not duly accounted for it; or
- (c) has in his hands any public money applicable to any purpose and has not duly applied it;

he may cause a notice to be served on such person or on his personal representative in case he dies, requiring that person or his personal representative, within such time from the serving of the notice as may be specified therein, duly to pay over, account for, or apply such moneys, as the case may be, and to transmit to the Accountant-General satisfactory evidence that he has done so.

(2) Where a person fails to comply with a notice served on him under subsection (1) within the time stated therein, the Accountant-General shall cause to be stated an account between such person and the Government, showing the amount of money not duly paid over, accounted for or applied, as the case may be, and charging interest at the prevailing bank rate from the date the amount became due.

(3) In any proceedings for the recovery of any moneys due under this section, a copy of the account so stated by a person authorised in that behalf by the Accountant-General shall be *prima facie* evidence that the amount stated therein, together with interest, is due and payable to the Government.

(4) Where it appears–

- (a) by the books of account kept by or in the office of any person employed in the collection or management of public moneys; or
- (b) in any accounting by a person under paragraph (a); or
- (c) by his written acknowledgement or confession that any person has, by virtue of his office or employment received moneys belonging to the Government and has refused or neglected to pay over such moneys to the proper persons at the proper times;

an affidavit deposing to such facts, made by any person having knowledge thereof, and in an appropriate position to make such deposition, shall in any proceedings for the recovery of such moneys be received in evidence and shall be *prima facie* evidence of the facts stated therein.

(5) Where by reason of any misconduct, neglect of duty or negligence by any person employed in the collection or receiving of any public moneys, any sum of money is lost to Government, such person shall be accountable for such sum as if that person had collected or received that sum which may, accordingly, be recovered from him as if he collected or received that money.

(6) The provisions of this section shall, with the necessary modifications, apply to government stores or the value thereof, where appropriate, as they apply to Government moneys.

77. (1) Every officer or person acting in any office or employment connected with the collection, management or disbursement of public moneys or with the control of Government stores who– Offence and penalty.

- (a) receives any compensation or reward for the performance of any official duty, except for authorised incentives or bonuses as by law prescribed;
- (b) conspires with any other persons to defraud the Government, or makes opportunity for any person to defraud the Government;
- (c) knowingly permits any violation of the law by any other person;
- (d) wilfully makes or signs any false entry in any book or wilfully makes or signs any false certificate or returns in any case in which it is his duty to make an entry, certificate or return;
- (e) having knowledge or information of the violation of any financial law by any person, or fraud committed by any person against the Government under any law relating to public finance, fails to report such knowledge to this superior officers; or
- (f) demands or accepts or attempts to collect, directly or indirectly, as payments or gifts or otherwise, any sum of money, or other thing of value, for the compromise, adjustment or settlement of any charge or complaint for any violation of any law relating to public finance;

commits an offence and shall be liable on conviction to a fine of not less than five hundred thousand leones or to imprisonment for a term of not less than two years or to both such fine and imprisonment.

- (2) Every person who—

- (a) promises, offers or gives any money or other valuable consideration to any officer or person acting in any office or employment connected with the collection, management or disbursement of public moneys or the control of government stores with intent—
 - (i) to influence the decision or action on any question or matter that is pending, or may by law be brought before him in his official capacity; or
 - (ii) to influence any officer or person to commit or aid and abet any such person in committing any fraud on the Government; or
 - (iii) to commit, participate in or allow or cause any opportunity for the commission of such fraud; or
- (b) accepts or receives any such money or valuable consideration,

commits an offence, and shall be liable on summary conviction to a fine not exceeding fifty times the amount so offered or accepted or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

PART XI—MISCELLANEOUS

78. All books, papers, accounts or documents kept or used by or received or taken into the possession of any person who is or has been employed in the collection or management of revenue by virtue of that employment, shall be deemed to be property belonging to the Government and all moneys or valuable securities received or taken into the possession of any such officer or person by virtue of his employment shall be deemed to be moneys and valuable securities belonging to the Government.

Government property.

Deductions from moneys due by Government.

79. (1) Where in the opinion of the Minister after consultation with the Attorney-General and Minister of Justice any person is indebted to the Government, in any specific sum of money, the Minister may authorise the retention by way of deduction, set off of the amount of any such indebtedness out of any sum of money that may be due or payable by the Government to any such person.

(2) Notwithstanding subsection (1), the Accountant-General, or any other head of department shall recover any overpayment made out of the Consolidated Fund on account of salary, wages and allowances out of any sum of money that may be due or payable by the Government to the person to whom such overpayment was made.

(3) Where an amount of more than ten thousand leones is due from the Consolidated Fund to any individual or body of persons, no payment shall be made unless there is produced to the paying officer a certificate issued by the Commissioner-General of the National Revenue Authority showing that no tax is due from such individual or body of persons or that satisfactory arrangements have been made for payment of any tax due by such individual or body of persons.

Transfer of Government property.

80. No transfer, lease or loan of property owned by the Government shall be made to any person except in accordance with the appropriate law for the time being in force.

Government cheques.

81. No bank shall make a charge for cashing a cheque or other instrument drawn on the account of the Government in the Bank of Sierra Leone or any other bank or for cashing any other instrument issued as authority for the payment of money out of the Consolidated Fund or any other public fund, or in respect of any cheque or other instrument drawn in favour of the Government or any Ministry or any public officer in his official capacity and tendered for deposit to the credit of the Government.

82. The Minister may make regulations generally for carrying out the purposes of this Act. Regulations.

83. (1) The Public Budgeting and Accounting Act, 1992 is hereby repealed. Repeal of Act No.1 of 1992 and savings.

(2) All regulations, orders, rules and instructions relating to the administration of public finance and government stores in force immediately before the commencement of this Act and not inconsistent therewith, shall continue to be in force until such regulations, orders, rules or instructions are expressly amended, revoked or replaced under this Act.

(3) Any enactment in force immediately before the commencement of this Act to the extent that its provisions are not in conflict with this Act shall have effect and continue in force subject to such modifications as may be necessary to give effect to this Act.

Passed in Parliament this 3rd day of *February*, in the year of our Lord two thousand and five.

J. A. CARPENTER,
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correct printed copy of the said Bill.

J. A. CARPENTER,
Clerk of Parliament.