



TURKS AND CAICOS ISLANDS

CHAPTER 19.18
PUBLIC FINANCE
MANAGEMENT ORDINANCE
and Subsidiary Legislation

Revised Edition
showing the law as at 31 March 2021

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance.

This edition contains a consolidation of the following laws—

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CHAPTER 19.18

PUBLIC FINANCE MANAGEMENT ORDINANCE

(Ordinances 6 of 2012, 9 of 2016, 10 of 2017 and 4 of 2018)

AN ORDINANCE TO REPEAL AND REPLACE THE FINANCE AND AUDIT ORDINANCE, TO PROVIDE FOR THE MANAGEMENT OF PUBLIC FUNDS OF THE ISLANDS, THE APPROPRIATION, WITHDRAWAL AND ISSUE OF SUMS THEREFROM, THE AUDIT OF PUBLIC ACCOUNTS, AND FOR CONNECTED PURPOSES

Commencement

[1 April 2012]

PART I

PRELIMINARY

Short title

1. This Ordinance is cited as the Public Finance Management Ordinance.

Interpretation

2. In this Ordinance—

“Accountant General” means the person appointed pursuant to section 123 of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*

“accounting officer” means a person designated as an accounting officer under section 123(3) of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*

“Appropriation Ordinance” means any Ordinance to apply a sum of money out of the Consolidated Fund to the service of a financial year;

“Audit Committee” means a committee to oversee internal audit, governance and risk management and to ensure audit recommendations are implemented;

“Auditor General” means the person appointed as such under section 91(1) of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*

“bill” means a Treasury bill issued under section 29 and in accordance with Schedule 1;

“bond” means a bond issued under section 29 and in accordance with Schedule 1;

“Budget Director” means the person appointed to this position within the public service;

- “budget documents” means the estimates and other document required to be laid before the House of Assembly under section 115 of the Constitution;
(Amended in Revised Edition 2014 pursuant to amendments in s. 67(3) of Ord. 6 of 2012)
- “chief executive” means the person who has responsibility for managing the affairs of a statutory body;
- “Chief Internal Auditor” means the person appointed as such under section 13;
- “commitment” means future expenses and liabilities incurred whether by contract or otherwise;
- “Consolidated Fund” means the Consolidated Fund of the Government of the Islands established under section 112 of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*
- “Constitution” means the Constitution of the Turks and Caicos Islands set out in Schedule 2 to the Turks and Caicos Islands Constitution Order 2011 *(S.I. 2011 No.1681); (Inserted by s. 67(3) of Ord. 6 of 2012)*
- “Contingencies Fund” means the Contingencies Fund established by section 7;
- “Contingencies Warrant” means a warrant issued by the Minister pursuant to section 118 of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*
- “Contingent liability” means a liability that will necessarily arise or come into being if one or more certain events occur or do not occur;
- “department of Government” means any department of the Government by whatever name called and any other division of the administration of the Islands that the Governor, acting in his or her discretion, may designate by directions in writing;
- “Development Fund” means the Development Fund established by section 5;
- ”expenditure vote” means a group of estimates for which an appropriation is made by an Appropriation Ordinance or Supplementary Appropriation Ordinance;
- “financial year” means a period of twelve months ending on 31 March in any year;
- “framework document” means the framework document currently in force published pursuant to 109 of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*
- “generally accepted accounting practice” means accounting practices and procedures recognised by the accounting profession in the Islands and approved by the Accountant General as appropriate for reporting financial information relating to Government, a department, a fund or a statutory body;
- “House of Assembly” means the House of Assembly of the Islands;
- “indicators” means measures such as numerical ceilings and proportions to gross domestic product for the purpose of evaluation of the state of the economy of the Islands or the fiscal position of Government;

- “information” includes accounts;
- ”internal audit” means the function that through an independent and objective assessment assists Government in the achievement of its objectives by measuring, evaluating and reporting on the effectiveness of its risk management, control, and governance processes, including the efficacy of the system of internal control used to ensure the validity of financial and other information;
- “internal control” means a set of systems to ensure that financial and other records are reliable and complete and which ensure adherence to the entity's management policies, the orderly and efficient conduct of the entity, and the proper recording and safeguarding of assets and resources;
- “International Public Sector Accounting Standards” means the Financial Reporting under the Cash Basis of Accounting (the Cash Basis IPSAS) developed by the International Public Sector Accounting Standards Board (IPSASB); (*Inserted by Ord. 9 of 2016*)
- “lifetime value”, in respect of a project, means the discounted net present value of the project calculated using an approved rate at the time of contract or service engagement;
- “loan” means any money lent or given to or by the Government on condition of return or repayment and any other form of borrowing or lending in respect of which—
- (a) moneys from the Consolidated Fund or any other public fund may be used for payment or repayment; or
 - (b) moneys from any fund by whatever name called, established for the purpose of payment or repayment whether in whole or in part and whether directly or indirectly, may be used for payment or repayment;
- “Minister” means the Minister responsible for finance;
- “outputs” means goods produced or services provided;
- “project” includes any contract for the supply of goods or services;
- “Public Accounts Committee” means the Committee established under section 122 of the Constitution; (*Amended by s. 67(3) of Ord. 6 of 2012*)
- “Public Finance Initiative (PFI)” means a PPP where one or more of the private sector bodies will be funding the whole or part of the cost of the project;
- “public moneys” or “public funds” means—
- (a) the public revenues of the Government; and
 - (b) any trust or other moneys held, whether temporarily or otherwise, by a person who may or may not be a public officer, in his or her official capacity, either alone or jointly with any other person;
- “public officer” means the person holding or acting in an office in the public service and includes a Minister;

- “Public Private Partnership (PPP)”, in respect of a project, means a project that will be carried out by the Government or by a statutory body with one or more private sector bodies;
- “public property” means resources owned by the Government or in the custody or care of the Government;
- “public stores” means the chattels of whatsoever nature or property of or in possession of or under the control of the Government;
- “regularity” means the requirement for all items of expenditure and receipts to be dealt with in accordance with the legislation authorising them, including this Ordinance and any applicable delegated authority, regulations, directives and instructions issued under this Ordinance;
- “resources” includes moneys, stores, property, assets, loans and investments;
- “responsible Minister”, in relation to a statutory body, means the minister who administers the department or Ministry under which the statutory body falls;
- “Sinking Fund” means the Sinking Fund established by section 6;
- “Statement of Governance Principles” means the statement of governance principles issued under section 28 of the Constitution; (*Amended by s. 67(3) of Ord. 6 of 2012*)
- “statutory body” means a body corporate established under any Ordinance (other than the Companies Ordinance or the National Audit Authorities Ordinance) or any board, body, commission or authority which is not incorporated—
- (a) which is in receipt of a contribution from the public funds of the Islands; or
 - (b) the operations of which may, under the Ordinance establishing the same or under any Ordinance relating thereto, impose or create a liability upon the public funds;
- “statutory expenditure” means expenditure charged on the Consolidated Fund by an Ordinance, but does not include the expenditure of moneys appropriated or granted by an Appropriation Ordinance or Supplementary Appropriation Ordinance; and
- “Supplementary Appropriation Ordinance” means any Ordinance, the purpose of which is to supplement the appropriation already granted by an Appropriation Ordinance.

PART II

FISCAL POLICY DEVELOPMENT AND REPORTING

Part IX of the Constitution

3. Part IX of the Constitution, set out in Schedule 3, shall be read together with this Ordinance.

(Amended by s. 67(3) of Ord. 6 of 2012)

Reporting of fiscal information, performance and projections to the House of Assembly

4. (1) Notwithstanding the reporting requirements set out in section 109(6) of the Constitution in respect of the implementation of any framework document, this section sets out the minimum requirements for the six monthly reports.

(Amended by s. 67(3) of Ord. 6 of 2012)

(2) The Minister shall twice yearly, before 1 June and 1 December, prepare and lay before the House of Assembly for approval a fiscal strategy paper.

(3) The fiscal strategy paper prepared under this section shall identify—

(a) the periods considered by the Minister to be appropriate for the short term and medium term planning of—

(i) fiscal policy; and

(ii) macro-economic policy;

(b) the macro-economic and fiscal policies established under section 109 of the Constitution for the periods identified in paragraph (a) and state how these policies conform with the principles of prudent financial management identified in the framework document or any statement submitted under section 109 of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*

(c) the total of resources to be allocated to the public sector and the appropriate level of resources to be allocated to individual programmes within that sector for the periods identified in paragraph (a);

(d) indicators which the Minister considers will enable an accurate overall assessment to be made of the state of the economy of the Islands;

(e) indicators which the Minister considers will enable an accurate overall assessment to be made of the state of the finances of Government including indicators in respect of—

(i) revenues;

(ii) current and capital expenditures;

(iii) borrowing and debt servicing;

- (iv) contingent liabilities; and
 - (v) such other assets and liabilities that may be considered appropriate by the Minister; and
 - (f) any significant policy changes made since the previous fiscal strategy paper.
- (4) The Minister, in the fiscal strategy paper prepared under subsection (2), shall—
- (a) assess the current and projected finances of the Government;
 - (b) assess the current and projected state of the economy of the Islands;
 - (c) set targets for the indicators in subsection (3) (d) and (e), for the next financial year and the periods determined by the Minister under subsection (3)(a); and
 - (d) compare the projected outcome of the indicators for the current year with the targets set in previous years and indicate the reasons for any significant differences.

PART III

PUBLIC FUNDS

Development Fund

5. (1) There is hereby established a fund to be styled the Development Fund.
- (2) There shall be paid into the Development Fund—
- (a) such moneys as may be appropriated by law out of the Consolidated Fund for the specific purposes of the Development Fund;
 - (b) moneys received from Her Majesty's Government in the United Kingdom by way of grants or loans as development aid;
 - (c) moneys received from any other government, institution, body or person for the purpose of any development scheme, project or programme to be financed from the Development Fund, or generally for the purpose of the Development Fund; and
 - (d) moneys received from the proceeds of loans raised by the Government for any scheme, project or programme to be financed from the Development Fund, or generally for the purpose of the Development Fund.
- (3) The Development Fund shall not form part of the Consolidated Fund and shall be kept in a separate account by the Accountant General.

(4) The Development Fund shall be administered and the expenditure therefrom shall be regulated in accordance with directions issued by the Minister under section 10(4).

(5) Subject to—

- (a) any conditions which may from time to time be made by Her Majesty's Government in the United Kingdom in relation to moneys made available to the Islands by way of grants or loans as development aid;
- (b) any conditions which may be attached by any other government, institution, body or person to the grant or loan of moneys for the purposes of any development scheme, project or programme or generally for the purposes of the Development Fund; and
- (c) such restrictions or limitations as may be imposed by any directions issued under subsection (4) or referred to therein,

the Permanent Secretary, Finance may authorise the investment of moneys held in the Development Fund which are not required for immediate use for development purposes in like manner to that provided by section 23 in respect of the Consolidated Fund.

(6) Subject to the powers given to the Permanent Secretary under subsection (5), any moneys deposited in the Development Fund under this section may only be used for the purpose for which such moneys were received except with the consent of the Governor on the advice of the Cabinet and the donor of such moneys.

Sinking Fund

6. (1) The Governor, acting in his or her discretion, may establish a Sinking Fund for the Islands for the purpose of paying down the public debt into which can be paid any surpluses accrued under the Appropriation Bill referred to in section 109(7) of the Constitution or any Supplementary Appropriation Bill.

(Amended by s. 67(3) of Ord. 6 of 2012)

(2) The surpluses defined in subsection (1) are notwithstanding the reserve requirements under section 109(3)(c) of the Constitution or Contingency Fund requirements provided for under section 7. *(Amended by s. 67(3) of Ord. 6 of 2012)*

(3) The Sinking Fund shall not form part of the Consolidated Fund and shall be accounted for separately by the Accountant General and held in a separate bank account created specifically for the Sinking Fund.

(4) Funds shall be invested on the same basis as the Consolidated Fund under section 23.

(5) Any moneys deposited in the Sinking Fund may only be used for a purpose other than paying down the public debt where the Governor, acting in his or her discretion, determines that this no longer exists.

(6) Notwithstanding subsection (5), moneys shall only be paid out of the Sinking Fund to repay the public debt at or before the time of redemption date,

with the approval of the Governor at his or her discretion, or to transfer funds to a Secretary of State in accordance with any contractual arrangements entered into by the Government.

(7) Notwithstanding subsection (6), the Sinking Fund shall be administered and the expenditure therefrom shall be regulated in accordance with directions issued by the Minister under section 10.

Contingencies Fund

7. (1) The Minister, if he or she is satisfied that there is an urgent and unforeseen need for expenditure for which no provision or insufficient provision has been made by an Appropriation Ordinance or a Supplementary Appropriation Ordinance may, by a Contingencies Warrant under his or her hand and in anticipation of the grant of an appropriation by the Legislature, authorise an advance from the Consolidated Fund to meet that need and shall forthwith report his or her action to the Cabinet.

(2) The amount appropriated for contingencies shall not exceed 3% of the recurrent revenues in any financial year. (*Inserted by Ord. 9 of 2016*)

PART IV

CONTROL AND MANAGEMENT OF PUBLIC FINANCE

Duties, Powers and Responsibilities

Powers and Functions of the Governor

8. (1) The Governor, acting in his or her discretion, may set standards, make regulations or issue instructions for the administration of the public finances where he or she considers standards, regulations or instructions that have been issued by the Minister, Permanent Secretary, Finance or Accountant General under section 10, 11, or 12 do not safeguard public funds, are incorrect, inadequate, inappropriate, or are inconsistent with the Statement of Governance Principles for the time being in effect.

(2) Any regulations made, standards set or instructions issued by the Minister, Permanent Secretary, Finance or Accountant General under section 10, 11 or 12 that are inconsistent with subsection (1) are of no effect.

Governor may delegate authority

9. (1) The Governor, acting in his or her discretion, may in writing delegate to any person any of functions under section 8.

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

Minister's functions of control and direction over public finance

10. (1) The Minister is accountable to the House of Assembly for the management of public moneys and of the debts and other liabilities of the Government and must ensure that they are regulated, controlled and supervised in accordance with this and any other Ordinance.

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

(a) develop and implement a macroeconomic and fiscal policy consistent with the macroeconomic objectives and stability for the Government and for this purpose the Minister shall—

(i) supervise and monitor the public finances of the Islands; and

(ii) coordinate international and inter-governmental financial and fiscal relations of the Government; and

(b) advise the Government on the allocation of public resources as between Ministries, departments of Government, statutory bodies, and any programs of Government, independent of the foregoing.

(3) For the purposes of the full discharge of the duties under this Ordinance, the Minister shall ensure transparent systems which—

(a) provide a full account to the House of Assembly of the use of resources and public moneys;

(b) ensure the exercise of regularity and propriety in the handling and expenditure of resources and public money and, in particular, that goods or services are procured in a fair, equitable, competitive and cost-effective manner; and

(c) ensure the efficient and cost effective management of the cash resources of the Consolidated Fund, any other fund established under this Ordinance and other public moneys.

(4) The Minister may make regulations, give instructions and issue such directives for the better carrying out of the intent and purposes of the House of Assembly, and for the safety, economy and advantage of the public revenue and public property.

(5) The Minister shall take all proper steps to ensure that any instructions or directives given under this section are brought to the notice of persons directly affected by them.

(6) The Minister may, in writing, delegate any of his or her functions, except his or her powers to make regulations under this Ordinance, to the Permanent Secretary, Finance or to any other public officer in the Ministry of Finance without divesting his or her responsibility for the function or to the exercise of any power thereunder.

Responsibilities and powers of the Permanent Secretary, Finance

11. (1) The Permanent Secretary, Finance may from time to time require an accounting officer, or the chief executive of any statutory body that manages an

asset or liability of the Government, to supply any information in respect of any vote or statutory body under his or her control that it considers necessary for the purposes of sections 4 and 10 and sections 109 and 115 of the Constitution.

(Amended by s. 67(3) of Ord. 6 of 2012)

(2) Any requirement under subsection (1)—

(a) shall be in writing; and

(b) may specify the date by which and the manner in which the information required is to be provided, but where a date is specified, that date shall be reasonable, having regard to the information required.

(3) The Permanent Secretary, Finance is responsible for the effective application of this Ordinance and any regulations made or any instructions given or any directives issued under section 10(4); and in particular shall—

(a) ensure that systems are established throughout Government for planning, allocating, and budgeting for the use of resources in order to improve the economy, efficiency and effectiveness of Government;

(b) ensure that a classification system is established throughout Government which is compatible with an internationally recognised system of statistical analysis and which enables the consistent recording of each financial transaction for the purposes of expenditure control, costing and economic and statistical analysis;

(c) ensure that the internal audit function in every department of Government and statutory body required to produce accounts under section 34 is appropriate to the needs of the organisation concerned and conforms to internationally recognised standards in respect of its status and procedures; and

(d) ensure that the system of internal control in every department of Government or statutory body required to produce accounts under section 34 is appropriate to the needs of the organisations concerned and conforms to internationally recognised standards,

and for these purposes, the Permanent Secretary, Finance may give general or specific instructions to accounting officers or public officers which are consistent with this Ordinance or any regulations made or instructions issued under it.

(4) The Permanent Secretary, Finance may authorise any public officer to inspect all public offices and such officer shall be given—

(a) access at all times to those offices; and

(b) all available information he or she may require with regard to the moneys and records he or she is monitoring for the purpose of compliance with subsection (3), and sections 10 and 121 of the Constitution.

(Amended by s. 67(3) of Ord. 6 of 2012)

(5) Nothing in this Ordinance or any regulations made under it or any directive or instruction issued by the Minister, the Permanent Secretary, Finance or Accountant General shall be construed as requiring any person to do anything in respect of any moneys held on trust, which contravenes or is inconsistent with the terms of that trust.

Powers and duties of the Accountant General

12. (1) In the discharge of his or her responsibilities the Accountant General may give general or specific instructions to accounting officers and public officers which are consistent with this Ordinance, or any regulations made or instructions issued under it.

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

- (a) specify for every department of Government, fund, statutory body or other reporting unit required to produce accounts under section 34—
 - (i) the basis of the accounting to be adopted; and
 - (ii) the classification system to be used;
- (b) ensure that an appropriate system of accounting is established in each department of Government, fund, statutory body, or reporting unit which is compatible with the requirements of section 34 and which ensures that all money received and paid by the Government is brought promptly and properly to account;
- (c) refuse any payment which is wrong or deficient in content, or that contravenes any regulations, directives or instructions properly made or given under this or any other law for the management of public money, or that is in any way unacceptable in support of a charge on public funds;
- (d) report to the Permanent Secretary, Finance in writing any apparent defect in departmental control of revenue, expenditure, cash, stores and other property of the Government and any breach or non-observance of any regulations, directives or instructions which may come or be brought to his or her notice;
- (e) ensure, so far as practicable, that adequate provisions exist for the safe custody of public money, property, securities and accountable documents; and
- (f) take precautions, by the maintenance of efficient checks, including surprise inspections, against the occurrence of fraud, embezzlement, corruption or mismanagement.

(3) Notwithstanding any authorisation by the Permanent Secretary, Finance under section 11(5), the Accountant General or any public officer authorised by the Accountant General may inspect all offices of the Government and shall be given—

- (a) access at all times to those offices; and

(b) all available information he or she may require or consider necessary for the purpose of enforcing compliance with subsection (1) (a), (b), (c), (e) and (f).

(4) The Accountant General shall report annually to the Minister on the discharge of the Accountant General's duties under this Ordinance and shall identify—

(a) the basis of the public accounts standards required by section 35; and

(b) any defect, shortcoming or other factor which in his or her opinion has affected materially the Minister's responsibility under section 10.

(5) The Accountant General shall send a copy of any report issued under subsection (4) to the Auditor General.

Appointment, powers and duties of the Chief Internal Auditor

13. (1) The Governor shall appoint a person to be the Chief Internal Auditor.

(2) Except as provided by subsection (9), in the exercise of the functions of the Chief Internal Auditor, the Chief Internal Auditor shall not be subject to the direction or control of any other person or authority.

(3) The Chief Internal Auditor shall, based on an annually audit plan approved by the Audit Committee, carry out internal audit reviews of Ministries, departments of Government and statutory body to ensure good governance and to ensure that the public finances are regulated, controlled and supervised in accordance with this and any other Ordinance.

(4) The times and frequency of those audits shall be determined by the Chief Internal Auditor with the agreement of the Audit Committee.

(5) The Chief Internal Auditor must, as soon as practicable after completing an audit of a department of Government or statutory body, provide the Governor, Audit Committee and the Auditor General with a copy of the audit report.

(6) The Chief Internal Auditor shall ensure that the internal audit department in discharging its duties applies the International Standards for the Professional Practice of Internal Auditing and the associated Code of Ethics issued by the appropriate professional body. These shall be defined in an Internal Audit Charter.

(7) The Chief Internal Auditor, staff of the internal audit department or other authorised personnel, shall have the right—

(a) of access to all information held by any department of Government;

(b) to take copies of any information referred to in paragraph (a);

(c) to require explanations from officers and employees of entities subject to review; and

(d) of access to all premises occupied by any department of Government.

(8) The Permanent Secretary, Finance shall provide the Chief Internal Auditor with sufficient resources to allow the functions of the Chief Internal Auditor to be carried out in an efficient manner.

(9) The Governor may appoint an Audit Committee to strengthen the independence, integrity, and effectiveness of audit activities in the public sector by—

(a) providing independent oversight of the internal audit work plans and results;

(b) assessing audit resource needs; and

(c) mediating the Chief Internal Auditor's relationship with the House of Assembly, Ministries and statutory bodies.

(10) The Audit Committee shall ensure that audit findings are published and any recommended improvements or corrective actions are addressed and resolved.

(11) The Audit Committee shall provide regular reporting to the House of Assembly which shall include an assessment of the overall effectiveness of Government's and statutory bodies governance, risk management, and control frameworks, legislative and regulatory compliance.

(12) The Audit Committee shall include independent members who collectively possess sufficient knowledge of audit, finance, risk, and control.

(13) The Audit Committee shall be chaired by a member of the Committee who is not the individual to whom the Chief Internal Auditor reports administratively.

Designation and duties of accounting officers

14. (1) In the exercise of his or her duties under 123(3) of the Constitution, an accounting officer shall ensure in particular—

(a) that adequate control is exercised over the incurring of commitments and contingent liabilities;

(b) that effective systems of internal control and internal audit are in place in respect of all transactions and resources under his or her control; and

(c) in respect of paragraphs (a) and (b), that he or she complies with any regulations made, instructions or directives issued under this Ordinance.

(Amended by s. 67(3) of Ord. 6 of 2012)

(2) An accounting officer may, and shall if so required by any regulations made or instructions or directives issued under this Ordinance, state in writing the extent to which the powers conferred and duties imposed on him or her may be exercised or performed on his or her behalf by any public officer under his or

her control, and shall give such directives as may be necessary to ensure the proper exercise or performance of those powers and duties.

(3) Any delegation of the powers and duties of the accounting officer under subsection (2) shall not affect the personal accountability of the accounting officer.

Accounting officers to comply with financial instructions, etc.

15. (1) Every accounting officer shall comply with this Ordinance and all instructions that may from time to time be given by the Minister under paragraph (a) to (c) or the Permanent Secretary, Finance or the Accountant General, under paragraphs (a) or (b) in respect of the custody and handling of, and the accounting for—

- (a) public money;
- (b) public stores; and
- (c) investments, securities or negotiable instruments, whether the property of the Government or on deposit with or entrusted to the Government or to any officer or other person acting in his or her official capacity.

(2) A failure to comply with section 14 shall constitute an act of financial misconduct in terms of section 45.

Preparation and Approval of the Budget

Budget Office

16. (1) There shall continue to exist within the Ministry of Finance, a department known as the Budget Office which shall be headed by a Budget Director working under the supervision of the Permanent Secretary, Finance.

(2) The Budget Office shall be responsible for the coordination of the budget preparation and monitoring of the budget in collaboration with the ministries, departments of Government and statutory bodies.

(3) Without prejudice to the generality of subsection (2), the Budget Office headed by a Budget Director shall—

- (a) formulate and implement sound and transparent recurrent and non-recurrent budgets for the Government;
- (b) enhance adequate budgeting, coordinating, implementing and monitoring of budgetary programmes;
- (c) create a regulatory framework and an enabling environment for enhanced intergovernmental relationships in budget formulation and implementation;
- (d) promote multi-year budget planning within the budget process, with modern budgeting techniques;

- (e) ensure effective and efficient allocation of resources to ministries, departments of Government and statutory bodies;
- (f) ensure collection, processing and timely dissemination of quality fiscal statistics for the formulation of economic policies, better and coordinated development planning by the Government; and
- (g) monitor and evaluate the implementation of the budget process in collaboration with accounting officers.

Budget documents

17. (1) The budget documents laid before the House of Assembly shall include—

- (a) a budget statement which sets out the main policies and programmes of the Government for the ensuing financial year in respect of taxation, other revenues, expenditure, borrowings and such other activities which have potential budgetary implications;
- (b) estimates of the revenues and financing requirements of the Government for that year and the allocation of these between the Consolidated Fund and Development Fund or Sinking Fund;
- (c) estimates of the expenditure of each Ministry, department of Government and statutory bodies to be met through the Consolidated Fund or Development Fund for that year allocated between those expenditure votes or projects the Minister may consider appropriate and shall include for each expenditure vote or project—
 - (i) a statement of the purposes for which the vote or project is to be used, being a use that is consistent with the policy objective outlined in the macro economic and fiscal management plan;
 - (ii) the identity of the accounting officer appointed pursuant to section 123(3) of the Constitution responsible for the vote or project; and (*Amended by s. 67(3) of Ord. 6 of 2012*)
 - (iii) in respect of each vote, a statement of the classes of outputs expected to be provided from that vote during the year and the performance criteria to be met in providing those outputs;
- (d) an estimate of the amount required for guarantees to be issued for the following financial year under section 119 of the Constitution;
(*Amended by s. 67(3) of Ord. 6 of 2012*)
- (e) the budget outturn for the previous year presented in the same format as the estimates for the following financial year;
- (f) the estimates for the current financial year including any supplementary estimates and an estimated outturn for the budget of the current year; and

- (g) the identification of new expenditures and revenues as a result of new policies and also clearly show any savings from new policies.

(2) The Minister, at the time of submission of the estimates of revenues and expenditures under subsection (1), shall submit for the approval of the House of Assembly such resolutions as are required by this Ordinance in respect of the financial year to which estimates relate.

(3) The Minister shall prepare estimates of expenditure for three financial years and the Minister shall lay such estimates before the House of Assembly.

Duration of appropriation

18. Every appropriation by the House of Assembly of public moneys for the service of a financial year, and every warrant or other authority issued under this Ordinance in respect of a financial year, shall lapse and cease to have any effect at the close of that year, and, except as otherwise provided in this Ordinance, the unexpended balance of any moneys withdrawn from the Consolidated Fund shall be paid into the Consolidated Fund. *(Substituted by Ord. 10 of 2017)*

Budget Execution, Adjustment and Control

Issues from the Consolidated Fund

19. (1) No money shall be withdrawn from the Consolidated Fund except upon the authority of a warrant signed by the Minister and addressed to the Accountant General.

(2) No warrant shall be issued by the Minister unless the expenditure is—

(a) for expenditure that has been authorised for the financial year during which the withdrawal takes place by—

(i) an Appropriation Ordinance;

(ii) a Supplementary Appropriation Ordinance;

(iii) an advance warrant issued in accordance with section 116 of the Constitution; *(Amended by s. 67(3) of Ord. 6 of 2012)*

(b) for statutory expenditure;

(c) for the purpose of repaying any moneys that are received in error by the Consolidated Fund; or

(d) for the purpose of paying sums required for any advance, refund, rebate or drawback where the payment of the advance, refund, rebate or drawback is provided for in this or any other Ordinance.

(3) The Minister may suspend, withdraw, limit or place conditions on any warrant or other authority issued by him or her if the Minister is satisfied that such action is required by reason of a financial exigency or is in the public interest.

Accountant General's warrant

20. (1) The Accountant General may by warrant signed by him or her, authorise an accounting officer responsible for an expenditure vote to incur expenditure on such expenditure vote up to the limits specified in the warrant and for the purpose and subject to the conditions contained in the warrant.

(2) A warrant shall not be issued by the Accountant General unless the sum and purpose for which it is issued have been included in a warrant issued by the Minister under section 7 or 19(1). (*Amended by s. 67(3) of Ord. 6 of 2012*)

(3) A warrant issued by the Accountant General shall be subject to the limits and conditions determined by the Minister under the powers conferred on him or her by section 19(3).

(4) The Accountant General shall not make any payment or accept any charge in his or her accounts, nor shall an accounting officer make any payment unless authorised by warrant to do so.

Payment for goods supplied, services rendered or work done

21. (1) No payment shall be made for goods supplied, services rendered or work done, 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 accounting officer or any other officer authorised by him or her certifies—

- (a) that the goods have been supplied, the service rendered or the work performed, 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 delivery of the goods, rendering of the service or completion of the work, 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 or her opinion be allowed, such costs or charges shall not be allowed to the contractor unless the Minister otherwise directs in writing and such direction shall, subject to any commercial-in-confidence issues, be published in the *Gazette*.

Government contracts, purchase orders, etc.

22. (1) Ministries, departments of Government and statutory bodies shall ensure that effective processes are in place to provide confidence and ensure suitability, effectiveness, prudence, quality, good value and avoidance of error and other waste.

(2) To the extent that this section is inconsistent with a provision of any other Ordinance, this section shall apply.

(3) The Government or a statutory body must comply with this section in planning, developing and executing a project to ensure that it obtains the best possible value for its money.

(4) Procurement processes will be open, transparent and competitive and agreed statutory tender processes as prescribed in the regulations in respect of procurement shall be adhered to.

(5) Subject to this or any other enactment, the Minister may make regulations, orders or issue direction on policy with respect to all or any of the following matters—

- (a) the procurement of goods and services by tender or by direct purchase and for the sale of stores by tender or direct sale;
- (b) the conditions under which contracts may be entered into;
- (c) the security to be given in the name of the Government to secure the due performance of contracts; and
- (d) the financial limits above which procurement must be subjected to competitive tender action.

(6) Where any payment under a contract is withheld to ensure the due performance of the contract, such payment may, subject to this Ordinance 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.

(7) Subject to policy or directions given by the Governor or the Minister, the Permanent Secretary, Finance may issue instructions with respect to the condition under which goods may be procured by tender or by direct purchase and these shall include the financial limits above which procurement must be subject to competitive tender action.

(8) For projects with a lifetime value above a limit as directed by the Permanent Secretary, Finance and for those where the use of Public Private Partnerships (PPPs) or any other form of alternative financing is being considered, independent accounting, legal, financial, economic, environmental and other technical advice as appropriate shall be retained to ensure robust investment appraisals are produced.

(9) The Government or a statutory body in planning, developing and executing a project must adhere to the following five stages—

- (a) appraisal and business case stage;
- (b) procurement stage;
- (c) contract management stage;
- (d) delivery stage; and
- (e) evaluation stage.

(10) PPP and PFI projects, whether funded from conventional borrowing or all alternative financing transactions, are to be suitably appraised by the House of Assembly before the procurement stage to ensure value for money and that a robust cost-benefit analysis has been carried out.

(11) All other projects, whether funded from recurrent surpluses, conventional borrowing or all alternative financing transactions, are to be

suitably appraised by the Permanent Secretary, Finance before the procurement stage to ensure value for money and that a robust cost-benefit analysis has been carried out.

(12) For all projects, the business case which results from the appraisal process shall demonstrate the economic need for the project, include a fully argued and costed risk and impact assessment, and specify the benefits the project is designed to deliver to ensure that an informed decision can be made on whether or not to proceed to the procurement stage.

(13) PPPs or any other form of alternative financing shall only be considered if approved by a Secretary of State and if—

- (a) there is a sound appraisal underpinning the proposed project before the financing means has been determined;
- (b) a financial appraisal demonstrates improved value for money against a conventionally financed alternative;
- (c) the long term affordability case has been assessed and agreed by the appropriate technical experts retained by the Government; and
- (d) an independent opinion has been received from a qualified accountant of good standing on the correct accounting treatment in the Government's accounts.

(14) PPPs or any other form of alternative financing shall not be considered for the following—

- (a) projects with a lifetime value of less than the limit as directed by the Permanent Secretary, Finance and therefore too small to justify the transaction costs; or
- (b) projects where the fast pace of change in the sector makes it difficult to effectively define the outputs it requires in a long term contract (such as information and communication technology projects).

(15) All proposed capital projects with an expected lifetime value as prescribed in the regulations respecting procurement made under this Ordinance shall be published in the *Gazette* and appraisals for proposed capital projects with an expected lifetime value as prescribed in those regulations shall be published in the *Gazette*, unless the Minister considers there to be wider public interest for public consultation prior to procurement.

(16) Sufficient expert advice, whether internal or external, shall be retained to ensure that it is an “intelligent customer” of services or other arrangements agreed with private sector suppliers.

(17) Sufficiently competent teams shall be in place to manage all projects and ensure receipt of high quality services and products as agreed at the procurement stage.

(18) All other projects with an expected lifetime value as prescribed in the procurement regulation shall be published in the *Gazette*.

(19) An evaluation under subsection (18) shall be made available to the public.

Investment of public moneys in securities

23. (1) An investment guidance shall be prepared by the Minister in consultation with the House of Assembly and subject to the approval of the Governor.

(2) Any sums standing to the credit of the Consolidated Fund may be invested—

- (a) with a bank at call or subject to notice not exceeding twelve months; or
- (b) in an investment authorised by law and approved by the House of Assembly.

(3) For the avoidance of doubt any investment or deposit made under subsection (2) shall not constitute a withdrawal from the Consolidated Fund.

Advances from Consolidated Fund

24. (1) The Minister may, by a warrant signed by him or her and addressed to the Accountant General, authorise advances during the year to public officers up to the total specified in the warrant for the purpose of funding expenditure approved under an Appropriation Ordinance or a Supplementary Appropriation Ordinance, and those advances shall be repaid on a date specified by the Accountant General but not later than three months after the date of issue of the advance.

(2) Requests for advances in excess of specified limits as set out in regulations made under this Ordinance shall first require the approval of the Governor.

Termination of authority to spend

25. (1) The authorisation for expenditure conveyed by an approved budget shall lapse on 31 March.

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

Government Bank Accounts

Bank accounts

26. (1) The Accountant General shall open, operate and maintain a bank account or bank accounts with a bank or banks approved by the Minister, through which the Consolidated Fund shall be operated.

(2) Notwithstanding any other law, no bank account shall be opened on behalf of the Government or a statutory body in any bank, except under the authority of the Minister signified by the Accountant General in writing, and the continued operation of that account shall be subject to the terms and conditions the Accountant General may, from time to time, determine.

Banking of public moneys

27. (1) 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.

(2) 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 or her possession.

(3) All persons authorised to collect or receive public moneys shall pay all such moneys promptly into the Consolidated Fund in accordance with section 112 of the Constitution. (*Amended by s. 67(3) of Ord. 6 of 2012*)

Government Stores

Government stores

28. (1) Every Ministry and department of government shall maintain adequate records of stores.

(2) The Minister may make regulations or issue orders governing the acquisition, receipt, issue, custody and control of such stores.

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

(4) An accounting officer shall be responsible for the general supervision and control of all government stores held within the Ministry or department under him or her and for the due performance of their duties by his or her subordinate staff in relation thereto.

PART V

LOANS, GUARANTEES AND GRANTS

Raising of loans

29. (1) In accordance with section 119 of the Constitution loans may be raised by the Government by—

(a) the issue by the Minister, of Government bills, bonds or stock; or

(b) any other method the Minister may deem expedient, including a fluctuating overdraft.

(Amended by s. 67(3) of Ord. 6 of 2012)

(2) A loan raised under of subsection (1)(a), shall be subject to the conditions in Schedule 1.

Repayment, conversion and consolidation of loans

30. (1) The Minister may, on such terms and conditions as the Minister may determine and, where necessary, with the approval of the lender—

(a) repay any loan prior to the redemption date of that loan;

(b) convert the loan into any other loan; or

(c) consolidate two or more loans into an existing or new loan:

provided that the repayment, conversion or consolidation is of financial benefit to the Government and does not increase the Government's overall indebtedness.

(2) The Minister must present to the next meeting of the House of Assembly a report of activity undertaken under this section.

Receipt of grants

31. (1) Grants made to the Government by a foreign Government or any other person shall be received by the Permanent Secretary, Finance on behalf of the Government.

(2) Section 5(5) shall apply to any sum of money received by the Government by way of a grant.

Amounts due on loans or guarantees to be charged on Consolidated Fund

32. Any sum of money due from the Government—

(a) in respect of any loan by way of repayment, payment of interest or any guarantee or given in respect of any loan to the Government;

(b) by way of interest on or otherwise in respect of any bond or stock issued under section 29 and in accordance with the Schedule 2;

(c) in respect of any expenditure incurred; or

(d) in respect of any guarantee given under section 119 of the Constitution,

shall be charged on and paid out of the Consolidated Fund without further appropriation.

(Amended by s. 67(3) of Ord. 6 of 2012)

Delegation by the Minister

33. The Minister may, by order signed by him or her, delegate to a public officer specified in the order—

- (a) his or her functions under this Ordinance relating to the negotiation of a loan, guarantee or grant; and
- (b) the authority to execute on behalf of the Government any agreement or other instrument relating to a loan or guarantee raised or given under this Ordinance.

PART VI

PREPARATION OF PUBLIC ACCOUNTS, FINANCIAL REPORTS AND AUDIT

Annual statement of public accounts

34. (1) The Accountant General shall, within the period of four months after closure of the public accounts at the end of each financial year, prepare, sign and submit to the Auditor General through the Permanent Secretary Finance, the annual statement of public accounts set out in paragraph 1 of Schedule 2.

(2) Notwithstanding any other Ordinance, any accounting officer or other public officer or person administering any statutory body, shall prepare, sign and submit to the Minister and the Accountant General, accounts of the statutory body in the form the Accountant General may from time to time direct and in accordance with a timetable issued by the Accountant General.

Basis of public accounts

35. All public accounts submitted under section 34 shall—

- (a) be prepared in accordance with generally accepted accounting practice;
- (b) identify any significant departures from generally accepted accounting practice or instructions issued by the Accountant General and state the reasons for those departures; and
- (c) state the basis of accounting used in their preparation.

Budget reports

36. (1) The Accountant General shall, within a period of twenty eight days after the end of each quarter, prepare and transmit to the Minister, in respect of that quarter, the unaudited budget reports, which shall be published in the *Gazette* and on the Government website.

(2) The budget reports shall comprise—

- (a) a statement of revenue and expenditure of the Consolidated Fund and other funds established pursuant to this or any other Ordinance for the quarter;

- (b) the actual revenue for the relevant quarter for each Ministry and department of Government compared with the corresponding budgeted amounts for the relevant quarter;
- (c) the actual expenditure for the relevant quarter for each Ministry and department of Government, distinguishing between the capital and recurrent expenditures, compared with the corresponding budgeted amounts for the relevant period; and
- (d) notes that form part of the accounts.

(3) The Accountant General shall determine the format of the quarterly budget reports and may specify the information to be included in the notes required under subsection (2)(d).

(4) The annual statement of public accounts prepared by the Accountant General under section 34(1) shall be published as soon as possible after it has been audited by the Auditor General, but within nine months of the end of the financial year.

Other reports

37. An accounting officer required to prepare accounts under section 34(2) shall prepare and make available to the general public an annual report, showing in respect of the Ministry, department of Government or statutory body for which he or she is responsible—

- (a) the overall budget strategy;
- (b) the nature and objectives of each main programme;
- (c) the assessments of output and performance against objectives;
- (d) a summary of the financial results for the fiscal year of the Ministry, agency or department of Government for which he or she is responsible in a form approved by the Accountant General;
- (e) the plans for the next year, as approved by the House of Assembly; and
- (f) the provisional plans for the next two years.

Responsibility of the Auditor General

38. (1) In his or her examination of the annual accounts, the Auditor General shall ascertain whether in his or her opinion—

- (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 ministries or departments of Government 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 or her examination the several statements required in Schedule 2 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 the Auditor General.

(3) The Auditor General may, whenever the Minister, the Governor or the House of Assembly so requires, and may, of his or her own motion, inquire into and report on any matter relating to—

- (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 VII

CONTROL AND AUDIT OF THE FINANCES OF STATUTORY BODIES, ETC

Management of finances of statutory body: Powers of Governor to intervene

39. (1) Notwithstanding anything to the contrary contained in any other law, the remit of the board of a statutory body shall be to manage the finances of the body in accordance with the provisions of this Ordinance that are expressed to apply to statutory bodies.

(2) Notwithstanding anything to the contrary contained in any other Ordinance establishing a statutory body—

- (a) where the board of a statutory body is found to be in contravention of this Ordinance or any other law, the Governor may remove the members of the board from office and appoint a new board;
- (b) where it appears to the Governor on reasonable grounds that the financial viability of a statutory body is at risk or poses systemic risks to the public finances, the Governor may do any or all of the following—
 - (i) appoint a person, as examiner, to examine the financial affairs of the statutory body;

- (ii) remove the members of the board of such statutory body from office and appoint a new board or a person to take over the management of that statutory body.

(Substituted by Ord. 4 of 2018)

(3) An examiner appointed under subsection (2)(b)(i) shall upon the conclusion of the examination, report his findings and recommendations to the Governor in writing. *(Inserted by Ord. 4 of 2018)*

(4) The Governor may give directions to the examiner concerning any one or more of the following—

- (a) the scope of the examination;
- (b) the period for the conduct of the examination; and
- (c) the manner in which the examiner shall report to the Governor.

(Inserted by Ord. 4 of 2018)

(5) An examiner appointed under subsection (2)(b)(i), may request in writing the delivery to him of records, accounts and property of the statutory body and may make such request of a member, staff or agent of the statutory body, including its attorneys, accountants and bankers, and it shall be the duty of any person who receives such a request to comply with it as soon as reasonably practicable. *(Inserted by Ord. 4 of 2018)*

(6) A person appointed under subsection (2)(b)(ii) to take over the management of the statutory body, shall, during the period of his appointment, have full responsibility for all of the functions of the board of the statutory body and for the day-to-day management of the statutory body, and every officer and staff of the statutory body, including its attorneys, accountants and bankers, shall provide him all such assistance as he may reasonably require. *(Inserted by Ord. 4 of 2018)*

(7) A person who wilfully obstructs, by act or omission, the exercise of the powers conferred under subsection (5) or (6) commits an offence and is liable on summary conviction to a fine of \$5,000. *(Inserted by Ord. 4 of 2018)*

Management of funds of statutory body

40. (1) No expenditure shall be incurred by a statutory body except under the authority of a warrant signed by the Minister.

(2) No warrant shall be issued under subsection (1) in respect of any financial year unless estimates of the income and expenditure of the statutory body for that financial year, prepared in accordance with instructions issued by the Minister, have been laid before the House of Assembly.

(3) Where the House of Assembly is dissolved less than three months before the commencement of any financial year, the estimates for that year may be laid before the House of Assembly as soon as practicable after the commencement of that year.

(4) Where the Minister is satisfied that either—

- (a) the moneys forming part of any statutory body are exhausted and no legal provision exists for any further moneys to be paid into the statutory body; or
- (b) it is in the public interest to wind up a statutory body,

the Minister may, by Order, dissolve the statutory body and any moneys or other resources standing to the credit of the body at the time of winding up, shall be paid into the Consolidated Fund and any assets transferred to the custody of the Accountant General.

(5) Where the accounting officer for the statutory body being wound up under subsection (4) is not the Permanent Secretary, Finance, the Minister shall not wind up the statutory body unless the minister responsible for the operations of the statutory body has been notified.

Estimates of expenditures by statutory bodies

41. (1) The Permanent Secretary, Finance shall request the annual estimates of income and expenditure for statutory bodies to be prepared and submitted to the Budget Office in a timely manner in order to ensure that the Government's estimates are laid before the House of Assembly by the prescribed date.

(2) Notwithstanding anything to the contrary contained in any other law, a statutory body shall seek the approval of the Governor for any proposals to change existing or create new policies, projects and procedures which may have financial implications as are set out in regulations.

(3) Copies of all estimates must also be forwarded by the statutory bodies to the Governor for his or her approval.

Control and audit of statutory bodies

42. (1) Notwithstanding anything to the contrary contained in any other law, a statutory body shall—

- (a) prepare and submit annual accounts to the Auditor General for audit; and
- (b) from time to time submit such information and reports in respect of its governance arrangements and finances to the Governor and the responsible Minister in such format and at such time as the Minister may by regulations determine.

(2) The Minister may, if he or she thinks fit, publish a report received under subsection (1)(b).

Annual accounts

43. (1) The annual accounts of a statutory body shall be prepared—

- (a) in accordance with generally accepted accounting practice in the Islands for bodies established under the Companies Ordinance unless specifically directed otherwise by the Accountant General; and

(b) in a form that sets out clearly the information according to the major businesses or activities of the statutory body.

(2) The Accountant General may, for the purposes of subsection (1), give instructions in respect of the annual accounts to be submitted in accordance with that subsection either generally in respect of any specified organisation or in respect of any statutory body, but such instructions shall, in respect of the preparation of annual accounts, only supplement or augment generally accepted accounting practice for the basis of accounting specified.

(3) The annual accounts referred to in subsection (1) shall be laid before the House of Assembly by the Minister not later than one month after the Minister receives them; except that, if the House of Assembly is not in session, then the accounts shall be laid before it on the first day of the following session.

(4) Any reports laid before the House of Assembly under subsection (3) shall be referred to the Public Accounts Committee.

Unexpended funds

44. (1) The unexpended balance of any moneys appropriated to a statutory body for any financial year shall at the close of the financial year be paid into the Consolidated Fund:

Provided that during the currency of a financial year the unexpended balance of any subvention may, at the request of a statutory body, be applied by the statutory body in such manner as the Governor may direct.

(2) A direction given under subsection (1) may require the whole or any part of any unexpended balance to be paid into the Consolidated Fund. (*Inserted by Ord. 10 of 2017*)

PART VIII

LIABILITY AND OFFENCES

Financial misconduct

45. (1) A public officer commits the offence of financial misconduct if that public officer—

- (a) as designated under section 123(3) of the Constitution as accounting officer for an expenditure vote or statutory body and willfully or negligently and in respect of that expenditure vote or statutory body—
 - (i) contrary to section 123(3) of the Constitution fails to act with regularity and propriety in respect of any expenditure vote or statutory body for which he or she is responsible;
 - (ii) fails to comply with section 20(4); or
 - (iii) makes or permits to be made any expenditure which is unauthorised, irregular, negligent or reckless or which in any

other respect does not conform to the authority which governs it;

(Amended by s. 67(3) of Ord. 6 of 2012)

- (b) is delegated by an accounting officer in terms of section 14(4) to exercise a power or perform a duty and willfully or negligently fails to exercise that power or perform that duty;
- (c) willfully breaches or in any other way fails to comply with any regulations made or instruction issued by the Minister where the regulations or instruction provide that such breach or failure constitutes financial misconduct;
- (d) as the person responsible for administering a statutory body, willfully or negligently—
 - (i) fails to comply with the requirements of section 34(2); or
 - (ii) makes or permits to be made any expenditure which is unauthorised, irregular, negligent or reckless or which in any other respect does not conform to the authority which governs the expenditure; or
- (e) willfully or negligently omits to report any *prima facie* instance of financial misconduct by any public officer to the appropriate authority.

(2) An officer who commits an offence under subsection (1) is liable on conviction—

- (a) on indictment to a fine of \$200,000 or to imprisonment for a term of five years, or to both; or
- (b) on summary conviction to a fine of \$20,000 or to imprisonment for a term of two years, or to both.

(3) Any court convicting an officer of an offence under this section may in addition to or in substitution for any penalty to which the officer may be liable under subsection(2), order the officer to make restitution to the Crown to the extent of any loss sustained by the Crown by reason of the offence.

(4) An order for restitution made under subsection (3) shall be enforceable as if it were an order for the payment of a fine.

(5) If a statutory body is administered by a board or other body consisting of members, every member is personally and pecuniary liable for any loss incurred by the statutory body through an act of financial misconduct in the statutory body.

(6) Notwithstanding any other law, financial misconduct shall be a ground for dismissal or suspension of, or other sanction against a public officer, except dismissal or suspension in the case of a minister who shall be subject to any ministerial code of the time being in force.

Power to surcharge

46. (1) This section applies where—

- (a) there occurs a loss of or deficiency in public money or other money that has been advanced to or was under the control of a public officer;
- (b) there occurs a loss or destruction of or damage to public property or other property while the property was in the care of a public officer;
- (c) a public officer has failed to collect any moneys owing to the Government; or
- (d) a public officer is or was responsible for any improper payment of any public moneys or for any unauthorised expenditure in excess or for the payment of public moneys not duly vouched.

(2) If the Permanent Secretary, Finance is satisfied after due enquiry, that the negligence or misconduct of a public officer caused or contributed to a loss, deficiency, failure or impropriety referred to in subsection (1), the Permanent Secretary may, subject to subsections (3) and (4), recover from the public officer by surcharge and deduct from any salary or other amount due by the Government to the public officer—

- (a) the cost to the Government resulting from the failure or impropriety;
- (b) the amount of any loss or deficiency;
- (c) the value of the property lost or destroyed; or
- (d) the cost of replacing or repairing the damage to that property,

and that amount shall be a debt due to the Government.

(3) The Permanent Secretary, Finance in determining the sum to be surcharged shall take due account of the ability of the said public officer to pay the surcharge without undue hardship.

(4) The collection of the surcharge shall be limited to fifty percent of the gross annual salary or annual pension collectable by installment deduction over a period of two years and, in the case of termination, fifty percent of all terminal benefits otherwise payable to the said public officer.

(5) Where the person surcharged is due to be paid any moneys of whatever description by the Government, other than by way of salary or pension or related terminal benefit, the Permanent Secretary, Finance may require the amount of any surcharge imposed on that person to be deducted from such moneys in whole or in part as he or she considers just and reasonable. The sum surcharged and collected shall not in any case exceed the amount of the cost, loss or deficiency.

(6) Where the negligence or misconduct of a public officer is not the sole cause of any cost, loss, deficiency, damage or destruction resulting in an action under subsection (2), the amount recoverable from the public officer may be restricted to only the cost of repaying, replacing or repairing the cost, loss, deficiency, damage or destruction that the Permanent Secretary, Finance considers, after due enquiry, to be just and equitable, having regard to the

contribution made by the public officer to that cost, loss, deficiency, damage or destruction.

(7) In this section a reference to a public officer includes a person who has been a public officer.

Notification of surcharge

47. (1) The Permanent Secretary, Finance shall cause the person surcharged and the Accountant General and the Auditor General to be notified in writing of any surcharge made under the immediately preceding section.

(2) The Accountant General shall notify the person surcharged of the timing and method of recovery of the surcharge.

(3) Recovery action shall be commenced as soon as possible after the Accountant General receives notification under subsection (1).

Appeal against surcharge

48. (1) Any person who is aggrieved by any surcharge made against him or her under section 46 shall have the right of appeal to the Governor within a period of one month (or such longer period as the Governor may allow) from the date on which he or she is notified of the surcharge.

(2) The Governor, after making or causing to be made such investigation as he or she may deem to be necessary, may confirm the surcharge or direct that the person surcharged be released wholly or in part from the surcharge as may appear to him or her to be reasonable.

(3) Any surcharge moneys already recovered from the aggrieved person, to the appropriate value, shall be returned by the Accountant General as necessary.

Withdrawal of surcharge

49. The Permanent Secretary, Finance may only with the approval of the Governor withdraw any surcharge in respect of which a satisfactory explanation is received or if it otherwise appears to him that no surcharge should have been made and in that event the Permanent Secretary, Finance shall notify all the persons notified under section 47 of the decision of the Governor to withdraw the surcharge.

Recovery of surcharge

50. (1) The Accountant General, on being notified of a surcharge made under section 47, shall cause the amount of the surcharge to be recovered from the person surcharged in such a manner as the Permanent Secretary, Finance directs.

(2) No recoveries shall be made under subsection (1) until after the expiration of the period allowed under section 48 for the lodging of any appeal, and where the person surcharged appeals under that section, no recoveries shall be made until and unless the surcharge has been confirmed or otherwise determined.

(3) The amount of the surcharge made under this Part shall be recovered as the Permanent Secretary, Finance may direct and may be deducted from any salary, pension or other emoluments of the person surcharged:

Provided that—

- (a) no monthly installment payable in respect of a surcharge shall exceed one quarter of the gross monthly salary or pension of the person surcharged; and
- (b) where the person surcharged is due to be paid any moneys by the Government other than by way of salary or pension or other emolument, the Permanent Secretary, Finance may require the amount of any surcharge imposed on that person to be deducted from such moneys in whole or in part as he considers just and reasonable.

(4) Nothing in this section shall prejudice the right of the Government to sue for and recover the amount of any surcharge as a civil debt due to the Government.

PART IX

MISCELLANEOUS

Exchange of Information

51. (1) The Government will exchange information relating to public finances with the United Kingdom Government, upon reasonable request and within a reasonable timescale of when information set out under subsection (3) becomes available.

(2) Information relating to procurement set out under subsection (3) will be exchanged upon request and within a reasonable timescale.

(3) For the purpose of this section, public finance and procurement information includes—

- (a) updates on the compliance with fiscal limits set under section 109(3) of the Constitution; (*Amended by s. 67(3) of Ord. 6 of 2012*)
- (b) reports to the Cabinet and House of Assembly pertaining to information required under sections 109(6) and (7) of the Constitution; (*Amended by s. 67(3) of Ord. 6 of 2012*)
- (c) drafts and final publications of the fiscal strategy paper under section 4, including budget variance analysis of data specified under section 4(3)(e);
- (d) balances of moneys held in public funds provided for under Part III;
- (e) assets fund balances, including liquid asset fund balances and variance analysis thereof;

- (f) actuarial reviews of contingent liabilities and actual liabilities, including healthcare and pension provisions required under section 111 of the Constitution; (*Amended by s. 67(3) of Ord. 6 of 2012*)
- (g) information on procurement produced as part of processes set out under section 22;
- (h) information on capital projects, including investment appraisals;
- (i) detailed information on debt and PPP and PFI for the Government and statutory bodies, including, stock and composition of debt, currency, date and origin of issues, maturity and interest rate structure, to the extent that this is not separately identified in budget documentation or the multiyear budget plan; and
- (j) updates on gross domestic product figures and the performance of key sectors to the extent that this is not separately identified in budget documentation or the multiyear budget plan.

(4) The Government will consider fully any representations made by the Secretary of State on the information provided under subsection (1).

(5) The Government will not proceed with any major capital project or fiscal plan on which the Secretary of State has made representations until fifteen working days after a full written response has been received by the Secretary of State to those representations.

Abandonment of claims etc. and write off of public money and stores

52. (1) The Minister may, if so authorised by a resolution of the House of Assembly, and to the extent specified in the resolution, abandon and remit any claims by or on behalf of the Government, or any service to the Government and write off losses of or deficiencies in public moneys or public resources.

(2) A resolution referred to in subsection (1) may specify the maximum amount authorised for each write off or abandonment and the total sum authorised to be written off or abandoned in a financial year.

(3) The Minister may, in writing and signed by the Minister, delegate to any officer any powers which the Minister is authorised to exercise by a resolution of the House of Assembly under this section.

Gift of stores and other property

53. (1) The Permanent Secretary, Finance may authorise the gift of any stores not required by Government purposes to institutions or organisations in the Islands established solely or principally for educational, scientific, cultural or charitable purposes.

(2) Where the value of such gift exceeds an amount prescribed by regulations the prior approval of the Minister shall be obtained.

Regulations

54. (1) The Minister may make regulations for the better carrying out of this Ordinance and, without limitation, may make regulations—

- (a) prescribing anything that by this Ordinance may be prescribed by regulations;
- (b) respecting the collection, receipt, custody, banking, expenditure, due accounting for, care and management of, and forms of records relating to public money;
- (c) respecting the custody, handling and proper accounting for stamps, investments or securities, whether the property of the Government or on deposit with, or entrusted to, the Government or to any public officer in his or her official capacity, or any other person;
- (d) respecting the use of technology as it applies to the preparation and management of the financial and accounting system of the Islands including—
 - (i) electronic authorisation;
 - (ii) electronic certification;
 - (iii) digital signature; and
 - (iv) techniques relating to the security, integrity and access to financial information;
- (e) respecting the procurement of goods and services including the designation of persons with authority to award contracts, or the establishment of a board charged with the award of contracts, or classes of contracts, or charged with advising on the award of contracts and the definition of the powers of such a board, or both the designation of persons and the establishment of a Tenders Board;
- (f) defining “Government property” and “stores”;
- (g) respecting Government property including such matters as the responsibility for making and maintaining up-to-date inventories, the form of and the information to be kept in such inventories and writing off Government property and declaring Government property surplus and disposing of it;
- (h) respecting stores including their classification and operation, the writing off of stores and declaring stores surplus and disposing of them; and
- (i) prescribing fees for dishonoured cheques.

(2) Regulations made under this Ordinance may provide for the imposition upon persons convicted of offences under such regulations of penalties not exceeding a fine of \$10,000 or imprisonment for two years or both.

Annulment of Regulations

55. Regulations made under this Ordinance shall—

- (a) be laid before the House of Assembly as soon as possible after its publication in the *Gazette*;
- (b) be subject to annulment by the House of Assembly by resolution made after twenty-one days after the regulations are laid before the House of Assembly; and
- (c) cease to have effect after being annulled by the House of Assembly but without prejudice to the making of a further instrument or to the previous operation of the regulations.

Amendment of Schedules

56. The Governor may by regulations amend Schedules 1 and 2.

Precedence of this Ordinance

57. This Ordinance shall take precedence over all other existing Ordinances and any Ordinance in contradiction with this Ordinance is modified to the extent of the contradiction.

SCHEDULE 1*(Section 29)***CONDITIONS FOR RAISING OF LOANS****Conditions for bills, bonds and shares**

1. The following conditions shall apply to any loan raised under section 29 of the Ordinance—

- (a) bills and bonds shall be issued upon the best and most favourable terms and conditions that can in the opinion of the Minister be obtained;
- (b) no bill issued may provide for maturity at a date later than one year after the date of issue;
- (c) shares shall be issued as registered shares upon the best and most favourable terms and conditions that can, in the opinion of the Minister, be obtained and shall be transferable by a written instrument of transfer;
- (d) every share certificate lawfully issued shall be *prima facie* evidence of the title of the person named in it for the stock specified in it;
- (e) shares shall be redeemable at par on a date to be named when issuing it, the date not being later than forty years from the date of issue;
- (f) the Minister may reserve the option to redeem the stock in whole or in part, by drawings or otherwise, at any time prior to the date specified in paragraph (e), on such conditions as may be declared at the time of issue;
- (g) on the date appointed for the redemption of the bond stock or any part of it, all the interest on the principal moneys shall cease to accrue whether payment of the principal has been demanded or not;
- (h) interest on shares, and on bonds if interest is payable on it, shall be payable half-yearly or at such longer intervals as the Minister may direct.

Conditions for issue of bills, bonds and stocks

2. The Minister may at the time of issue of any bills, bonds or shares, impose conditions, consistent with the Ordinance as to all or any of the following matters—

- (a) the price of issue of the security;
- (b) the denominations in which the security will be issued and transferred;
- (c) the rate of interest;
- (d) in the case of bonds, the rates of capital appreciation which may accrue to the principal moneys;
- (e) the times and places of the repayment of the principal and payment of the interest;
- (f) in the case of bonds in respect of which payments of premiums or prizes are provided for in lieu of, or in addition to the interest, the manner in which the bonds shall be selected or the manner of payment of the premiums or prizes;

- (g) the exchange of shares into certificates to bearer and the exchange, as circumstances may require, of those certificates into stock;
- (h) the exchange of bonds, during their currency, into shares; or
- (i) any other conditions he or she may deem expedient.

Exemption from stamp duty

3. No stamp duty shall be payable in respect of any interest certificate or transfer shares.

Exemption from laws relating to lotteries

4. Nothing in any written law relating to lotteries shall apply in relation to bonds issued under the Ordinance by reason of any use or proposed use of chance to select particular bonds for special benefits, if the terms of the issue provide for the repayment in full of the amount subscribed for those bonds.
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SCHEDULE 2**PROVISIONS FOR SUBMISSION OF ACCOUNTS****Accounts to be submitted by the Accountant General**

1. The following accounts shall be submitted to the Auditor General and the Minister by the Accountant General—

- (a) general purpose financial statements in the form and layout of the International Public Sector Accounting Standards adopted at the time of preparation;
- (b) a schedule of the amounts outstanding at the end of the year in respect of the Public Debt;
- (c) a schedule of the amounts guaranteed by the Government and contingent liabilities at the end of the financial year other than outstanding commitments detailed in the schedule provided under subparagraph (h);
- (d) a schedule of the amount outstanding at the end of the year in respect of loans issued by the Government;
- (e) a schedule of investments held by the Government at the end of the year showing the original cost and current value;
- (f) a schedule of losses of public moneys and stores written off or not and claims abandoned during the financial year and the authority for such write off or abandonment;
- (g) a summary schedule of arrears of revenue for each revenue head;
- (h) a summary schedule of commitments outstanding for the supply of goods and services for each vote at the end of the financial year;
- (i) a schedule of outstanding advances at the end of the financial year issued under section 118 of the Constitution identifying those advances which are overdue and the trust, or officer responsible;
- (j) a schedule of stores and other assets for each vote;
- (k) any other statement or schedule and in the form the House of Assembly may from time to time require.

Accounts to be submitted by accounting officers

2. The following accounts shall be submitted to the Accountant General by accounting officers—

- (a) an appropriation account signed by the accounting officer showing the services for which the moneys expended were voted, the sums actually expended on each service, the state of each vote compared with the amount appropriated for that vote by the House of Assembly and the outturn in respect of the estimates and supplementary estimates of expenditure for that vote approved by the House of Assembly;
- (b) a statement signed by the accounting officer and in the form the Accountant General may direct containing the amount of commitments outstanding for the supply of goods and services at the end of the financial year;

- (c) a statement signed by the accounting officer and in the form the Accountant General may direct containing the amount of contingent liabilities at the end of the financial year;
- (d) a statement of revenues received signed by the accounting officer and in the form the Accountant General may direct showing the amount contained in the approved estimates of revenue for each source of revenue, the amount actually collected and containing an explanation for any substantial variation between the revenues actually collected and the amount estimated;
- (e) a statement of arrears of revenue signed by the accounting officer showing the amount outstanding at the end of the financial year for each source of revenue and containing information in the form the Accountant General may direct (a nil return should be submitted if appropriate);
- (f) a statement of other assets signed by the accounting officer containing details and values of all unallocated stores under his or her control at the end of the financial year;
- (g) a statement of performance providing each class of outputs provided during the year signed by the accounting officer that—
 - (i) compares that performance with the forecast of the performance contained in the estimates laid before the House of Assembly under section 115 of the Constitution; and
 - (ii) gives particulars of the extent to which the performance criteria specified in that estimate in relation to the provision of those outputs was satisfied;
- (h) any other statements or schedules and in the form the Accountant General may from time to time require.

(Substituted by Ord. 9 of 2016)

SCHEDULE 3*(Section 3)***PART IX OF THE CONSTITUTION****PUBLIC FINANCIAL MANAGEMENT****General principles**

109.(1) The macro-economic and fiscal policies of the Government shall be formulated and conducted for the sustained long term prosperity of the people of the Islands.

(2) Public funds shall be managed according to established principles of value for money, affordability and regularity and the interests of long term financial stability.

(3) The Government shall, after public consultation in the Islands, formulate a framework document stating its principles of public financial management which sets—

- (a) limits on levels of public debt relative to public revenue;
- (b) limits on debt service costs as a proportion of total public expenditure; and
- (c) levels of reserves relative to public expenditure.

(4) Any framework document formulated under subsection (3) must be agreed by the House of Assembly and a Secretary of State in draft before it is adopted by the Government; and the Government shall publish the document in the Gazette as soon as possible after its adoption.

(5) The prior approval of a Secretary of State shall be required before—

- (a) the adoption by the Government of any proposed decision or policy; or
- (b) the coming into force of any Ordinance,

which, in the judgement of the Governor, would exceed the framework document published under subsection (4) which is for the time being in effect.

(6) The Minister of Finance shall report to the House of Assembly at least every six months on—

- (a) the performance of the Government in implementing the framework document published under subsection (4) which is for the time being in effect; and
- (b) the state of the public finances and the state of the economy of the Islands.

(7) The Government shall aim towards achieving and maintaining a surplus budget, and where any Appropriation Bill would not return a surplus result the Minister of Finance shall, at the same time as the Bill is introduced in the House of Assembly, lay before the House a statement explaining the reasons for not achieving a surplus.

Taxation

110. (1) No tax, rate or other levy shall be imposed except under the authority of an Ordinance.

(2) Where an Ordinance confers powers on any person or authority to waive or vary a tax imposed by that Ordinance, that person or authority shall report to the House of Assembly on

the exercise of those powers as often as shall be determined by law but not less than every six months.

Contingent liabilities

111. The Minister of Finance shall ensure that all contingent liabilities of the Government, including pension and healthcare liabilities, are subjected to independent actuarial assessment at least every two years, and shall report the information provided by any such assessment to the House of Assembly within two months of receiving it.

Consolidated Fund

112. (1) There shall be a Consolidated Fund for the Islands into which shall be paid all revenues or other moneys raised or received by and for the purposes of the Government.

(2) The revenues or other moneys referred to in subsection (1) shall not include revenues or other moneys—

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

Withdrawal from Consolidated Fund or other public funds

113. (1) No moneys shall be withdrawn from the Consolidated Fund except—

- (a) to meet expenditure charged on the Fund by this Constitution or by an Ordinance; or
- (b) where the issue of those moneys has been authorised by an Appropriation Ordinance, a Supplementary Appropriation Ordinance, or as provided in subsection (3).

(2) No moneys shall be withdrawn from any public fund of the Islands other than the Consolidated Fund unless the issue of those moneys has been authorised by law.

(3) If the Minister of Finance is satisfied that the Appropriation Ordinance in respect of any financial year will not or has not come into force by the beginning of that financial year, that Minister may, if so authorised by the House of Assembly by resolution and subject to subsection (4), authorise the issue of moneys from the Consolidated Fund for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into force of the Appropriation Ordinance, whichever is the earlier.

(4) Any sum issued in any financial year from the Consolidated Fund under subsection (3) in respect of any ongoing service of the Government—

- (a) shall not exceed one third of the amount approved for that service in an Appropriation Ordinance or a Supplementary Appropriation Ordinance for the previous financial year; and
- (b) shall be set off against the amount provided in respect of that service in the Appropriation Ordinance for that financial year when that Ordinance comes into force.

Appropriations Committee

114. (1) There shall be an Appropriations Committee of the House of Assembly, which shall consist of at least three members of the House appointed by the Speaker from among members who are not Ministers, at least one of whom shall be a member of the House in opposition to the Government.

(2) The Appropriations Committee may co-opt to its membership up to two persons who are not members of the House of Assembly, either on a continuing basis or for the purpose of a specific enquiry conducted by the Committee, and shall be assisted in its work by the Permanent Secretary, Finance or his or her nominee and permanent Committee staff.

(3) The Appropriations Committee shall have power to compel the production of documents and evidence from Ministers, departments of Government and public officers, and shall meet in public.

(4) The Appropriations Committee shall have and exercise the functions conferred on it by this Constitution and such other functions as may be conferred on it by any other law or by Standing Orders.

(5) The House of Assembly shall publish all reports of the Appropriations Committee without delay.

Financial year estimates

115 (1) At least six weeks before the beginning of each financial year the Minister of Finance shall cause to be prepared and laid before the House of Assembly—

- (a) estimates of revenues and expenditure of the Government for that financial year; and
- (b) a document setting out targets for revenue and expenditure for the next three financial years, and an assessment of performance against the debt sustainability limits as set out in the framework document published under section 109(4) which is for the time being in effect,

and the House shall publish those estimates and that document without delay.

(2) Before the House of Assembly considers the estimates laid before it under subsection (1) (a), the Appropriations Committee shall scrutinise those estimates and make recommendations in relation to them to the House in sufficient time for an Appropriation Bill to be passed by the House before the beginning of the financial year in question.

Appropriation Bill

116. (1) The heads of expenditure contained in the estimates, other than expenditure charged on the Consolidated Fund by this Constitution or any Ordinance, shall be included in a bill, to be known as an Appropriation Bill, which shall be introduced into the House of Assembly to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified in the bill.

(2) If in respect of any financial year it is found that the amount appropriated for any purpose under the Appropriation Ordinance is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Ordinance, a supplementary estimate showing the sums required shall be laid before the House of Assembly by

the Minister of Finance, and the Appropriations Committee shall scrutinise that estimate and make recommendations in relation to it to the House.

(3) The heads of expenditure contained in a supplementary estimate shall be included in a bill, to be known as a Supplementary Appropriation Bill, which shall be introduced into the House of Assembly to provide for the issue from the Consolidated Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified in the bill.

(4) The Governor, acting in his or her discretion and with the prior approval of a Secretary of State, may refuse to assent to any Appropriation Bill or Supplementary Appropriation Bill if in his or her judgement the enactment of that bill would be inconsistent with section 109 or the Statement of Governance Principles for the time being in effect.

Excess expenditure

117. (1) Where, in exceptional circumstances, at the close of accounts for any financial year it is found that moneys have been expended on any expenditure in excess of the amount appropriated for it by an Appropriation Ordinance or a Supplementary Appropriation Ordinance or for a purpose for which no moneys have been voted and appropriated, the amount of the excess expended, or not appropriated, as the case may be, shall be included in a statement of expenditure in excess.

(2) The Minister of Finance shall lay every statement of expenditure in excess before the House of Assembly, which shall refer it to the Public Accounts Committee of the House, and the Minister shall at the same time send a copy of the statement to the Governor.

(3) The Public Accounts Committee shall report to the House of Assembly on a statement of expenditure in excess referred to it under subsection (2) within six months after the statement is referred to it.

(4) Where on receiving any report of the Public Accounts Committee issued under subsection (3) the House of Assembly, by means of a resolution, allows the excess or the amount expended but not appropriated to stand charged to public funds, the sum required to meet that excess or such amount as shall be allowed shall be included in a Supplementary Appropriation Bill for appropriation.

Contingencies

118. (1) The Minister of Finance, if he or she is satisfied that there is an urgent and unforeseen need for expenditure for which no provision or insufficient provision has been made by an Appropriation Ordinance or a Supplementary Appropriation Ordinance, may, by a Contingencies Warrant under his or her hand and in anticipation of the grant of an appropriation by the Legislature, authorise an advance from the Consolidated Fund to meet that need and shall forthwith report his or her action to the Cabinet.

(2) No Contingencies Warrant shall be issued by the Minister of Finance without the prior approval of the Governor, acting in his or her discretion, and the House of Assembly shall be invited to approve the expenditure resulting from any Contingencies Warrant issued by the Minister.

(3) An advance made under subsection (1) shall be subject to any Ordinance and to any restrictions imposed by the House of Assembly by resolution from time to time.

Power of Government to borrow or lend

- 119.** (1) Subject to this Constitution, the Government may borrow from any source.
- (2) The Government shall not borrow, guarantee or raise a loan on behalf of itself or any other public institution, authority or person except—
- (a) as authorised by or under an Ordinance; and
 - (b) in accordance with any borrowing guidelines agreed with Her Majesty’s Government in the United Kingdom.
- (3) An Ordinance enacted under subsection (2)(a) shall provide—
- (a) that the terms and conditions of the loan shall be laid before the House of Assembly and shall not come into force unless they have been approved by a resolution of the House; and
 - (b) that any moneys received in respect of that loan shall be paid into the Consolidated Fund and form part of that Fund or into some other public fund which is existing or is created for the purpose of the loan.
- (4) The Minister of Finance shall, at such times as the House of Assembly may determine and at least every six months, cause to be presented to the House such information concerning any loan as is necessary to show—
- (a) the extent of the total indebtedness by way of principal and accumulated interest;
 - (b) the provision made for servicing or repayment of the loan; and
 - (c) the utilisation and performance of the loan.
- (5) The House of Assembly may, by resolution, authorise the Government to enter into an agreement for the giving of a loan or a grant out of any public fund or public account.
- (6) An agreement entered into pursuant to subsection (5) shall be laid before the House of Assembly and shall not come into force unless it has been approved by the House by resolution.
- (7) Any resolution passed by the House of Assembly under subsection (5) or (6) must be compatible with section 109 and the Statement of Governance Principles for the time being in effect.
- (8) For the purposes of this section, “loan” includes any money lent or given to or by the Government on condition of return or repayment and any other form of borrowing or lending in respect of which—
- (a) moneys from the Consolidated Fund or any other public fund may be used for payment or repayment; or
 - (b) moneys from any fund by whatever name called, established for the purpose of payment or repayment whether in whole or in part and whether directly or indirectly, may be used for payment or repayment.

Public Debt

- 120.** (1) The Public Debt of the Islands shall be charged on the Consolidated Fund and other public funds of the Islands.

(2) For the purposes of this section, the Public Debt includes the interest on that debt, sinking fund payments in respect of that debt, and the costs, charges and expenses incidental to the management of that debt.

Financial control and accounts

121. (1) The Minister of Finance shall provide the House of Assembly with such reports, information and accounts as may be necessary to ensure that the House is kept fully informed at all times of the state of the economy of the Islands and the finances of the Government.

(2) Every public corporation or other body or organisation established by or under an Ordinance shall report its financial transactions to the Minister of Finance, who shall include such reports in the information provided to the House of Assembly under subsection (1).

(3) An Ordinance shall make provision for the regular publication of accounts of the Consolidated Fund and any other public funds and for the laying of such accounts and any reports on them before the House of Assembly.

Public Accounts Committee

122. (1) There shall be a Public Accounts Committee of the House of Assembly which shall consist of—

- (a) at least three members of the House appointed by the Speaker from among members who are not Ministers; and
- (b) two persons expert in public finance who are not members of the House, one of whom shall be appointed by the Speaker and one of whom shall be appointed by the Governor, acting in his or her discretion.

(2) The Chairman of the Public Accounts Committee shall be a member of the House of Assembly in opposition to the Government (without prejudice to the appointment of other such members to the Committee).

(3) A person appointed under subsection (1)(b) shall cease to be a member of the Public Accounts Committee—

- (a) at the expiration of the period for which he or she was appointed;
- (b) if he or she becomes a member of the House of Assembly; or
- (c) if the person who made the appointment revokes it, acting in his or her discretion.

(4) If in respect of any item of business before the Public Accounts Committee the Governor, acting after consultation with the Speaker and the Chairman of the Committee, considers that a member of the Committee has a conflict of interests, the Governor, acting in his or her discretion, may appoint another person (whether or not a member of the House of Assembly) temporarily to replace that member of the Committee for the purpose of dealing with the business in question; and a member so replaced shall not sit on the Committee when the Committee is dealing with that business.

(5) The Public Accounts Committee shall examine and report to the House of Assembly on—

- (a) the reports submitted to the Committee by the Auditor General under section 126(4); and

- (b) such management letters and reports of the Auditor General as have been submitted to the Committee or as have been laid before the House or as the Auditor General has brought to the attention of the House;

and shall have and exercise such other functions, and shall operate under such procedures, as are prescribed by this Constitution or as may be prescribed by Ordinance or by Standing Orders.

(6) The Public Accounts Committee shall have power to compel the production of documents and evidence from Ministers, departments of Government and public officers, and shall meet in public.

(7) The Public Accounts Committee shall report to the House of Assembly by the date set by the House or by its terms of reference, whichever is the earlier; and except as otherwise provided in the Committee's terms of reference, such a report may be with or without recommendations.

(8) If the House of Assembly adopts a report of the Public Accounts Committee, and requests the responsible member of the Cabinet to advise the House of the action proposed to be taken by the Government in respect of the report, the member concerned shall convey the Government's response to the House not later than the first sitting day following the expiration of six weeks after the date of the House's request, unless the House extends the time for the response.

(9) The Auditor General shall be adviser to the Public Accounts Committee, and the Committee shall not meet without the presence of the Auditor General or his or her nominee.

(10) The Public Accounts Committee may invite any person to assist it in its work and to participate in its proceedings.

Accounting officers

123. (1) There shall be an Accountant General of the Government, whose office shall be a public office.

(2) The Accountant General shall be responsible for the compilation and management of the accounts of the Government, and for the custody and safety of public money and other resources of the Government.

(3) The Governor, acting in his or her discretion, shall by directions in writing designate for each department of Government and each institution protecting good governance an accounting officer who shall be responsible for the regularity and propriety of the expenditure, receipts and resources of that department or institution, and shall be accountable to the House of Assembly.

(4) For the purposes of subsection (3), "department of Government" means any department of the Government by whatever name called and any other division of the administration of the Islands that the Governor, acting in his or her discretion, may designate by directions in writing.

Remuneration of Speaker and other members of House of Assembly

124. (1) There shall be paid to the Speaker and the other members of the House of Assembly such remuneration and allowances as may be prescribed by Ordinance.

(2) The House of Assembly shall not proceed on any bill for an Ordinance referred to in subsection (1) unless a report by the Integrity Commission recommending the appropriate

levels of such remuneration and allowances has been laid before the House and has been published; and no Ordinance shall provide for levels of remuneration or allowances that exceed the levels recommended in such report.

(3) The remuneration and allowances payable to the Speaker and the other members of the House of Assembly are hereby charged on and shall be paid out of the Consolidated Fund.

Remuneration of certain officers

125. (1) There shall be paid to the holders of the offices to which this section applies such remuneration and allowances as may be prescribed by or under an Ordinance.

(2) The remuneration and allowances payable to the holders of those offices are hereby charged on and shall be paid out of the Consolidated Fund.

(3) The remuneration prescribed in pursuance of this section in respect of the holder of any such office and his or her other terms of service (other than allowances that are not taken into account in computing, under any law in that respect, any pension payable in respect of his or her service in that office) shall not be altered to his or her disadvantage after his or her appointment.

(4) Where a person's remuneration or other terms of service depend on his or her option, the remuneration or terms for which he or she opts shall, for the purposes of subsection (3), be deemed to be more advantageous to him or her than any others for which he or she might have opted.

(5) This section applies to the offices of Deputy Governor, Attorney General, Permanent Secretary, Finance, Commissioner of Police, and any member of the Public Service Commission, the Judicial Service Commission or the Mercy Committee.

(6) Nothing in this section shall preclude an Ordinance that reduces the level of remuneration payable to the holder of any office to which this section applies where that Ordinance makes equivalent reduction to the remuneration of all members of the public service.

Audit

126. (1) The Auditor General shall audit and report on the public accounts of the Islands, including the House of Assembly, the courts, the central and local government administrations, the institutions protecting good governance, and any public corporations or other bodies or organisations established by or under any Ordinance.

(2) For the purposes of subsection (1)—

(a) accounts shall be provided by the authorities referred to in that subsection to the Auditor General within four months of the end of each financial year; and

(b) the Permanent Secretary, Finance shall, as soon as practicable after the end of each financial year, cause to be prepared for submission to the Auditor General a statement of accounts reflecting the financial operations of the Consolidated Fund and any other public fund or account for that financial year.

(3) The Auditor General and any person authorised by him or her shall have a right of access at all reasonable times to all such documents as appear to him or her to be necessary for the purposes of conducting an audit under subsection (1), and shall be entitled to require from any person holding or accountable for any such documents such information and explanation as he or she thinks necessary for those purposes.

(4) Each year the Auditor General shall, as soon as practicable and in any case within four months of receiving the accounts under subsection (2)(a), submit to the Public Accounts Committee of the House of Assembly a report of the accounts audited by him or her under subsection (1) for the immediately preceding financial year, and shall send a copy of each report to the Governor, who shall publish the audited accounts and report as soon as practicable.

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PUBLIC FINANCE MANAGEMENT REGULATIONS

(Legal Notices 48/2012, 25/2015, 14/2016, 59/2016, 36/2019 and 121/2020)

Commencement

[28 September 2012]

PART I

PRELIMINARY

Citation and application

1. (1) These Regulations may be cited as the Public Finance Management Regulations.

(2) These Regulations apply to all financial transactions and business of the Government and to the management of all public moneys and public property.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities, and references to carrying out any act “electronically” shall be similarly construed;

“electronic certificate” means any record that –

- (a) identifies the person or body that issues it;
- (b) names or otherwise identifies the signatory or a device (including an automated communications device) under the control of the signatory;
- (c) specifies its operational period;
- (d) is digitally signed by the person or body that issues it;
- (e) contains a public key that corresponds to a private key under the control of the originator of the electronic document to which the certificate relates; and
- (f) specifies any other matter required to be specified under these Regulations;

“electronic communications system” means a system for creating, generating, sending, receiving, storing, displaying or otherwise processing electronic documents or data;

“electronic document” means information that is created, generated, communicated, stored, displayed or processed by electronic means;

“electronic record” means a record created, stored, generated, received, or communicated by electronic means;

“surcharge” means a monetary penalty that may be imposed for causing loss to the Government;

“value for money” means the economic, efficient and effective utilisation of resources;

“vote” means a group of estimates of expenditure, including statutory expenditure, for which an appropriation has been made by an Appropriation Ordinance or a Supplementary Appropriation Ordinance.

PART II

FINANCIAL MANAGEMENT AND CONTROL

Power to authorise expenditure

3. (1) In accordance with section 112 of the Constitution, all revenues or other moneys raised or received by and for the purposes of the Government shall be paid into the Consolidated Fund. *(Amended in Revised Edition 2014 pursuant to amendments in s. 67(3) of Ord. 6 of 2012)*

(2) In accordance with section 113 of the Constitution, the right to authorise public expenditure is vested in the House of the Assembly through the enactment of Appropriation Ordinances, subject to the approval of the Governor acting in his or her discretion. *(Amended in Revised Edition 2014 pursuant to amendments in s. 67(3) of Ord. 6 of 2012)*

(3) In accordance with the Constitution and the Ordinance, three types of issues may be made from the Consolidated Fund as follows—

- (a) statutory expenditure (for “Consolidated Fund Services”);
- (b) voted expenditure (for “Supply Services”); and
- (c) expenditure in advance of the Appropriation Ordinance.

Voted expenditure

4. (1) The Appropriation Ordinance, incorporating the approved estimates of expenditure, constitutes the means by which the House of Assembly exercises control over the expenditure of public moneys by the Government during the year to which the expenditure relates.

(2) Upon the approval of the estimates and the enactment of the relevant Appropriation Ordinance, the expenditure for the year is held to be definitely arranged in accordance with the Votes and account classifications, and such expenditure—

- (a) is to be limited by the provision in each item shown in the estimates of expenditure; and
- (b) can only be increased or varied by the House of Assembly or in accordance with the Ordinance.

(3) Unless otherwise specified by an Ordinance, the allocation of funds under a vote is controlled by the Minister under the authority of section 7 of the Ordinance.

(4) Unless otherwise specified by these Regulations or an Ordinance, any variation in the amount allocated to an item shall have the prior approval of the Minister. *(Substituted by L. N. 25/2015)*

Expenditure in Advance of Appropriation

5. Where the Appropriation Ordinance has not come into force at the commencement of any financial year, the Minister may, with the prior approval of the Governor, by provisional warrant under his or her hand, addressed to the Accountant General, authorise a withdrawal from the Consolidated Fund for the purposes of meeting the expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year, or the coming into operation of that Ordinance, whichever is earlier.

Legislative control of revenue

6. Public revenue is subject to control by the House of Assembly in the sense that the revenues from any source and the circumstances in which they are required to be paid are controlled by the House by the enactment of the relevant Ordinances and promulgation of appropriate statutory instruments.

Expenditure in respect of public debt

7. (1) For the avoidance of doubt, in no circumstances may public moneys be spent if their expenditure would contravene—

- (a) the terms and conditions attached to any grant, loan or guarantee received or accepted by the Government from any other Government, Institution or authority; or
- (b) any instructions regulating the issue of money from that Government, Institution or authority's funds.

(2) Where the terms of any grant, loan or guarantee prescribe that specified procedures must be followed, those procedures shall take precedence over the procedures prescribed in these Regulations for the expenditure of such moneys and where new grants, loans or guarantees are applied for, the party shall be fully informed of existing conditions and obligations that take precedence.

PART III

DUTIES AND RESPONSIBILITIES OF THE MINISTER, MINISTRIES, ETC.

Duties and responsibilities of the Minister

8. (1) The Minister is responsible for—

- (a) the development and implementation of the macro-economic and fiscal policies and plans of the Government as outlined in the directions or instructions in accordance with the limiting factors of entering into contracts or borrowing that would otherwise create a breach of the Framework document;
- (b) ensuring the House of Assembly is kept fully informed of the state of the economy of the Turks and Caicos Islands;
- (c) enhancing the control of the House of Assembly over public moneys, public property and public resources; and
- (d) the supervision, control and direction of all matters relating to the financial affairs of the Government.

(2) Without limiting the generality of subregulation (1) and subject to Schedule 2, the Minister is responsible for—

- (a) the co-ordination of international and inter-governmental financial and fiscal relations;

- (b) advising the Government on the total of resources to be allocated to the public sector in the light of the Government's economic objectives and the economic and financial environment of the Turks and Caicos Islands;
- (c) advising the Government on the level of resources appropriate for individual programmes, taking account of the Government's policies and commitments on debt sustainability targets as prescribed in the Framework document;
- (d) management of the Consolidated Fund and the supervision and control of all matters relating to the financial affairs of the Government;
- (e) ensuring the maintenance of systems both centrally and in Ministries and departments for the planning, allocation, budgeting and control of resources;
- (f) ensuring that goods and services procured by the Government are done in a fair, equitable and cost effective manner;
- (g) supervising the use of resources by the Government to ensure that they are used economically, efficiently and effectively and that value for money is achieved; and
- (h) approving the estimates of revenue and expenditure for presentation to the House of Assembly.

(3) For the purposes of discharging the responsibilities specified in subregulations (1) and (2), the Minister is empowered under section 10 of the Ordinance to give instructions or directives that may appear to him or her to be necessary and expedient.

Duties and responsibilities of Ministries and Departments

9. (1) The primary responsibility of a Ministry or department is to execute the policies of the Government and its statutory functions in the most economic, efficient and effective manner within its overall financial allocation and any cash or other financial limits imposed by the Minister taking into account the specific requirements in Schedule 2.

(2) A Ministry or department referred to in subregulation (1) shall ensure that—

- (a) all resources, including money, human capital and capital assets are allocated and deployed to best effect;
- (b) steps are taken to minimize—
 - (i) risks; and
 - (ii) liabilities; and
- (c) all control totals such as those contained in the approved estimates and warrants are strictly observed.

(3) It is the responsibility of a Ministry or department to co-operate with the Ministry responsible for finance regarding the provision of information to enable proper and effective advice to be given to the Minister on the effective discharge of his or her duties and responsibilities as specified in the Ordinance and regulation 8, in relation to which, due regard shall be given to the specific requirements in Schedule 2.

(4) For the purposes of subregulation (3), Ministries and departments shall, in particular—

- (a) consult with the Permanent Secretary, Finance for his or her approval on any new proposals which would commit the Government to find additional resources, before submitting a Cabinet Paper to the Governor; and
 - (b) consult with the Permanent Secretary, Finance at a formative stage in policy discussions which could have substantial implications on public resources.
- (5) In accordance with section 14 of the Ordinance, responsibility for the discharge of the duties specified in this Regulation rests on Accounting Officers designated by the Governor, acting in his or her discretion.

PART IV

DUTIES AND RESPONSIBILITIES OF PERMANENT SECRETARY, FINANCE, ACCOUNTANT GENERAL, ACCOUNTING OFFICERS AND AUDITOR GENERAL

The Permanent Secretary, Finance

- 10.** (1) The Permanent Secretary, Finance is responsible—
- (a) to the Governor and the Minister for the effective application of the Ordinance, these Regulations and any instructions or directives issued under the Ordinance; and
 - (b) for ensuring that the needs of the Governor and the Minister in the discharge of his or her responsibilities are responded to and in particular that prompt and effective advice is made available to the Governor and the Minister:

Provided that if there is disagreement between instructions given or issued by the Governor and the Minister instructions given or issued by the Governor shall prevail in accordance with section 8 of the Ordinance.

(2) For the purpose of discharging his or her duties under the Ordinance and these Regulations and to ensure compliance with any instruction or direction issued under the Ordinance, the Permanent Secretary, Finance or any person authorised by him or her may at all times—

- (a) inspect any offices of the Government and have access to all books, records and other information;
- (b) require any Accounting Officer to provide any information, document or records relating to public moneys or public property he or she may require;
- (c) require any Accounting Officer or head of any entity which manages any assets of the Government to supply information necessary to enable the Minister to meet his or her obligations under regulation 8; and
- (d) within the limitations imposed by the Ordinance and these Regulations, give such directions and instructions as he or she may consider necessary for the advantage, economy and safety of public resources.

(3) An Accounting Officer shall consult the Permanent Secretary, Finance on any matter concerning the application of the Ordinance and these Regulations, and bring to his or her attention any defect in the Ordinance or these Regulations which may result in a diminution of control over the assets and finances of the Government.

- (4) The Permanent Secretary, Finance is particularly responsible for ensuring that—
- (a) an effective system is in place for the collection of information to ensure the timely and effective preparation of the annual estimates of revenue and expenditure for consideration and approval by the Minister and submission to the House of Assembly;
 - (b) the annual estimates are prepared in accordance with any general or specific direction of the Minister and that they reflect, as can best be ascertained at the material time, value for money in the use of Government's resources;
 - (c) the system of internal control in every Ministry, department, Fund or other reporting unit required to produce accounts under section 34 of the Ordinance is appropriate to the needs of the Ministry, department, Fund or reporting unit concerned and conforms to internationally recognised standards; and
 - (d) the internal audit function in each Ministry, department, fund, or other reporting unit required to produce accounts under section 34 of the Ordinance, is appropriate to the needs of the Ministry, department, Fund or other reporting unit concerned and such a function conforms to internationally recognised standards.

(5) Subject to section 11 of the Ordinance, these Regulations and any directives or instructions issued under the Ordinance, the Permanent Secretary, Finance may give directives and instructions he or she considers necessary for the effective and efficient discharge of the intents and purposes of the Ordinance.

The Accountant General

11. (1) The Accountant General is responsible for the compilation and management of the accounts of the Government and the safety of the public moneys, property and resources, and is the chief adviser to the Permanent Secretary, Finance and the Minister on accounting matters.

(2) For the purposes of discharging his or her duties and responsibilities under subregulation (1), the Accountant General shall—

- (a) define and approve the basis of accounting and the system of accounts to be established in each Ministry, department, Fund or statutory body, issue written orders and instructions and provide the guidance necessary to ensure the application of the basis of accounts and the maintenance of those systems of accounts;
- (b) ensure that a classification system, compatible with an internationally recognised system of public accounts and these Regulations, is established and maintained and ensure that all moneys paid or received by the Government are fully, promptly and properly brought to account in accordance with that system;
- (c) supervise the expenditure and other disbursements of the Government to ensure compliance with the provisions of any law, regulation or instruction in respect of that expenditure and for this purpose he or she shall—
 - (i) ensure that effective systems are established in the Ministries and departments which record all commitments and transactions entered into by Accounting Officers;

- (ii) ensure that effective systems are established which facilitate the prompt settlement of any commitment properly incurred by Accounting Officers;
- (iii) ensure that the system of internal control in every Ministry, department, fund or other reporting unit required to produce accounts under section 34 of the Ordinance is appropriate to the needs of the Ministry, department, Fund or reporting unit concerned and conforms to internationally recognised standards;
- (iv) refuse any payment which he or she considers wrong or deficient in content, or that contravenes the Constitution, the Ordinance, these Regulations or any directives or instructions properly made or given under the Ordinance, or that is in any way unacceptable in support of a charge on public funds; and
- (v) report to the Permanent Secretary, Finance in writing, any expenditure or disbursement which after due enquiry appears to him or her to be excessive, extravagant or unauthorised;
- (d) ensure that adequate provision is made for the safe custody of public moneys, stamps, securities, revenue receipt books, licenses and other documents of value;
- (e) exercise supervision over the collection of public revenue by collection officers to ensure that it is promptly collected and accounted for;
- (f) carry out sufficient checks, including surprise inspections in all Ministries, departments and other offices, to ensure that all regulations, orders, directions and instructions relating to the receipt, disbursement, safety, custody and control of public moneys, stamps, securities, stores and other public property are being complied with, and to ensure that the accounts and controls provide full and effective protection against losses or irregularities;
- (g) report to the Permanent Secretary, Finance in writing any defects in the custody, control or collection of public moneys, stamps, securities, stores and other public property;
- (h) ensure that the financial terms and conditions of any trust, loan, grant or grant-in-aid are fully complied with;
- (i) prepare promptly and accurately all financial statements and returns for which he or she is responsible and to render the accounts promptly for audit;
- (j) report annually to the Permanent Secretary, Finance, copied to the Auditor General, on the discharge of his or her duties under the Ordinance, together with the reports required under section 34 of the Ordinance, and identify—
 - (i) the basis of the standards required by section 35 of the Ordinance; and
 - (ii) any defect, shortcoming or other factor which in his or her opinion has affected materially the Minister's responsibility under section 10 of the Ordinance; and
- (k) in accordance with section 35 of the Ordinance, issue instructions in respect of compilation and management of the accounts of the Government.

Accounting Officer

12. (1) Pursuant to section 14 of the Ordinance, the Governor, acting in his or her discretion, shall designate an Accounting Officer in writing to have personal and pecuniary responsibility for each vote of revenue and expenditure; and the Accounting Officer shall have overall responsibility and accountability for the collection and receipt of all revenue or for all disbursements of expenditure under his or her control.

(2) Without limiting the generality of subregulation (1), an Accounting Officer shall prepare in consultation with the Minister, economic and fiscal programmes and work plans for his or her Ministry or department for such periods as may be specified by the Minister and—

- (a) prepare and sign the draft estimates and other accounts assigned to him or her, and in doing so accept personal responsibility for their proper presentation in accordance with the Ordinance or as approved by the Accountant General;
- (b) ensure that the financial procedures established by the Ordinance, these Regulations and any instructions issued under the Ordinance and these Regulations are followed and that accounting records are maintained in a form approved for accounting purposes;
- (c) ensure that the public moneys, property and resources for which he or she is responsible as Accounting Officer are properly managed and safeguarded;
- (d) ensure effective systems of internal control are in place in respect of all transactions and resources under his or her control;
- (e) ensure that, in the consideration of policy proposals relating to the income or expenditure for which he or she is Accounting Officer, all relevant financial considerations are taken into account, and where necessary brought to the attention of the Minister responsible;
- (f) report to the Permanent Secretary, Finance with a copy to the Accountant General and the Auditor General, any cases of apparent waste or extravagant administration or failure to achieve value for money in addition to any weakness in financial procedures;
- (g) produce when required by the Permanent Secretary, Finance or the Auditor General or Accountant General or by such public officers as may be authorised by them, all cash, stamps, books, records or vouchers in his or her charge;
- (h) reply substantively to any queries addressed to him or her by the Permanent Secretary, Finance, Auditor General and Accountant General and within any time period prescribed or specified in the Ordinance;
- (i) ensure that there are efficient and effective arrangements for revenue collection from the public;
- (j) ensure steps are taken to minimize risk and liabilities; and
- (k) keep the Permanent Secretary, Finance, the Auditor General and the Accountant General suitably informed of any new financial procedures, or other aspects of the administration of his or her Ministry or department, that may assist him or her in carrying out his or her statutory duties.

(3) An Accounting Officer may authorise in writing other public officers under his or her control to exercise or perform such part of his or her powers and duties as he or she may think

fit, and the limits of any such delegation shall be set out sufficiently clearly and unequivocally to avoid dispute or misunderstanding.

(4) A delegation under subregulation (3) shall not relieve the Accounting Officer of any of his or her responsibility under the Ordinance and these Regulations.

The Auditor General

13. The appointment, powers and duties of the Auditor General are specified in the National Audit Office Ordinance.

PART V

LOSSES

Definition of loss

14. A loss shall be considered to have occurred when the Government is deprived of the use of any public money, public property, stores or any other financial or physical asset.

Register of losses in Ministries and departments

15. (1) All losses incurred by or in any Ministry or department shall be brought to the attention of the Accountant General who, as the chief accountant of the Government, shall keep a register of such losses, and the Accountant General shall soon after the end of each financial year, prepare a statement of the losses for submission to the Auditor General as part of the accounts for each financial year concerned.

(2) A register of all losses incurred by or in any Ministry or department, showing the nature of the loss and action taken, shall be maintained by each Ministry or department.

(3) The Accounting Officer shall report to the Permanent Secretary, Finance monthly details of any uncollectable debts due to Government who shall seek approval for write off from the Cabinet which shall be reported to the House of Assembly on a quarterly basis:

Provided that the Permanent Secretary, Finance may approve write offs to the value of \$500 without seeking approval from the Cabinet although they shall be required to be reported in retrospect.

(4) All exemptions from fees, charges and taxes due to Government shall require approval from the Cabinet before any agreement is reached or notifications issued to the parties involved.

Nature of losses

16. Loss of public stores and property will include damage and deterioration which cannot be attributed to fair wear and tear.

Cash and store losses

17. (1) Cash losses may take the form of—

- (a) losses of cash by fraud, theft, errors, omissions, un-collectable arrears of revenue, or other irregularities, including unauthorised or excess payments; and

- (b) losses of cash through fire, caused deliberately or otherwise and other natural disasters.
- (2) Store loss may take the form of—
- (a) losses of stores by fraud, theft, arson, errors, omissions, sabotage or other irregularities;
 - (b) losses from fire caused deliberately or otherwise, stress of weather or accident beyond the reasonable control of any responsible person;
 - (c) losses due to deterioration in store, arising from a defect in administration; and
 - (d) losses due to natural causes such as evaporation.

Losses through claims waived or abandoned

18. Losses of public moneys or resources through claims waived or abandoned may occur where—

- (a) a claim either for services rendered by the Government or for an actual contractual or other legal obligation of a contractor or other person to the Government is not made or pursued or is waived or abandoned by the Ministry or department concerned;
- (b) a claim such as is described in paragraph (a) is made but payment is not received.

Losses through nugatory payments

19. Losses of public moneys may also occur through nugatory payments if the payment is unavoidable and there is no benefit to the Government, such as a payment of a retainer for professional services where these services are not in fact used, a payment for accommodation rented but not used or a payment for goods wrongly ordered or accepted through irregularity or negligence other than an error of judgment.

Unauthorised or excess payment

20. Any payment which has not been properly authorised under an Appropriation Ordinance shall be treated as a large or unusual loss and shall be referred to the Board of Enquiry established under these Regulations, and any such referral shall not affect the opinion of the Auditor General and his or her obligation to report that loss to the House of Assembly.

Loss of accountable documents

21. (1) Subject to subregulation (2), the loss of accountable documents such as stamps, fixed fee receipts or licenses, shall be treated as a loss of cash and dealt with under these Regulations.

(2) In the case of the loss of accountable documents such as miscellaneous receipts, invoices and orders, which do not have a predetermined value but which nevertheless might be misused if they fell into the wrong hands—

- (a) the loss shall be reported immediately to the Accountant General and the Auditor General; and

- (b) a notice in a form approved by the Attorney General shall be placed in the local print and electronic media, advising the public not to accept documents bearing the serial numbers of the documents in question.

Action by public officers on discovery of losses

22. (1) It is the duty of every Accounting Officer to ensure that there is a mechanism in place for prompt detection and reporting of losses.

(2) Any public officer who becomes aware of any loss shall at once report the loss to the appropriate Accounting Officer, and in the report describe the nature, amount and circumstances of the loss, shortage, damage or destruction.

(3) The Accounting Officer shall report the losses, in writing, to the Permanent Secretary, Finance, copied to the Accountant General and Auditor General.

(4) Any loss whether restituted or not shall be reported promptly, and no report may be deferred on grounds of conducting an investigation.

(5) Immediately on receipt of the report of any loss, the Accounting Officer shall investigate the loss, and where he or she has reason to suspect that a crime has been committed such as misappropriation, theft or fraud, he or she shall also make an immediate report to the police.

(6) After investigating the loss, the Accounting Officer shall submit a full report to the Permanent Secretary, Finance with copies to the Accountant General and the Auditor General.

(7) The report referred to in subregulation (6) shall be signed personally by the Accounting Officer concerned and shall state the following—

- (a) the nature of the loss;
- (b) the amount involved;
- (c) the place, and, if known, date on which the loss occurred;
- (d) the date and if applicable, time of discovery of the loss;
- (e) the exact circumstances in which the loss arose;
- (f) whether the loss was the result of a failure to observe current regulations or accounting instructions;
- (g) whether the loss was due to a fault in the accounting system;
- (h) whether the loss was discovered as the result of the internal control and if not, why the internal control failed to reveal it;
- (i) whether misappropriation, fraud, negligence or other irregularity was involved;
- (j) the name and designation of the public officer considered to be responsible for the loss;
- (k) whether that public officer has made good the loss;
- (l) whether that public officer's suspension or interdiction from duty is recommended;
- (m) whether disciplinary or surcharge action in accordance with Part VIII of the Ordinance is recommended and against whom and, if not, why not;

- (n) whether the loss was reported to the police, (and if so, a police report should be attached); and
- (o) the measures taken or recommended to prevent the recurrence of a similar loss or shortage.

(8) In any other case of loss such as when an overpayment occurs which cannot be recovered or in which revenue or other debt due to the Government is deemed un-collectable, the Accounting Officer shall submit a full report to the Permanent Secretary, Finance, with a copy to the Accountant General and to the Auditor General.

(9) The report referred to in subregulation (8) shall be signed personally by the Accounting Officer and shall state the following—

- (a) the nature of the overpayment, revenue or other debt;
- (b) the name and designation of the public officer who made the overpayment or is responsible for the failure to collect the revenue or debt;
- (c) the amount involved, supported where appropriate by detailed lists showing the names of the defaulters, the amounts outstanding in each case, and in the case of revenue the year in which it was due, and the dates on which demands and reminders were dispatched;
- (d) the reasons why the overpayment occurred or the revenue or other debt cannot be recovered;
- (e) the action taken to recover the overpayment, revenue or debt, including any legal means taken, whether this is considered to have been adequate, and the action taken by the Accounting Officer personally;
- (f) whether the overpayment or failure to collect arose from a failure to observe current accounting instructions or from a fault in those instructions or in the accounting system;
- (g) whether the amount involved has been made good by the public officer responsible;
- (h) whether disciplinary or surcharge action in accordance with Part VIII of the Ordinance is recommended and against whom and, if not, why not; and
- (i) the measures taken or recommended to prevent the recurrence of a similar overpayment or failure to recover revenue or debts.

Establishment of a Board of Enquiry

23. (1) The Permanent Secretary, Finance or Deputy Governor may establish a Board of Enquiry to investigate the circumstances of any large or unusual losses referred to it by the Accounting Officer, Audit Committee, Governor or Deputy Governor.

(2) The Board of Enquiry shall comprise at least three members, who shall not be employees of the same Ministry or department.

(3) With respect to cases which have been reported to the police and in respect of which criminal action is pending, action by the Board of Enquiry shall, subject to any written law, be deferred until such proceedings have been completed or discontinued.

(4) The Permanent Secretary, Finance shall maintain a register showing details of all cases referred to Boards of Enquiry and their disposal, and shall circulate copies of all referrals as necessary which shall at all times include the Deputy Governor.

(5) The Board of Enquiry may meet at the time and place most suitable for the purpose of its enquiry, but it shall hold its first meeting within seven working days of any referral.

(6) The Board may regulate its own procedure and take evidence from such persons as it may consider appropriate, either orally or in writing, except that such evidence shall not be taken on oath.

(7) On completion of its enquiries the Board shall, without delay, report its findings to the Permanent Secretary, Finance with copies to any Accounting Officer concerned, and circulate as necessary.

(8) The report referred to in subregulation (7) shall include—

- (a) a statement of the amount and nature of the shortage, and if the amount cannot be established precisely, the Board shall estimate it, giving the basis on which the calculation has been made;
- (b) an opinion on whether the system or its application was at fault, together with recommendations for any corrective action which should be taken to prevent the recurrence of a similar loss or shortage;
- (c) whether police or legal action was taken in respect of the loss or shortage and, if so, the details and outcome of the action;
- (d) an opinion on who, if any, was responsible for the loss or shortage, the degree of that responsibility and if more than one person was responsible, the apportionment of the loss;
- (e) whether disciplinary or surcharge action is recommended and against whom and, if not, why not; and
- (f) any other matters which the Board considers should be brought to the attention of the Permanent Secretary, Finance.

(9) In the case of any loss, overpayment or failure to collect moneys due to Government in which defects in systems, procedures, or instructions appear to have been either wholly or partially responsible, action to correct the fault shall be taken immediately by the relevant Accounting Officer, Accountant General or Permanent Secretary, Finance as appropriate, and such action shall not be deferred pending the decision on whether to write-off the amount or recover it from the public officer responsible.

Action to be taken by Permanent Secretary, Finance in respect of losses

24. (1) In the light of the reports submitted under regulation 23(7) and (8) and any report of the Board of Enquiry under regulation 23 and the results of any Police or legal action, the Permanent Secretary, Finance shall decide whether—

- (a) the amount involved in any loss should be recommended for write off; or
- (b) disciplinary or surcharge action should be taken against the public officer considered to be responsible for the loss.

(2) The decision or recommendation under subregulation (1) shall be in writing and communicated by the Permanent Secretary, Finance to the Accounting Officer concerned, the public officer considered to be responsible for the loss or shortage, the Accountant General, the Deputy Governor, the Auditor-General and, where appropriate, the Secretary to the Board of Enquiry.

(3) Where it is decided that disciplinary action should be taken against the public officer considered to be responsible for the loss, the matter shall be referred to the Deputy Governor. However if a surcharge is the sanction to be applied, the Permanent Secretary, Finance shall determine the amount of the surcharge—

- (a) bearing in mind the amount of the loss sustained by the Government; and
- (b) in accordance with Part VIII of the Ordinance.

(4) The Permanent Secretary, Finance shall, in writing, notify the public officer concerned of the decision, and send a copy of the notification to the relevant Accounting Officer, the Accountant General and the Auditor General.

(5) The notification shall call upon the public officer concerned, within one month from the date the notification is received by the public officer, to show cause why he or she should not be surcharged with the amount determined under subregulation (3).

(6) On receipt of the reply from the public officer, the Permanent Secretary, Finance shall confirm, reduce or remit the surcharge and advise the Governor who shall review the decision of the Permanent Secretary, Finance, and no action shall be taken to implement the decision of the Permanent Secretary, Finance until such review is completed and the decision confirmed, varied or set aside or reversed by the Governor.

(7) The decision of the Governor shall be communicated by the Permanent Secretary, Finance to the public officer concerned, the relevant Accounting Officer, the Accountant General and the Auditor General.

(8) The amount of any surcharge imposed by the Permanent Secretary, Finance and confirmed by the Governor shall be recovered as a civil debt due to the Government and may be deducted from any salary or other amount due by the Government to the public officer concerned, subject to—

- (a) any counterclaim by the public officer in the courts, or any judicial review by the Supreme Court; and
- (b) Part VIII of the Ordinance.

PART VI

INTERNAL AUDIT AND AUDIT COMMITTEES

Internal Audit

25. (1) Responsibilities for the internal audit function and for the Audit Committee shall be provided for in an Internal Audit Charter and section 13 of the Ordinance shall also be consulted.

(2) Internal auditing is an independent, objective, assurance and consulting activity designed to assess value and improve the Organisation's operations, and helps the Organisation to

accomplish its objectives by bringing a systematic, and disciplined approach to evaluate and improve effectiveness of risk management, control and governance processes.

(3) In order to discharge his or her responsibilities under these Regulations, an Accounting Officer shall be consulted by the Head of internal Audit during the annual planning phase that creates the audit programme for the forthcoming financial year.

(4) The Governor is responsible under the Ordinance for ensuring that the status and powers of the internal audit function conforms to internationally accepted standards and may issue instructions in relation to that responsibility.

(5) The instructions referred to in subregulation (4) will in particular seek to ensure that the internal audit function is capable of operating independently from the management of a Ministry, department or statutory body, and that no limitation is placed on access to information.

(6) It is incumbent on both the Accounting Officer and the Head of the Internal Audit to ensure that all such instructions are enforced and implemented in respect of the internal audit function.

(7) The duty of the internal audit function in the Organisation is to appraise the soundness and application of accounting, financial and operational controls and in particular review and report on—

- (a) proper control over the receipt, custody and utilisation of all financial resources of that unit;
- (b) conformity with financial and operational procedures laid down in any legislation or any regulation or instruction issued under such legislation and good accounting practice as from time to time defined by the Accountant General for incurring obligations and authorising payments and which ensure effective control over the expenditure of the unit;
- (c) the correct classification and allocation of revenue and expenditure accounts;
- (d) the reliability and integrity of financial and operating data so that information provided allows for the preparation of accurate financial statements and other reports for the information of the unit and the general public and as required by legislation;
- (e) the systems in place used to safeguard assets, and, as appropriate, the verification of the existence of such assets;
- (f) operations or programs to ascertain whether results are consistent with established objectives and goals and on the attainment of value for money;
- (g) the adequacy of action by management in response to internal audit reports, and assisting management in the implementation of recommendations made by those reports and also, where appropriate, recommendations made by the Auditor General;
- (h) the adequacy of controls built into computerised systems in place in the unit; and
- (i) any other matters as assigned by the Audit Committee or Governor.

(8) The responsibility of the internal auditor for checking and reporting shortcomings in connection with the accounts, finances and related operations of the Ministry, department or

statutory body, does not absolve any public officer from responsibility for complying, or securing compliance with instructions within the scope of his own authority.

(9) The prevention, detection and investigation of fraud are the responsibility of management, although in conducting audit assignments the internal auditor shall be alert to opportunities, such as control weaknesses that could allow fraud, and where fraud is suspected, the appropriate authorities within the department shall be informed.

(10) In accordance with section 13(9) of the Ordinance, an Audit Committee shall be created to strengthen the independence, integrity, and effectiveness of audit activities in the public sector by providing independent oversight of the internal audit work plans and results, assessing audit resource needs, and mediating the Chief Internal Auditors' relationship with the House of Assembly, Ministries and statutory bodies.

(11) The Audit Committee shall ensure that audit findings are published and any recommended improvements or corrective actions are addressed and resolved. The Audit Committee will provide regular reporting to the House of Assembly and the Governor which shall include an assessment of the overall effectiveness of the Organisation's governance, risk management, and control frameworks, legislative and regulatory compliance.

(12) The Audit Committee shall consist of independent members comprising a Chairperson, Secretary and up to four other members, all of whom shall be appointed by the Governor and shall have qualifications, relevant knowledge and competence and moral integrity required to carry out their duties. Collectively, the Audit Committee must possess sufficient knowledge of audit, finance, risk, and control and the Audit Committee shall be chaired by a member of the Committee who is not the individual to whom the Chief Internal Auditor reports administratively.

(13) Without prejudice to subregulations (10) and (11)—

- (a) the scope, purpose, powers and constitution of the Audit Committee shall be in accordance with guidelines prescribed in the Charter for Audit Committees as approved by the Governor; and
- (b) the Audit Committee shall assist Accounting Officers in carrying out their oversight responsibilities relating to financial practices, internal controls, risk management, corporate governance issues, compliance with laws, regulations and ethics and all related internal audit matters.

(14) The Audit Committee shall function in an advisory capacity to Accounting Officers, but its powers shall not be limited in any way which would prevent it from properly performing its advisory duties, and for this purpose, the Audit Committee shall have unrestricted access to records and employees to obtain information needed to perform its duties.

(15) Without limiting the generality of subregulation (12), the duties of an Audit Committee are to—

- (a) approve strategic and operational plans of the internal audit function;
- (b) liaise and work closely with the Office of the Auditor General, the Attorney General, the Police and the Board of Enquiry established under regulation 23;
- (c) review the adequacy of the internal audit service, its adherence to professional standards, particularly independence, standing, scope, resources and reporting provided to them;

- (d) discuss with Accounting Officers, internal audit findings and recommendations, and to review and monitor implementation of the recommendations;
- (e) through the Chairperson of the Audit Committee, represent concerns of the internal audit to the relevant Accounting Officer, the Accountant General, the Financial Secretary or the Minister;
- (f) facilitate risk assessment to determine the amount of risk exposure of the entity's assets and the probability of loss occurring with a view to mitigating the risks;
- (g) review arrangements established by the Accounting Officers for compliance with regulatory and financial reporting requirements; and
- (h) review the financial statements prepared by the Accountant General to ensure that disclosure is adequate and fair presentation is achieved.

PART VII

CONSOLIDATED FUND

Annual estimates and macro-economic and fiscal policy

26. (1) For the purpose of discharging his or her duties and responsibilities under section 10 of the Ordinance, the Minister shall provide the information to the House of Assembly which includes—

- (a) a statement of macro-economic policy;
- (b) estimates of all revenue to be raised during the financial year to which the budget relates;
- (c) estimates of total recurrent expenditure for the financial year;
- (d) estimates of interest and debt servicing charges, and any repayments on loans;
- (e) estimates of capital expenditure for the financial year and future financial years broken down by project or categories, and the recurrent operating or maintenance costs arising from such projects;
- (f) proposals for financing any anticipated deficit;
- (g) intentions regarding borrowing and other forms of public liability; as allowed and that will increase public debt during that financial year and for three financial years;
- (h) the projected revenue, expenditure and any borrowing for the financial year that will be ending shortly after the budget is tabled; and
- (i) such other details as are necessary to ensure that the comprehensiveness and transparency of the information supplied enables the House to arrive at informed decisions.

(2) In respect of proposed issues from the Consolidated Fund and other public moneys or funds, the Permanent Secretary, Finance shall, each year, at an appropriate time, issue a budget call circular requiring all Accounting Officers to submit by specified dates detailed proposals,

applications, requirements and all other explanations relevant to their staff establishment, their anticipated revenue, anticipated expenditure and the anticipated outputs of the following year and to prepare and submit draft estimates in the required form for the revenue and expenditure and outputs for which they are responsible.

(3) The budget call circular shall also communicate to Accounting Officers ceilings of proposed expenditure as approved by the Minister.

(4) To ensure that the budgetary processes are not delayed and, in particular, that the House of Assembly has sufficient time to complete its scrutiny of the proposals and to ensure that the Minister can lay the annual estimates before the House before the commencement of each financial year, Accounting Officers shall comply strictly with the timings set out in the budget call circular.

(5) Accounting Officers shall comply strictly with the timings set out in the budget call circular to ensure that the budgetary processes are not delayed and, that the House of Assembly has sufficient time to complete its scrutiny of the proposals and the annual estimates before the commencement of each financial year.

(6) Any proposals submitted by an Accounting Officer outside the deadlines set in the budget call circular may be referred to the Deputy Governor for disciplinary action.

Corrections

27. (1) Accounting Officers shall have an opportunity to make corrections to the draft estimates when they are being considered by the House of Assembly at the Committee stage, and Accounting Officers who wish to make such corrections shall seek the approval of the Speaker and the appropriate Minister to do so in writing or in person.

(2) This Regulation shall apply to the correction of minor errors or omissions in the budget submissions, and it is not intended to accommodate significant reallocations or adjustments within the budget of votes.

Estimates of revenue and expenditure

28. Estimates of revenue and expenditure shall be prepared in accordance with budget instructions issued by the Permanent Secretary, Finance after consultation with the Minister and shall be arranged according to an accounts classification system approved by the Accountant General.

Ambit of vote

29. (1) The ambit of a vote sets out a formal description of the nature of the transactions to be financed from the vote.

(2) The wording of the ambit is incorporated in the Appropriation Ordinance or Supplementary Appropriation Ordinance and therefore provides the statutory description in that Ordinance of the purpose for which the funds sought in the estimate are granted.

(3) The purposes of expenditure under each department or programme and the services to be provided must be outlined in a preamble to the vote which forms the ambit of the vote.

(4) No expenditure may be charged to a department or programme which does not fall within the ambit of a vote.

(5) Expenditure on a new transaction which is outside the ambit of a vote shall not proceed unless the approval of House of Assembly is obtained through a Supplementary Estimate which proposes to change the ambit as necessary.

(6) Each appropriation shall state the Ministry or department and the Accounting Officer responsible for accounting for the vote or otherwise specified group of estimates and set out the gross provision sought in the estimates by item.

(Substituted by L.N. 25/2015)

PART VIII

DEVELOPMENT FUND

Definition

30. In this Part—

“Development Programme” means a programme of economic and social development and approved by the Governor and laid before the House of Assembly;

Provided that in the absence of a Development Programme the annual estimates of expenditure from the Development Fund as passed by the House of Assembly shall constitute the Development Programme for the financial year to which such estimates relate;

“development project” means a project, scheme or programme of work contained in a Development Programme or a project of the Government for economic or social development which is not contained in a Development Programme but which has received the approval as such of the Governor;

“development vote” means the grouping of development project estimates that are identified as such by an Appropriation Ordinance;

“Fund” means the Development Fund established by section 5 of the Ordinance.

(Substituted by L.N. 25/2015)

Use of the Fund

31. No provision shall be made for expenditure to be charged on the Fund other than for the purpose of a development project. *(Substituted by L.N. 25/2015)*

Payment out of the Fund

32. (1) No moneys shall be paid out of the Fund except where the payment of those moneys has been authorised by an Appropriation Ordinance and by a warrant under the hand of the Minister addressed to the Accountant General.

(2) The Accountant General may by Development Fund Warrant signed by him, authorise an Accounting Officer responsible for a development project to incur expenditure on such project up to the limits specified in the warrant and for the purpose and subject to the conditions contained in the warrant.

(3) A Development Fund Warrant shall not be issued by the Accountant General unless the sum and purpose for which it is issued have been included in a warrant issued by the Minister under this Regulation.

(4) A Development Fund Warrant shall contain the following information—

- (a) the relevant ministry and/or department details;
- (b) the Accounting Officer's name and job title;
- (c) the development project title and account code;
- (d) a short description of the project, its location and nature;
- (e) the original approved overall project cost and date approved;
- (f) the latest approved estimate of the overall project cost and date of completion;
- (g) the estimated accumulated expenditure for the project as at the end of the last financial year;
- (h) the amount appropriated to finance the development project during the current financial year;
- (i) the estimated expenditure for the next financial year; and
- (j) the estimated further expenditure required to complete the project.

(5) The Development Fund Warrant issued under subregulation (2) shall allow the Accounting Officer to undertake expenditure during the current financial year to an accumulated value for the project limited to the total value of subregulation (4)(g) and (h) combined.

(6) The Development Fund Warrant issued under subregulation (2) shall also allow the Accounting Officer to enter into a contract or contracts to deliver the development project to the extent that all expenditures, contracts and other commitments are within the latest approved estimate of the overall project cost and are commensurate with the date of project completion.

(7) The Accountant General shall not make any payment or accept any charge in his or her accounts, nor shall an Accounting Officer make any payment or enter into any commitment unless authorised by warrant to do so.

(8) No expenditure or commitments chargeable on the Fund shall be incurred by any Accounting Officer in the absence of a Development Fund Warrant authorised by the Accountant General.

(9) An Accounting Officer is required to keep the necessary records and accounts to demonstrate at any point in time that development project expenditure, contracts and other commitments are within the permissions given by the relevant development warrant currently in force.

(10) The Accountant General shall determine the format of those records and accounts to be kept under subregulation (9).

(11) The Accountant General may, from time to time, delegate his authority to issue development warrants to another officer within the ministry responsible for finance.

(Substituted by L.N. 25/2015)

Fund fully committed

33. (1) The Fund shall be a fully committed fund which means that the value of the Fund will be represented by—

- (a) the value of completed development projects;

- (b) the value of development projects in progress and the unexpended balances of monies appropriated to the fund, warranted but as yet unexpended but committed;
- (c) on-going projects; and
- (d) projects where the tender process requirements have been fulfilled and the tender formally accepted whereby the Secretary of the Procurement Board has reported the tender for noting by Cabinet as required under Part 6 of the Public Procurement Ordinance

(2) Any balances of funds appropriated but not required after completion of a development project, or otherwise not committed to a warranted project, are returned to the Consolidated Fund or to the development partner providing the development grant or loan, as appropriate.

(3) At the end of the financial year any sums identified as not committed and liable for transfer must be clearly identified in the financial statements for the Development Fund.

(4) In the unlikely event that a contract does not proceed to completion, the warrant shall be immediately cancelled and funds are either returned to the Consolidated Fund or to the development partner providing the development grant or loan, as appropriate. *(Substituted by L.N. 25/2015)*

Fund not to be overdrawn

34. Without prejudice to the generality of the powers and duties conferred and imposed upon the Accountant General by section 12 of the Ordinance, the Accountant General shall refuse payment on any voucher the encashment of which would cause the overall unspent balance of the Fund to become overdrawn. *(Substituted by L.N. 25/2015)*

Conditions attached to grants or loans to be observed

35. Any conditions which may be attached to any grant or loan of moneys which by virtue of section 5 of the Ordinance are paid into the Fund shall be observed and shall have effect in relation to the moneys so granted or loaned as if the same were prescribed under this Part. *(Substituted by L.N. 25/2015)*

Annual estimates

36. (1) The Minister shall cause to be prepared before the commencement of each financial year estimates of the revenue and expenditure of the Fund and the estimates shall form part of the annual estimates of revenue and expenditure of the Government to be laid before the House of Assembly.

- (2) The estimates of expenditure from the Fund included in the budget papers shall—
 - (a) conform with the requirements of the Ordinance;
 - (b) group under Development Fund votes the development projects provided for therein and the Ministries and Accounting Officers responsible for carrying out the development projects concerned; and
 - (c) show in respect of each development project provided for therein—
 - (i) the original overall project cost and date approved;
 - (ii) the last approved overall project cost;

- (iii) the latest estimate of the overall project cost and date of completion;
 - (iv) the estimated accumulated expenditure for the project as at the end of the current financial year; and
 - (v) the estimated expenditure for the next two financial years and the estimated expenditure for the third and further years combined.
- (3) The estimates shall be accompanied by a statement showing—
- (a) the estimated value of the Fund at the end of the financial year represented by the estimated values of—
 - (i) the completed development projects;
 - (ii) the development projects in progress; and
 - (iii) the unexpended balances of any funded development warrants;
 - (b) the estimated total further expenditure required to complete the projects in paragraph (a)(ii) and (iii); and
 - (c) the estimated total receipts accruing to and the estimated total expenditure from the Fund during such financial year.

(Substituted by L.N. 25/2015)

Virement: development project

37. (1) During the execution of a development project or projects there may be a reduction of expenditure in one area that provides an opportunity within a development vote to finance another area of increased expenditure.

- (2) Where either—
- (a) the reduction of expenditure in one line item could be reallocated to another line item in the same development project to meet an increased cost; or
 - (b) the reduction of expenditure in one development project could be reallocated to meet the increased cost of another development project within the same development vote,

then an application for virement can be submitted to the Permanent Secretary, Finance.

(3) The application shall be subject to the same provisions as for the Consolidated Fund in regulation 51, with the exception of subregulation (10) of that regulation which will not apply.

(Substituted by L.N. 25/2015)

Supplementary provision: development project

38. (1) If in the course of any financial year it is found—
- (a) that the sum appropriated for expenditure in that financial year for any development project is insufficient and cannot be met by virement under regulation 37; or
 - (b) that a need has arisen to proceed with a development project for which no sum has been appropriated in that financial year; or

- (c) that the sum appropriated for the previous financial year for any development project by an Appropriation Ordinance was insufficient and that an additional sum is needed to complete the project,

a supplementary provision (substantially in the form prescribed by section 17(1) of the Ordinance) of the sum required to meet such deficiency or such need as the case may be, shall be prepared and shall be laid before the House of Assembly in accordance with section 116(2) and (3) of the Constitution.

(2) Applications for supplementary funds shall be in a format determined by the Permanent Secretary, Finance from time to time.

(3) Applications for supplementary provision shall be reviewed by the Permanent Secretary, Finance and submitted to the Minister for consideration; and if after examination and, where necessary, consultation with the Accounting Officer concerned, the need for the supplementary provision is agreed, the amounts of the provision shall be included by the Minister in supplementary estimates to be submitted to the House of Assembly for appropriation by a Supplementary Appropriation Ordinance.

(4) Notwithstanding that supplementary estimates may have been submitted to the House of Assembly for approval, no action shall be taken by any Accounting Officer or any other person that creates a commitment on public funds before the House of Assembly approval is obtained and a warrant issued by the Minister.

(Substituted by L.N. 25/2015)

Accounts and audit

39. (1) The accounts of the Fund shall be audited, certified and reported on annually by the Auditor General in accordance with the provisions of the Ordinance.

(2) Section 117 of the Constitution, in respect of expenditure in excess, applies to the Development Fund.

(Substituted by L.N. 25/2015)

PART IX

PREPARATION AND SUBMISSION OF ANNUAL ESTIMATES

Responsibility for preparing annual estimates of expenditure

40. (1) The Accounting Officer shall ensure that the draft estimates relating to his or her Ministry or department are prepared in conformity with these Regulations.

(2) The Accounting Officer is responsible, in particular, for ensuring that—

- (a) all services which can be reasonably foreseen are included in the estimates and that they are within the capacity of his department during the financial year;
- (b) the estimates have been prepared as completely and accurately as possible;
- (c) the estimates have been framed with due regard to economy and efficiency;
- (d) the requisite authority has been obtained, where necessary, before provision is made in the estimates; and

- (e) estimates are submitted in due time and in proper form.

Budget Call

41. (1) The Permanent Secretary, Finance shall issue a directive known as a “Budget Call” no later than October 31 of each year and Accounting Officers shall be required to respond to the Budget Call within the prescribed timescale as set out with a reasonable and complete draft estimates for all budgets within his responsibility. Failure to comply with the requirements of the Budget Call shall be an offence under these Regulations.

(2) The Budget Call shall require every Ministry or department to submit in respect of the upcoming financial year, its—

- (a) business plan;
- (b) procurement plan;
- (c) expenditure and revenue budgets;
- (d) cash flow forecast;
- (e) Accounting Officer’s memorandum; and
- (f) any other document prescribed by the Permanent Secretary, Finance.

Business Plan

42. The business plan shall be—

- (a) realistic;
- (b) guided by the medium term socio-economic plan of the Government;
- (c) aligned within the priority policy objectives of the Government; and
- (d) developed within available resources.

Accounting Officer’s budget memorandum

43. The Accounting Officer’s memorandum on the budget proposal shall include—

- (a) a policy and programme direction for the upcoming year;
- (b) a report on the current year’s performance;
- (c) an indication of the priority programmes for the upcoming year;
- (d) an indication of the extent to which the Ministry will be able to fulfil its mandate and objectives in the context of the expenditure parameters; and
- (e) priority programmes which might be affected by expenditure limits and the implications on the Ministry’s performance.

Matters to be taken into consideration when preparing estimates

44. In preparing the estimates, special attention shall be given to—

- (a) the compensation of employees, which must accurately reflect the minimum staff required to effectively deliver the organisation’s programmes within the available resources;

- (b) full details of the allocation requested for consultancy payments and contract officers, showing the purpose of these services, contract period and annual cost; and
- (c) unpaid bills at the end of the current year which shall be carried forward to the upcoming year and be a first charge on the approved budget of that year.

Draft budget to be signed

45. Draft budgets and plans submitted to the Permanent Secretary, Finance by a Ministry or department shall be prepared and submitted under the signature of the Accounting Officer.

PART X

AUTHORITY FOR EXPENDITURE

General Warrant

46. (1) The authority for the expenditure of public moneys is contained in an Appropriation Ordinance, which vests authority in the Minister to issue out of the Consolidated Fund the total sum shown in the approved estimates. Therefore an Accounting Officer shall identify, for all expenditure to be incurred by him or her, the appropriate authority in that Ordinance before committing Government to any expenditure.

(2) No Accounting Officer shall take any action which in any way anticipates the approval of the House of Assembly for expenditure.

(3) Authority to make payments and accept charges is conveyed to the Accountant General by a warrant signed by the Minister.

(4) On receipt of the warrant, the Accountant General may issue a warrant under his or her signature to Accounting Officers authorising them to incur expenditure for the purposes and up to the amount specified in the warrant, and the amount authorised by such warrant shall not exceed the amount specified in the warrant issued by the Minister.

Departmental Warrant

47. (1) Where it becomes necessary for work to be done by one department on behalf of another, the Accounting Officer of the department on whose behalf the work is to be done may authorise the Accounting Officer of the department undertaking the work, by means of a departmental warrant, to incur expenditure against a vote under his or her control.

(2) An Accounting Officer to whom such authority is given shall maintain an account of all expenditures incurred against the vote stated in the warrant and shall submit monthly reports in respect thereof to the Accounting Officer from whom authority has been received.

(3) An Accounting Officer to whom a warrant is issued shall be personally responsible for all expenditure incurred in excess of the amount stated in the warrant.

Departmental control of expenditure

48. An Accounting Officer shall—

- (a) control and oversee the expenditure in respect of any service under his or her control;
- (b) ensure that the provision for that service as authorised by a warrant is not exceeded, and he or she shall be held personally and pecuniary responsible for any excess expenditure which is incurred without proper authority.

Periodic review of estimates

49. (1) Subject to Schedule 2 the Permanent Secretary, Finance shall direct the Budget Director to undertake periodic reviews of the progress of actual performance against estimates with a view to identifying where current performance suggests that estimates should be changed—

- (a) to release funds to make them available for the delivery of other government services;
- (b) to recognise changes in service delivery conditions;
- (c) to recognise changes in economic conditions; or
- (d) for some other reason that the Budget Director determines appropriate.

(2) Periodic reviews shall be undertaken at the discretion of the Permanent Secretary, Finance but shall be undertaken at least twice during the financial year.

(3) The results of the periodic reviews shall be communicated by the Budget Director to both the Minister and Permanent Secretary, Finance and shall, subject to their review as appropriate, be dealt with by supplementary appropriation (regulation 50) or by virement (regulation 51). (*Inserted by L.N. 25/2015*)

Supplementary provision

50.(1) Supplementary Appropriation Bills as provided for by sections 113 and 116 of the Constitution and sections 7 and 17 shall be presented to the House of Assembly as a result of the following public financial management needs—

- (a) to realign previously prepared estimates based on actual situations encountered in the financial year;
- (b) to authorise excess expenditure at the end of the financial year (section 117 of the Constitution);
- (c) to address unforeseen changes that increase costs;
- (d) to obtain approval for virement between votes as defined in regulation 29;
- (e) to implement the changes resulting from periodic budget reviews (regulation 49);
- (f) to change the ambit of the vote to provide for a new aspect of activity (regulation 29); or
- (g) to retire a Contingencies Warrant (regulation 155).

(2) Where expenditure cannot be met by virements within the vote then provision for supplementary funds shall be sought, in which case an application for supplementary funds may be made to the Permanent Secretary, Finance.

(3) Applications for supplementary funds shall be in a format determined by the Permanent Secretary, Finance from time to time.

(4) Applications for supplementary provision shall be reviewed by the Permanent Secretary, Finance and submitted to the Minister for consideration subject to the provision set out in Schedule B; and if after examination and, where necessary, consultation with the Accounting Officer concerned, the need for the supplementary provision is agreed, the amounts of such provision shall be included by the Minister in supplementary estimates to be submitted to the House of Assembly for appropriation by a Supplementary Appropriation Ordinance.

(5) Notwithstanding that supplementary estimates may have been submitted to the House of Assembly for approval, no action shall be taken by any Accounting Officer or any other person that creates a commitment on public funds before the House of Assembly approval is obtained and a warrant issued by the Minister.

(6) The budget documentation required pursuant to section 17(1)(f) shall include data that shows the original estimates included in the annual appropriation, the estimate as subsequently adjusted by supplementary appropriation or appropriations, and the estimated outturn for the budget of the current year.

(Substituted by L.N. 25/2015)

Virement

51. (1) In this regulation—

“department/programme” means a ministry head-quarters, department, or other function of government allocated a programme/department status in the budget documents supporting an appropriation or Supplementary Appropriation Ordinance;

“Head” means the main totals of income or expenditure appearing in the budget documentation supporting the estimates for a programme or department; and such main totals are typically titled ‘Total Revenue’, ‘Total Capital Receipts’ and ‘Total Costs’;

“item” means each line of detailed income or expenditure included in the estimates to support the sub-heads and/or heads within a programme/department.

“sub-head” means the sub-totals of income or expenditure appearing in the budget documentation supporting the estimates for the heads within the programme/department; and such sub-totals are typically ‘Operating Revenue’, ‘Extraordinary Revenue’, ‘Civil Servants Employment Costs’, ‘Waged Staff Employment Costs’, ‘Operating Costs’ and ‘Extraordinary Costs’;

“virement” means the reallocation or adjustment of estimates such that an overall surplus or deficit for a fund is not affected;

“vote” means the group of estimates contained within a set of ministry related departments or programmes;

(2) Nothing in this regulation shall inhibit, restrict or replace the requirements of the Public Service Ordinance and in the event of a conflict between the Public Service Ordinance and the application of this regulation the Public Service Ordinance shall take precedence.

(3) A person who is given power to approve virement applications is obligated to deny that approval if he is not satisfied for current and future years that both the estimate(s) of expenditure that is being increased represents a corresponding increase in value to the service(s)

being provided and that the corresponding reductions in expenditure, savings or increases in revenue can be realistically achieved.

(4) An application for virement shall be in a format determined by the Permanent Secretary, Finance from time to time and shall—

- (a) include the amounts involved;
- (b) identify the items where extra provision is required;
- (c) identify, where appropriate, any delegated authority for the re-allocation;
- (d) give appropriate explanation for the shortfall in the original provision;
- (e) clearly identify the items with the anticipated savings; and
- (f) give appropriate explanations and the reasons for the savings being available.

(5) An application for virement shall be sent to the Permanent Secretary, Finance, the Deputy Governor, the Budget Director and the Accountant General.

(6) Any application for virement that the Permanent Secretary, Finance considers is a change in policy, shall be referred to the Cabinet and the House of Assembly.

(7) Any application for virement that affects 'Extraordinary Revenue' or 'Extraordinary Costs' sub-heads shall be automatically considered a change in policy and referred.

(8) All virement approvals shall routinely be reported to the Minister, the Permanent Secretary, Finance, the Deputy Governor, the Accountant General and the Budget Director to facilitate the necessary changes in warrants issued for spending authorisation.

(9) All virement approvals shall be laid before the House of Assembly for information within one month of being given or at the next available meeting if later than one month.

(10) The power to approve virement outside of the House of Assembly resides principally with the Permanent Secretary, Finance.

(11) The Permanent Secretary, Finance, on advice of the Deputy Governor, may delegate to the Budget Director the approval of virement that is between items within the same 'Operating Costs' sub-head subject to a maximum limit for any one item of \$10,000.

(12) If the Budget Director declines a virement application the relevant Accounting Officer has the right to appeal the decision to the Permanent Secretary, Finance.

(13) If the Deputy Governor supports the application in writing, the Permanent Secretary, Finance may approve without further advice virements that are between items within the same 'Operating Costs', 'Civil Servants Employment Costs' or 'Waged Staff Employment Costs' sub-heads.

(14) Subject to subregulation 15, the Permanent Secretary, Finance may on advice from the Minister approve applications for virement between items in different programme/department heads and sub-heads that are within the same area of ministerial and/or Accounting Officer responsibility:

Provided that in addition to subregulations (2) and (5), the relevant Minister, the Deputy Governor and Accounting Officer(s) support the application in writing.

(15) Virements are not permitted for the following transfer of budgetary funds—

- (a) from Civil Servants Employment Costs sub-head to Operating Costs sub-head;

- (b) from Waged Staff Employment Costs sub-head to Operating Costs sub-head;
- (c) from Operating Costs sub-head to Civil Servants Employment Costs sub-head;
or
- (d) from Operating Costs sub-head to Waged Staff Employment Costs sub-head.

(16) Virement concerning the following items cannot be undertaken without the approval of the House of Assembly—

- (a) appropriations for contingencies funding;
- (b) revenue and other income items that are: import duty, accommodation tax, customs processing fee, stamp duty on land transactions, work permits and residency fees, fuel tax, business licence renewal, general services tax, communication tax on cable and internet, drivers licences, property levy, land sale receipts, National Insurance Board revenue, civil recovery programme, SIPT recovery, sale of shares, European Union and other grants, and any capital or development related receipts;
- (c) items included in sub-heads as extraordinary costs; and
- (d) items described as subventions.

(17) Applications for virement not approved or not approvable under subregulations (13), (14) and (15) require submission in the form of a Supplementary Appropriation Bill through Cabinet to the House of Assembly.

(Substituted by L.N. 25/2015)

Excess and unauthorised expenditure

52. (1) The House of Assembly has the right to approve expenditure of public moneys prior to it being incurred, and has an equal right to investigate the reasons behind any failure of an Accounting Officer to comply with this legal requirement, and it is the duty of each Accounting Officer to attend personally before the House of Assembly when required to do so and provide explanations to the issues raised.

(2) Any failure by an Accounting Officer to attend before the House of Assembly without a reason acceptable to the House shall be subject to disciplinary action; and expenditure without adequate supporting documents shall be treated as unauthorised expenditure under these Regulations.

(3) Within four months after the close of each financial year, the Accountant General shall cause to be prepared schedules showing the net excess expenditure incurred on each item of the estimates during that financial year; and the schedules shall be laid before the House of Assembly at its next meeting for consideration.

PART XI

BASIS OF ACCOUNTING AND PREPARATION OF PUBLIC ACCOUNTS

Meaning of revenue and expenditure

53. For the purposes of cash reporting any reference to revenue and expenditure in the Ordinance or these Regulations shall refer to receipts and payments. *(Substituted by L.N. 25/2015)*

Basis of accounting

54. (1) The House of Assembly votes funds for “the service of the financial year” on the basis of the amounts expected to be available in the course of the year; and therefore only actual receipts and payments during a financial year should be recorded in the Appropriation Accounts.

(2) Any receivables and payables should be reported separately.

(3) By virtue of subregulation (1), no Accounting Officer shall make an entry in the accounts of the Government which anticipates the receipt of revenue or the expenditure by Government.

(4) In accordance with section 34 of the Ordinance, the Accountant General shall submit to the Auditor General and the Minister, within four months of the end of the financial year, the statements set out in paragraph 1 of Schedule 2 to the Ordinance, in compliance with the International Public Sector Accounting Standards (“IPSAS”) cash basis.

(5) The approved estimates form the basis of the accounts for the year to which they relate and the classification and subdivision of the statements of receipts and payments shall accord with those estimates.

(6) To ensure that the financial position of the Government is fully disclosed and in accordance with IPSAS cash basis of reporting and the Government legislative requirements, the statements to be provided shall include but are not restricted to those contained in Schedule 2 to the Ordinance, therefore the Accountant General shall provide such other accounts or provide such additional information as he or she considers necessary to achieve this objective.

(7) Development Fund expenditure shall not include those of a recurrent nature, and for the avoidance of doubt this means that only incremental costs associated with a project can be charged to the Development Fund projects.

(Substituted by L.N. 25/2015)

PART XII

RECEIPTS

Responsibility for revenue collection

55. (1) An Accounting Officer is personally responsible for ensuring that—

- (a) all revenue is assessed, invoiced, and paid promptly;
- (b) adequate safeguards exist and are applied for the prompt assessment, invoicing, collection and deposit of, and proper accounting for, all Government revenue and other public moneys relating to their ministries or departments;

- (c) all persons liable to pay revenue are informed by bills, demand notes or other appropriate notices of debts due, and that they are reminded promptly and frequently of revenue which is in arrears;
- (d) adequate measures, including legal action where appropriate, are taken to obtain payment; and
- (e) official receipts are issued for all moneys paid to Government of the Turks and Caicos Islands.

(2) An Accounting Officer who experiences difficulty in collecting moneys due to the Government must report the circumstances to the Accountant General without delay, and copy such reports to the Permanent Secretary, Finance.

(3) The Accountant General shall report to the Permanent Secretary, Finance—

- (a) any failure on the part of any Accounting Officer to receive and duly account for any sums receivable by him; and
- (b) any case in relation to which he or she considers, after due enquiry, that the revenue is unduly falling into arrears.

(4) All regular collectors of revenue who receive any duties, taxes, fees, rents or other public moneys, whether of a revenue nature or otherwise, shall pay the whole amount of such moneys daily or at the earliest opportunity, into a bank account authorised by the Accountant General or a public officer designated by the Accountant General, and obtain a receipt for the moneys so paid in.

(5) No use of any public money shall be made by any public officer in any manner between the time of its receipt and payment into the bank, Treasury or other public office designated by the Accountant General, and no public money shall be lent or borrowed in any manner or for any purpose by any person.

(6) No money received shall be used to cash any cheque other than a Government cheque, by a public officer or any other person; and no public officer shall convert public moneys received in local currency into foreign currency.

(7) Except with the authority of the Accountant General, no public officer may convert public moneys received in local currency into foreign currency and vice versa.

Revenue collectors

56. (1) No public officer may collect public moneys unless he is specifically authorised to do so.

(2) An Accounting Officer shall not assign the duty of collecting public moneys to any person other than a permanently appointed officer, except in exceptional circumstances where written approval is given by the Accountant General.

(3) Except with the specific authority of the Accountant General, in no case may a public officer whose duty involves the posting of assessment registers, rent rolls and similar documents be authorised to collect public moneys or to post collections into a cash book.

Responsibility for control of receipts

57. (1) Accounting Officers are responsible for ensuring that a proper system exists for the safe custody, recording and proper use of all receipts, licences and other documents issued for the receipt of public moneys.

(2) All receipt books issued shall on completion be returned to the Accountant General.

Receipts to be issued immediately

58. (1) A receipt in the approved form must be issued immediately for any public moneys received; and in no circumstances, shall the issue of receipts be delayed or unofficial receipts used.

(2) Where moneys are received by post, the receipt must be sent by mail on the same day.

(3) Except where otherwise provided, officers collecting public funds shall issue official receipts on the form prescribed or approved by the Accountant General for all sums collected.

(4) A public officer shall not issue or print any form of receipt to be used as an official receipt without the prior written approval of the Accountant General. Failure to follow this will constitute an offence.

(5) Receipts may be in the form of an electronic document produced by an electronic communications system (hereinafter called 'computer-generated receipts'). Ministries and Departments shall seek the prior approval of the Accountant General for the use of computer-generated receipts. Principal Receivers of Revenue and other accountable officers shall be responsible for the adequacy of the internal control procedures established for the use of computer generated receipts.

(6) Heads of departments shall cause to be exhibited in every office where public moneys are received, notices that an official receipt shall be obtained by the payer for any sum of money paid to the Government.

Foreign currency receipts

59. Except with the prior approval of the Accountant General, no foreign currency notes or coins, and no foreign stamps or cheques drawn in foreign currency may be accepted in payment of any moneys due to Government.

Acceptance of cheques

60. (1) A cheque may be accepted in payment of moneys due to the Government. However the relevant receipt will be recognised and acknowledged only after that cheque has been cleared or credited on Account.

(2) A cheque referred to in subregulation (1) shall be made payable to the authorised Government of Turks and Caicos Islands bank account and crossed "Account Payee only" and a cheque received which is not so crossed shall be crossed by the receiver immediately on receipt, and in no circumstance may a post dated cheque be accepted.

(3) In any case where a cheque is dishonoured, recovery measures shall be instituted immediately by the Accounting Officer, and all instances of dishonoured cheques shall be brought to the immediate attention of the Accountant General.

(4) All original dishonoured cheques shall be retained and kept in safe custody. This is because such cheques represent important *prima facie* evidence of a debt due to Government and may be used in any legal action which may be taken to recover the amount due and any incidental expenses that may have been incurred.

Receipt of public moneys using point of sale machines

61. (1) Revenues and other receipt of public funds may be collected through debit and credit cards issued, as prescribed by the Accountant General.

(2) Principal Receivers of Revenues and other accountable officers shall ensure that for all amounts credited directly to the revenue or to any other official bank accounts—

- (a) the source and purpose of the amount is identified;
- (b) an electronic document or other appropriate form of advice is submitted promptly to the payer notifying the amount received; and
- (c) the appropriate accounting entries are made in the Ministry or department's records to reflect the amount received.

Recording of receipts

62. (1) All public officers responsible for revenue collection shall keep such registers and other records manual or electronic as prescribed by the Accountant General, which shall enable them to supervise efficiently the collection of revenue for which they are responsible and to provide the relevant financial statements.

(2) In all cases, the gross amounts of moneys received shall be accounted for, and any charges against revenue received shall require appropriate authority as expenditure incurred by the Government and shall appear as a charge on public funds in the books of account, duly supported by proper vouchers.

Refunds of revenue and drawbacks

63. (1) Refunds of revenue may become necessary because of collections or over-collections made in error or because, although properly collected in accordance with an Ordinance or regulation, provision exists under the Ordinance or regulation for the revenue to be reclaimed under certain circumstances in the form of a rebate or drawback.

(2) Where the collection, over-collection, rebate or drawback is made in the same financial year as that in which the revenue was originally collected, it shall be authorised by the Accounting Officer concerned to be charged as a debit item in the appropriate revenue head.

(3) A rebate or drawback made in the financial year subsequent to that in which the revenue was collected shall be made with prior approval of the Accountant General who shall debit it to an expenditure item called "Refunds of Revenue of Previous Year".

(4) A rebate or drawback made in accordance with an enactment or instruction shall be authorised by the officers prescribed in the enactment or instruction and charged against the appropriate revenue or expenditure item.

Recovery of an overpayment of expenditure

64. (1) When an overpayment charged to an expenditure item is charged in the same financial year as that in which the expenditure occurred, it shall be treated as an expenditure credit

to the same expenditure item. But when recovery is made in a subsequent year, the recovery shall be treated as a revenue and credited to the revenue subhead called “recovery of overpayment”.

(2) Recovery of an overpayment made from an advance or suspense account shall be credited to that account irrespective of the financial year in which the original payment is made.

Arrears of revenue returns

65. (1) Within thirty days after the close of the financial year, each Accounting Officer shall submit to the Accountant General in a form approved by the Accountant General with a copy to the Auditor General, a return of all arrears of the revenue for which he is responsible.

(2) The return shall state for each revenue head and item the arrears outstanding at the end of that financial year.

(3) The Accountant-General shall, on receiving the individual returns, consolidate them into a statement showing all the revenue outstanding under each revenue item as at the end of that financial year. The statements shall form part of the Government’s annual statements of accounts.

PART XIII

LOANS, GUARANTEES AND GRANTS

Authority to raise loans, issue guarantees and accept grants

66. (1) Subject to section 119 of the Constitution, the authority to borrow, to raise money by loan, to issue guarantees and accept grants is vested solely in the Minister. (*Amended in Revised Edition 2014 pursuant to amendments in s. 67(3) of Ord. 6 of 2012*)

(2) The Minister may, if he or she considers it necessary or expedient in the public interest to do so, with the approval of House of Assembly, raise a loan on such terms and conditions as he or she may think fit, and the proceeds of any loan raised shall be paid into the Consolidated Fund. The Minister shall report on the Government’s debt levels twice yearly to the House of Assembly.

(3) Borrowing under subregulation (2) shall be by way of the issue of Government bills, bonds, stocks, a fluctuating overdraft or any other method the Minister may think fit.

(4) The Minister may at any time, on such terms and conditions as he or she considers fit and where necessary, with the consent of the lender, repay any loan by Government or convert any loan into any other such loan or loans, provided it does not substantially change the terms approved by the House of Assembly.

(5) All principal, interest, and other moneys payable by the Government under this regulation shall be a charge upon, and be payable out of the Consolidated Fund without further appropriation.

Power to give guarantees

67. (1) The Minister, on behalf of Government subject to section 119 of the Constitution, and with the approval of House of Assembly, may, if it is considered necessary or expedient in the public interest, give a guarantee for the repayment of the principal money and the payment of the interest and other charges on any loan raised either within or outside the Turks and Caicos Islands by—

- (a) a statutory body;
- (b) any authority established by an Ordinance which is in receipt of a contribution from, or the operations of which may, under the Ordinance establishing it or any Ordinance relating to it, impose or create a liability upon the public funds of the Turks and Caicos Islands; or
- (c) any public organisation which has in any of its financial years received a loan from public funds. (*Amended in Revised Edition 2014 pursuant to amendments in s. 67(3) of Ord. 6 of 2012*)

(2) Any money required to be paid by virtue of any guarantee given by the Minister under the Ordinance shall be charged on and paid out of the Consolidated Fund.

(3) Any money paid in respect of any guarantee given shall constitute a debt due to Government by any public organisation or statutory body in respect of which the guarantee was given and shall be recoverable as such in a manner the Minister may direct. In addition, any collateral or security for the liability guaranteed shall form a collateral or security to the Government immediately on payment, without prejudice to any additional security or collateral that the Minister considers necessary.

Acceptance and receipt of grants

68. Any grants made to the Government shall be received by the Permanent Secretary, Finance on behalf of Government and shall be paid into and form part of the Consolidated Fund, Development Fund or Sinking Fund.

PART XIV

PROCUREMENT

Definitions

69. In this Part—

“Capital Expenditure” means the acquisition, construction or development of any tangible capital asset valued in excess of \$75,000, which is distinguished from current account expenditure for repair and maintenance in that it enhances the service potential of a capital asset and therefore consists of a betterment (enhancing the output of the asset, or extending its useful life). There are two types of capital expenditures—

- (a) Capital acquisitions include vehicles and heavy equipment, plant machinery and equipment, vessels and boats, furniture and fixtures, office equipment, computer hardware and equipment and computer software; and
- (b) Capital developments include land, building and infrastructure;

“High Value Procurement” means contracts that are deemed high risk and valued at \$75,000 or above or are funded from the Capital Programme;

“Intermediate Value Procurement” means contracts or orders with an estimated value of between \$5,000 and \$74,999;

“Low Value Procurement” means contracts or orders with an estimated value of less than \$4,999;

“Reporting threshold” means any contract or order awarded where the estimated value is in excess of the level determined by Permanent Secretary, Finance as being the level above which tendering action must be undertaken.

Procurement

70. (1) The role and procedures of the Tenders Board and all procurement shall be in accordance with the Procurement Ordinance.

(2) A Ministry or department or statutory body in planning, developing and executing a project must ensure value for money by clearly understanding and expressing the goals and purpose of the procurement in five stages—

- (a) appraisal and business case stage;
- (b) procurement stage;
- (c) contract management stage;
- (d) delivery stage; and
- (e) evaluation stage.

(3) Where a business requirement arises, officials shall consider whether procurement will deliver the best value for money and first take into consideration—

- (a) non-procurement alternatives;
- (b) consultation with stakeholders;
- (c) the business need;
- (d) resourcing; and
- (e) pre-existing arrangements.

(4) Before undertaking a new procurement process or awarding a new contract, the Accounting Officer must—

- (a) establish whether the Government’s requirement can be met through any existing contract;
- (b) ensure that the estimated value can be met from the appropriate budget (capital or revenue or both);
- (c) estimate the value of the contract so as to determine the appropriate procedure to be followed.

(5) Estimates of value and methods of valuation must be genuine and not designed to avoid exceeding any threshold.

(6) The Government shall make the best use of its purchasing power by aggregating purchases wherever possible.

(7) For the purpose of this regulation, the value of a proposed contract is the expected amount of consideration (in money or money’s worth) that will be received by the contractor, or its approved sub-contractor, in carrying out the works or providing the goods and services, over the expected lifetime of the contract.

- (8) The maximum value of the proposed contract being procured must include—
- (a) all forms of remuneration, including any premiums, fees, commissions, interest, allowances and other revenue streams that may be provided for in the proposed contract;
 - (b) the value of the goods and services being procured, including the value of any options in the proposed contract; and
 - (c) any taxes or charges.

(9) Where the procurement is to be conducted in multiple parts with contracts awarded either at the same time or over a period of time, with one or more contractors, the expected value of the goods and services being procured must include the maximum value of all of the contracts:

Provided that—

- (a) the procurement must not be divided into separate parts solely for the purpose of avoiding a relevant procurement threshold;
- (b) where the maximum value of the procurement over its entire duration cannot be estimated, the procurement must be treated as an High Value Procurement.

(10) For recurrent purchases of the same type of goods and services, the estimated value will be the Aggregated Value, being the sum of all spending within a year, or during the term of the contract:

Provided that any procurement for goods and services for an amount of \$75,000 or more, whether singular or in aggregate, shall be by agreement in writing following a full tender exercise in accordance with the Procurement Ordinance.

(11) For contracts or orders with an estimated value of \$1,500 or more but less than \$75,000, at least three written quotations must be obtained and retained on the procurement file, including the suppliers approached, contact person and quotation provided.

(12) Goods and services with an estimated value of less than \$1,500 may be obtained on the basis of a single quotation, which may not be in writing:

Provided that goods and services procured on a recurring basis are subject to aggregation, and before proceeding, the Aggregated Value of the purchase shall be considered.

(13) Accounting Officers shall ensure that sufficient budgetary provision is available before committing expenditure.

(14) Splitting procurement into smaller orders to circumvent the requirements of the Procurement Ordinance is an offence.

(Inserted by L.N. 36/2019)

PART XV

PAYMENTS

Authority for and control and method of payments

71. (1) Payment shall not be made out of the Consolidated Fund except with the specific authority of the Minister which authority shall be given by the Minister under his hand by the issue of any one of the following—

- (a) Provisional General Warrant;
- (b) General Warrant;
- (c) Advance Warrant;
- (d) Imprest Warrant;
- (e) Development Fund Warrant;
- (f) Contingencies Warrant.

(Substituted by L.N. 25/2015)

(2) Payments of public moneys to persons outside the Turks and Caicos Islands shall be made by direct payment to such persons by banker's draft or otherwise through the banking system, and where direct payment is considered to be inappropriate, payment shall be made on the authority of the Accountant General through agents duly appointed for the purpose with the approval of the Permanent Secretary, Finance.

(3) To avoid a conflict of interest, purchases of goods and services can only be made directly from public officers where it can be demonstrated there is no other supplier in the private sector.

(4) Goods and services shall only be purchased through a business or person registered under the relevant legislation or approved by the Accountant General.

Electronic payments

72. (1) The Accountant-General shall be responsible for making payments electronically for all departments upon their request through the designated Treasury Bank Account.

(2) In special circumstances approved by the Permanent Secretary, Finance, electronic payments may be made by a Ministry or department from a designated bank account.

(3) Electronic transfers shall not be done unless the requisite funds are available in the relevant official bank account.

(4) Officers effecting electronic transfer payments shall be surcharged for any overdraft caused by these payments.

(5) The surcharge shall be for the amount of the interest, fees and any other charges incidental to or arising from the overdraft.

Charging to year of account

73. (1) The date of payment of any amount governs the date of the record of the transaction in the accounts. Therefore in no circumstance may payments be made before they are due for the purpose of utilising an anticipated saving on an item; nor may the unexpended portion of any item be retained for the purpose of setting it in reserve to meet impending payments or to be carried to a deposit or other account.

(2) Expenditure properly chargeable to the account of a given year must, as far as possible, be met within that year and must not be deferred for the purpose of avoiding an excess on the amount provided in the estimates.

Payment vouchers or electronic documents

74. (1) All disbursements of public moneys shall be properly vouched on payment vouchers or electronic documents approved by the Accountant General.

(2) An Accounting Officer may designate in writing and by name, specific persons who have the authority to approve payment vouchers or approved electronic documents on his or her behalf, and prescribe the financial limits and other conditions within which the authority may be exercised.

(3) The Accountant General and the Auditor General shall be—

- (a) advised of the names of the public officers so designated and the financial limits within which they may exercise their authority;
- (b) provided with the specimen signatures of those public officers; and
- (c) advised when the authority of any public officer to sign payment vouchers or an electronic documentation is withdrawn.

(4) A public officer who approves a payment voucher or electronic document shall ensure that—

- (a) the services specified in the payment voucher or electronic document have been duly and competently performed;
- (b) the prices charged are either according to contracts or approved scales or are fair and reasonable according to local rates;
- (c) authority has been obtained as quoted;
- (d) the calculations and castings have been verified and are arithmetically correct;
- (e) the classification of the expenditure and any deduction are correct;
- (f) there are sufficient funds uncommitted in the relevant expenditure subhead to meet the expenditure;
- (g) the persons named in the voucher are those entitled to receive payment; and
- (h) any supplies purchased have been taken on charge or issued for immediate use.

(5) Where a deduction is due from the amount payable in a contract in respect of any tax, withholding moneys, penalties or fines, only the net sum shall be paid.

(6) A public officer who signed an incorrect certificate in consequence of an unauthorised or irregular payment shall be required to explain the circumstances, and if found to have been negligent may be subject to disciplinary action in accordance with Part VIII of the Ordinance.

Settlement of payments

75. (1) Accounting Officers shall settle payments by their ministries or departments for all goods and services received from other departments, public bodies, individuals and private institutions out of the budgetary warrant issued for the purpose, within a period of thirty days of their receipt.

(2) Where the amount authorised by warrant is sufficient and a delay in payment is caused by the negligence of an officer resulting in loss, damage, or the payment of interest or a

penalty, the Permanent Secretary, Finance may impose surcharge in accordance with Part VIII of the Ordinance.

Commitment of funds

76. (1) A public officer shall not commit the Government to any expenditure, unless the officer—

- (a) is authorised to do so in his letter of appointment as an accountable officer; and
- (b) has been advised, in writing, by the relevant accountable officer that funds are available for the specific purpose.

(2) A public officer who fails to comply with subregulation (1) is liable to a surcharge of a sum equal to the amount of the unauthorised payment.

Payments in advance

77. Except in the case of a payment in advance duly authorised under section 21(1)(b) of the Ordinance, no money shall be paid to any person other than the amount due for the value of work certified to have been done or services certified to have been performed by such person.

Payment process

78. (1) All payments shall be made in accordance with instructions issued by the Accountant General.

(2) The instructions referred to in subregulation (1) shall establish payment points which shall be staffed by public officers authorised by the Accountant General to make payments, and Accounting Officers shall submit payment vouchers or approved electronic documents to a payment point designated by the Accountant General.

(3) When payments are made to persons other than those named in a payment voucher or approved electronic document, the authorities under which such payments are made, such as powers of attorney or letters of administration, shall be attached to the vouchers themselves or shall be registered in the Treasury and notified on the payment vouchers or approved electronic documents.

Missing vouchers or supporting documents

79. (1) If any voucher on which payment has been made is lost, misplaced or inadvertently destroyed, the Accounting Officer shall notify the Accountant General immediately, and the Accountant General shall in turn report the full circumstances to the Permanent Secretary, Finance, with a copy to the Auditor General.

(2) Where after due enquiry, the Permanent Secretary, Finance is satisfied as to the circumstances of such loss, mislaying or destruction and that payment has been properly and correctly made, he or she may recommend to the Minister to authorise the payment to stand charged in the accounts.

(3) Where the Permanent Secretary, Finance is not satisfied as to the circumstances of the loss, mislaying or destruction, he or she shall recommend an appropriate remedy or penalty.

(4) For the purposes of this regulation, a payment voucher or approved electronic document which is incomplete because its supporting documents are missing, shall be regarded as a missing voucher.

Electronic Payment by Official Credit Card

80. (1) The acquisition of Government-funded credit cards (hereinafter called “official credit cards”) for use both locally and overseas by Government Officials, requires the prior written approval of the Permanent Secretary, Finance.

(2) The request for the use of an official credit card by a public body shall be submitted to the Permanent Secretary, Finance through the Accounting Officer of the Ministry.

(3) Official credit cards shall not be used for private and personal expenses but shall be used on official business—

- (a) to meet unforeseen and unavoidable expenses; and
- (b) in circumstances in which credit cards are the preferred method of payment by the vendor.

(4) Credit cards usage shall be subject to the following requirements—

- (a) the limit approved on official credit cards by the Permanent Secretary, Finance shall not be exceeded unless prior and written approval is given by the Permanent Secretary, Finance;
- (b) the Permanent Secretary, Finance shall give written instructions on the general use and operation of official credit cards;
- (c) expenses from official credit cards shall be kept at a minimum;
- (d) instances of extravagance or deviation from the approved guidelines for use of official credit cards, shall be brought to the attention of the relevant Accounting Officer and the Permanent Secretary, Finance immediately;
- (e) where a public official is found to be extravagant or deviates from the approved guidelines for use of official credit cards, the authorization for the continued use of the card shall be reviewed;
- (f) it shall be an offence under these Regulations if the card holder issues the credit card details to another person to procure goods or services on their behalf.

(5) The following controls are in effect respecting the suspension of a credit card—

- (a) the use of an official credit card shall be suspended when—
 - (i) the cardholder is on vacation leave for more than ten days; or
 - (ii) so directed by the Accounting Officer;
- (b) the credit card company shall be instructed promptly to execute this suspension;
- (c) the Permanent Secretary, Finance shall be informed promptly of all suspensions of the use of official credit cards and the reason for suspension;
- (d) an official credit card shall be in the personal name of the authorised person and not be transferable;
- (e) all official credit cards shall be terminated immediately when the authorised cardholder—
 - (i) dies;
 - (ii) is declared bankrupt or mentally unsound;

- (iii) is interdicted by the Public Services Commission;
- (iv) is convicted of a criminal offence; or
- (v) retires, resigns, dismissed, or separated from office in any other way.

PART XVI

IMPRESTS

Authorisation of imprests

81. (1) The Accountant General is authorised, under the advances warrant issued to him or her by the Minister under the authority of section 24 of the Ordinance, to issue imprests to public officers who require cash to be readily available to meet immediate payments for authorised expenditure.

(2) Imprests referred to in subregulation (1) shall include standing imprests issued to Accounting Officers to meet payments during the financial year and temporary imprests or advances issued to public officers for specific purposes.

(3) Lists of standing imprests required by Accounting Officers in the next or forthcoming financial year shall be submitted to the Accountant General at least fourteen days before the beginning of the financial year.

(4) Requests for temporary imprests or advances shall be made as the need arises and shall be submitted to the Accountant General at least fourteen days before the money is required.

(5) An imprest shall be restricted to the minimum amount required for the purpose for which it is issued.

(6) All imprests of whatever nature shall be issued in the names of the public officers who will hold them, and they shall remain their personal responsibility until they are refunded or discharged by the submission of properly completed payment vouchers or approved electronic documents or properly handed over to another authorised public officer unless approved by the Permanent Secretary, Finance.

(7) An imprest holder shall not be relieved of any part of his responsibility by delegating the custody or operation of an imprest to another public officer.

Retirement of imprests

82. (1) All imprests shall be retired as soon as the necessity for their use ceases to exist and in any event, except as provided in paragraph (4), by the close of business on the last working day of the financial year in which they were issued.

(2) Except as provided in paragraph (4), where a public officer to whom an imprest of whatever nature has been issued fails to retire it in full within thirty days after the close of the financial year, or otherwise on the demand of the Accountant General—

- (a) the amount outstanding may forthwith be recovered from any salary or other emoluments or from any other amounts due to the public officer; and
- (b) where no such salary, emoluments or amounts are available from which to recover the imprest, the amount may be charged as a personal advance in the

name of the imprest holder, and may be recovered as a civil debt due to the Government.

(3) Imprest holders are not relieved of their responsibilities under this regulation until payment vouchers or approved electronic documents submitted have been examined and found to be correct.

(4) Notwithstanding the general rule that all imprests must be retired by the close of the financial year, a temporary imprest advance issued in one financial year in respect of a duty journey which has not been completed by the end of that financial year may be retained by the public officer; but it shall be accounted for as soon as the public officer returns to his or her normal place of work.

(5) Where the duty may not have been completed, so far as is practicable, the public officer shall submit a voucher or electronic document for the expenditure incurred by him or her against the imprest before the end of the financial year, so that the expenditure can be included in the accounts of that year.

(6) No further imprest advances shall be issued to a public officer for the purposes of a duty journey if he or she is still in possession of an un-retired imprest previously issued to him or her for a similar purpose unless approved by the Permanent Secretary, Finance.

PART XVII

LOANS, ADVANCES AND INVESTMENTS

Authority for loans and advances

83. (1) The grant of loans and advances from public moneys or funds is strictly limited and such loans and advances may only be made by the Accountant General under the authority of an advance warrant under the hand of the Minister and for the purposes stated in the Ordinance.

(2) All such advances shall be retired in the financial year in which they are made, and no advance account or loan account shall be opened, nor will any action be taken by any public officer, which will result in the issue of an advance or loan without the prior approval of the Accountant General.

(3) Any public officer taking action prohibited under subregulation (2) shall be liable to a surcharge under Part VIII of the Ordinance.

Loans and advances to be secured by agreements

84. (1) All loans and advances, other than those for Standing or Temporary imprests and those in respect of staff advances shall be secured by legally enforceable agreements in a form approved by the Attorney General.

(2) The agreements, which must clearly specify the full details of the advance, including the amount, the terms of repayment or recovery, the collateral security (if any) and the rates of interest, shall be properly executed by all parties, and shall be retained in safe custody in a strong room or safe.

Accountant General to control issues and repayments

85. (1) The Accountant General shall be responsible for ensuring that repayments of advances are made strictly in accordance with the terms and conditions attached to the advances.

(2) Without limiting the generality of subregulation (1), the Accountant General shall, in particular ensure that—

- (a) payments are made only to persons entitled to them;
- (b) suitable terms and conditions have been approved to safeguard the repayment or recovery of the advance;
- (c) interest is charged where applicable;
- (d) recovery of the advance is not overlooked or delayed;
- (e) where appropriate, collateral security is held by the Government; and
- (f) proper accounts and controls are kept and the necessary recoveries effected.

Investments of public moneys

86. (1) Subject to section 23 of the Ordinance, any money held to the credit of the Consolidated Fund may be invested with a bank at call, or subject to notice not exceeding twelve months, or in an investment authorised by law and approved by the House of Assembly.

(2) All interest received and recoveries made from any such investment shall be paid into the Consolidated Fund.

(3) All costs, charges and expenses incurred in connection with negotiating, placing, managing, servicing or converting any investment made in accordance with these Regulations may be paid out of the Consolidated Fund without further appropriation.

(4) The costs, charges and expenses referred to in subregulation (3) shall not exceed the income earned over the life of the investment.

(5) Public and private organisations that receive public funds must present financial statements upon request and prepare monthly and annual financial statements as are required for audit and management purposes.

PART XVIII**SALARIES AND WAGES****Payment of salaries, etc in the Public Service**

87. (1) Subject to the Public Service Regulations, this regulation shall apply to payment of salaries, allowances and wages.

(2) It is a fundamental principle for the management of personal emoluments that activities relating to the authorisation of appointments, the authorisation of payments and the recording of those payments shall not be performed by the same person.

(3) Accounting Officers are responsible for ensuring that personal emolument records maintained for all of the permanent staff within their Ministries and Departments are correct, and that all changes and variations in applicable rates are duly notified to the Accountant General.

(4) The rates of salary and other personal emoluments for members of the established service are as authorised in the salary scales published in the estimates, except in the case of contract public officers where the scale is as stated in the relevant contract.

(5) Notification of changes shall be sent to the Accountant General to be issued at an appropriate date by the Accountant General in consultation with the Deputy Governor prior to the implementation of the change.

(6) No employee shall be included on the payroll until a copy of the letter of appointment and a copy of the letter of acceptance of the appointment have been received by the Accountant General; and no action will be taken which would result in changes of salary or allowance to any public officer until proper authority has been received.

(7) Any balance of salary or allowance due to a public officer who has been convicted for misappropriation of public moneys or Government funds, or theft of Government property, or dismissed, or whose appointment has been terminated leaving sums due to the Government, shall not be paid without the prior authority of the Accountant General on the advice of the Attorney General.

(8) An Accounting Officer is responsible for ensuring that an appropriate record is maintained in respect of persons employed on a daily wage basis, and ensuring that payment is made only for days actually worked.

(9) The Accountant General retains the right to refuse any payment if it is considered that the payment would result in an overpayment or future overpayment to the employee.

Payment of statutory deductions

88. The Accountant General shall remit all statutory and other authorised deduction from employees' earnings or other payments to the recipient organisation within five working days of the effective date of the deductions or in accordance with the time stipulated by the enactment or power under which the deductions are made whichever is earlier.

PART XIX

PENSION

Records of retiring benefits

89. The Accountant General shall maintain a record of all approved retiring benefits showing in respect of each retired officer—

- (a) the name of the officer;
- (b) the office held on the date of his retirement;
- (c) the date of birth and date of retirement;
- (d) the cause of retirement;
- (e) the date from which pension is payable;
- (f) the amount of gratuity;
- (g) the rate of pension;

- (h) the file reference number; and
- (i) the address of the pensioner.

Notice of retirement

90. (1) Accounting Officers shall submit to the Deputy Governor not later than four months before the end of each financial year the names and pensionable emoluments of all officers in their Ministry or department who will be retiring from the public service during the following financial year.

(2) An officer shall not later than six months before the end of a financial year give notice to the Accounting Officer in his or her Ministry or department of intention to retire from the service during the following financial year.

Deferred payments of retiring officer

91. Any failure on the part of an officer to give the required amount of notice of his or her intention to retire from the public service may result in the deferment of the payment of any retiring benefits due to him or her in respect of his or her service with Government for not more than one year after such payment is due.

PART XX

ACCOUNTING AND BOOK KEEPING

Accounting and book keeping in the Public Service

92. (1) The approved estimates form the basis of the accounts for the year to which they relate and the analysis and classification of the accounts of revenue and expenditure shall accord with those estimates.

(2) Every entry in the books of accounts shall be supported by a voucher and other approved documents containing the full details and particulars of the item or items to which it relates.

(3) A book, account or record that is required to be kept under the Ordinance or these Regulations may be kept or prepared—

- (a) by making entries in a bound or loose-leaf book;
- (b) by recording or storing the data concerned on electronic or other media by means of a mechanical, electronic or other device; or
- (c) in any other manner approved by the Accountant General.

(4) Notwithstanding subregulation (3), where a book, account or record is to be kept or prepared by a mechanical, electronic or other device or to be stored on electronic or other media—

- (a) the data recorded or stored shall be capable, at any time, of being reproduced in a hard copy or any other form approved by the Accountant General; or
- (b) a reproduction of the data shall be kept in a hard copy approved by the Accountant General,

and this Ordinance and these Regulations apply with respect to written records, with necessary changes.

Use of computer based accounting systems

93. (1) Where the data recorded or stored on electronic or other material by a mechanical or electronic device forms part of a system of account under the control of an Accounting Officer, the prior approval of the Accountant General shall be obtained and any changes to the system shall similarly be approved.

(2) An Accounting Officer shall take all reasonable precautions to guard against damage to, destruction of, or falsification of or in, and for discovery of falsification of or in, any book, account, record or part of a book, account or record required to be kept by the Ordinance or these Regulations, and in particular shall ensure that all instructions issued by the Accountant General in this respect are implemented and enforced.

(3) An Accounting Officer shall, in particular, satisfy himself or herself that where the system involves the authorisation, approval, deletion or alteration of any transaction or data by electronic means, or any means other than in writing, an audit trail is provided, which enables the person giving such authorisation or approval or deleting or altering a transaction to be identified beyond reasonable doubt and the nature and, if applicable, the amount of the authorisation, approval, deletion or alteration to be ascertained.

(4) An Accounting Officer shall also satisfy himself or herself as to—

- (a) the security of the means of storage and the method of processing of electronic media and its data; and
- (b) the proper documentation of any software involved,

and shall implement and enforce any instructions issued by the Accountant General in this respect.

(5) In particular access to data and data processing areas shall be controlled and the method of control documented.

(6) Where passwords are used as a security check for accessing data in a computer based accounting system for whatever purpose, including the authorisation or approval of transactions by electronic means or the alteration or deletion of any data, the passwords shall be kept secret by the person to whom they are allocated.

(7) Any public officer who communicates a password to another public officer and causes loss or damage to the Government shall be liable to disciplinary action.

(8) Proper technical support shall be readily available for both hardware and software, and effective backup and disaster recovery procedures shall be instituted to cater for a partial or complete breakdown or loss of the storage media or processing equipment.

(9) The objective of the requirements of subregulation (8) is to ensure that the administration of the Government, and in particular the collection of revenue, is not adversely affected.

Treasury cash books

94. The Accountant General and any public officer appointed by him, shall keep in his office a cash book, batch sheets or other records including electronic copies showing the allocation of

receipts and payments, journals and ledgers together with such other books and registers as may be necessary for the proper maintenance and production of the accounts.

Deposit Accounts

95. (1) Deposit accounts may only be opened with the specific approval of the Accountant General and for the purpose of accounting for moneys owed to a third party.

(2) The responsibility for keeping proper accounts for deposits which relate solely to the Accountant General or which otherwise do not fall within the responsibility of any other Ministry or department rests with the Accountant General.

(3) With respect to deposits other than those referred to in subregulation (2), the prime responsibility for keeping proper accounts for such deposits lies with the Accounting Officer concerned; and in such cases, the Accountant General also has a responsibility to investigate and take any necessary action to deal with a deposit account which becomes overdrawn or which has been dormant for any considerable period of time or which has not been reconciled with the Treasury accounts.

(4) Any deposit which has remained unclaimed for a period of five years may, with the approval of the Accountant General, be paid into the Consolidated Fund. Thereafter the Accountant General may refund the deposit to any person entitled to it where he is satisfied that the claim is authentic.

(5) Any refunds after the deposit has been transferred to the Consolidated Fund shall be paid from voted expenditure.

Public debt

96. The Accountant General shall maintain a register or such records as shall be sufficient to show details of all loans raised by the Government and other forms of public debt.

Standard forms

97. Standard forms and vouchers required for accounting procedures shall be approved by the Accountant General, and the prior authority of the Accountant General shall be obtained before the introduction of any special forms or vouchers for use in individual Ministries or departments.

Preservation of accounting records

98. The Accountant General shall—

- (a) issue instructions to Accounting Officers specifying the precautions to be taken in particular cases to safeguard accounting records and documents and, in particular, those which have been stored on electronic or other media; and
- (b) ensure that all receipts and payment vouchers or approved electronic documents lodged with him or her are properly secured, and that they and all other accounting documents are kept in an orderly manner so that they are available when required.

Destruction of accounting records

99. (1) All classes of books of account and records shall be carefully preserved and shall not be destroyed without the prior written approval of the Accountant General and the concurrence of the Auditor General.

(2) An Accounting Officer is responsible for the care and safe-keeping of receipts, payments instruments and other accounting records in his or her custody and shall retain them until they are destroyed.

(3) Accounting records may be destroyed with the approval of the Accountant General after the expiry of the periods stated in Schedule 1.

(4) Where in the opinion of the Accountant General, a receipt, payment instrument or other accounting record is required for purpose of any litigation, inquiry, investigation or other examination, he or she may direct an Accounting Officer as the case may be to delay destruction of the receipt, payment instrument or other accounting record until it is no longer needed for that purpose.

PART XXI

CUSTODY AND SECURITY OF PUBLIC MONEYS

Responsibility of Accounting Officers

100.(1) It is the responsibility of every Accounting Officer to ensure that adequate arrangements are made for the safe custody and preservation of public monies, stamps, tickets, securities, stores, equipment or anything else of value which either belongs to Government or though not belonging to Government is kept in its permanent or temporary custody.

(2) It is the responsibility of an Accounting Officer to report to the Accountant General where he or she is not satisfied that adequate facilities are available within the premises for the proper and safe custody of public moneys and valuables.

(3) Where appropriate the vote controller shall seek the advice of the Commissioner of Police on the nature of the security precautions to be applied in particular cases.

(4) An Accounting Officer who fails to perform his or her functions under subregulations (1) and (2) is liable to surcharge in the amount of the loss incurred by the Government.

Provision of security facilities

101.(1) Strong-rooms, safes and cash boxes shall be provided for the safe custody of public moneys and valuables in all Government premises in which public moneys and other valuables are received and retained either temporarily or permanently.

(2) The cost of such strong rooms, safes and cash boxes shall be met from the vote of the relevant Accounting Officer unless otherwise approved by the Minister.

(3) The necessity and specifications for a strong-room, safe or cash-box shall be determined by the Accountant General.

(4) The Accountant General shall give guidelines relating to the maximum amount of public moneys and, where appropriate, the limitation on valuables which may be retained in a strong-room, safe or cash box overnight.

(5) Where the maximum amount of public moneys referred to in subregulation (4) is likely to be exceeded, the excess will be placed in a locked or sealed secure container and temporarily deposited in a strong-room or safe of higher security grading, and a receipt obtained from the key holder of that strong-room or safe or deposited into a bank account authorised by the Accountant General.

(6) In exceptional circumstances where large amounts are involved, the matter shall be reported to the Accounting Officer, who in his or her discretion may arrange for the strong-room or safe to be placed under police escort.

(7) No public officer shall keep or allow to be kept in a strong room, safe or strongbox under his charge private money or valuables or any money or valuables other than those which he is bound to receive and account for by reason of his public office.

(8) When in use the following items shall be kept in a strong room, safe or strongbox—

- (a) cash, including cheques and other instruments of payment;
- (b) the main and sub-stocks of stamps;
- (c) cheque books;
- (d) cash books;
- (e) revenue receipt books of any description;
- (f) special clamps, dies, seals;
- (g) any other official valuables; and
- (h) a register which shows in as much detail as is practicable of the contents of the strong room, safe or strongbox at any given time.

Surprise inspections

102.(1) Accounting Officers shall arrange for surprise inspections of the contents of strong rooms, safes and strongboxes in their Ministry, departments or offices.

(2) The inspections shall be conducted at irregular intervals but at least once every six months.

(3) The officer conducting the inspection shall report to the Accounting Officer concerned any discrepancies, deficiencies or irregularities which he or she finds and any case in which he or she considers the safe custody facilities to be inadequate.

(4) The results of each inspection shall be recorded in the register of surprise inspections by the officer conducting the inspections.

PART XXII

BANK ACCOUNTS AND CHEQUES

Operation of bank accounts

103. (1) Pursuant to section 26 of the Ordinance, the Minister may designate any bank in the Turks and Caicos Islands to be bankers to the Government or Statutory Body for the custody of public moneys and other official funds and for the transaction of official banking business.

(2) Except with the prior authority of the Accountant General or express authority in an Ordinance, no public officer shall open a bank account for the deposit, custody or withdrawal of public moneys or other moneys for which he or she is responsible in his official capacity or for the transaction of official banking business. Where given, such authority shall be conveyed in writing to the Accounting Officer concerned and copied to the Permanent Secretary, Finance.

(3) No public officer, statutory body or public organisation shall overdraw an official bank account or obtain any advance or loan from a bank for official purposes, without the prior authority of the Minister.

(4) The names and designations of the public officers referred to in subregulation (2) and their specimen signatures shall be advised to the bank where the account is held, and copies of the advice shall be sent to the Accountant General and the Auditor General.

(5) Any change in the specimen signatures referred to in subregulation (4) shall be similarly advised to the bank and copied to the Accountant General and Auditor General.

(6) The Accountant General may—

(a) give directions as to the terms and conditions under which any bank account may operate; and

(b) close or suspend the operation of a Bank Account at any time.

(7) Accounting Officers may not cause the closure or suspension of any bank account without the prior approval of the Accountant General.

(8) The Auditor General may request from any person or organisation any information in relation to any bank account and such information shall be supplied.

(9) In order that a bank account may continue to operate regardless of any circumstances that may arise in respect of the authorised signatories, arrangements shall be made by the Accounting Officer for the account to be capable of being operated by the Accountant General in an emergency, and subregulation (2) relating to the number and status of the signatories shall apply to such arrangements.

(10) The balance of every bank account as shown in the bank statement shall be reconciled with the corresponding cash book balance at intervals determined by the Accountant General, but in any case at least monthly; and the reconciliation statement, where appropriate, shall be either filed or recorded in the cash book.

(11) A reconciliation similar to the one described in subregulation (10) shall be carried out when responsibility for any bank account or cheque book is handed over from one public officer to another and on the occasion of any surprise inspection or survey.

(12) Copies of reconciliation statements approved by the Accounting Officer shall be sent to the Accountant General, and copies of the reconciliation of any account operated by the Accountant General shall be sent to the Permanent Secretary, Finance.

Issue of cheques

104. Unless authority is given by the Accountant General for a cheque to be opened, all cheques drawn on official Government accounts shall be crossed 'Account Payee Only' and used in sequence.

Computerised Cheques

105. (1) Cheques may be issued by the use of mechanical or electronic equipment.

(2) Adequate security measures shall be taken to restrict entry to mechanical or electronic cheque-writing devices to persons specifically authorised by the Accountant General.

(3) The Accountant General may authorise the signing of cheques by the use of mechanical or electronic equipment capable of reproducing facsimiles of signature or signatures of the person or persons duly authorised by him to sign cheques.

(4) Cheques shall be used in sequential order.

Lost or mislaid cheque

106. (1) In the event of cheques issued on behalf of a Ministry, department or office being reported lost or mislaid before they are cashed, the bank shall be immediately advised to stop payment of the cheque; such advice shall be acknowledged by the bank.

(2) The payee shall be requested to provide a written indemnity against any loss being sustained by the Government because of the missing cheque before he or she will be issued with a replacement cheque.

(3) If the original cheque is found before a replacement cheque is issued, the bank shall be required to lift the stop order.

(4) If the original cheque is found after a replacement cheque is issued, it shall be immediately cancelled.

Cheque books to be secured

107. (1) Cheque books issued for use of an officer shall be secured when not in use.

(2) The counterfoil of used cheques and machine copy of each cheque shall be initialled by each signing officer and shall be secured for audit checking and verification.

(3) Government cheque books or forms shall be examined immediately they are received from the bank to ensure that no cheques are missing and the examination shall be done by a responsible officer who shall initial and date the reverse of the last counterfoil in each cheque book or form in a series as evidence that the examination has been made.

(4) Cheque books not required for immediate issue shall be stored in a strong room, safe or strongbox and cheque books currently in use shall be stored in a strong room, safe or strongbox overnight.

Spoilt cheques

- 108.** (1) Spoilt cheques shall be retained and clipped to the matching counterfoil.
- (2) Each spoilt cheque shall be marked or stamped across its face “Cancelled” and initialled by a designated officer.

Cheques not to be cashed

- 109.** In no circumstances shall the collector or receiver of revenue convert into cash cheques received by him or her, or cheques presented to him or her by any person whether or not that person is a Public Servant.

PART XXIII

BOARDS OF SURVEY

Boards of survey of cash and bank balances, etc

- 110.** (1) The Permanent Secretary, Finance may appoint a Board of Survey for each Ministry or department after the close of business on the last working day of each financial year, or before the start of business on the first working day of the new financial year, to survey the cash, bank balances and stores held by the Accounting Officer of each such Ministry or department for statutory reporting purposes except for the Treasury at the end of the financial year.
- (2) The Permanent Secretary, Finance shall appoint a Board of Survey, for the write off and condemnation of cash, stocks and inventory at any time during the year after the close of business on the last working day of each financial year or before the start of business on the first working day of the new financial year to survey the cash, bank balances and stores held by the Accountant General at the end of the financial year.
- (3) The Board of Survey shall after the close of business on the last working day of each financial year, or before the start of business on the first working day of the new financial year, survey the cash, bank balances and stores held by the Accounting Officer of each Ministry or department for statutory reporting purposes except for the Treasury at the end of the financial year.
- (4) The Board of Survey shall be contacted for the write off and condemnation of cash, stocks and inventory at any time during the year, after the close of business on the last working day of each financial year or before the start of business on the first working day of the new financial year to survey the cash, bank balances and stores held by the Accountant General at the end of the financial year.
- (5) The Accountant General or the Permanent Secretary, Finance may appoint Boards of Survey at any other time in each year to conduct surprise surveys on the balances referred to in subregulation (2).
- (6) Accounting Officers may at their discretion, appoint Boards of Survey to conduct surprise surveys on cash and bank balances and stamp stocks held by public officers of their Ministries or departments.
- (7) The officer responsible for the balances or stocks to be surveyed shall be present at all times whilst the Board of Survey is carrying out its duties.

Composition and reporting by Board of Survey

111. (1) A Board of Survey shall comprise at least two public officers, one of whom shall be designated as Chairman by the Permanent Secretary, Finance, the Accountant General or Accounting Officer as appropriate. However no public officer so appointed shall have any direct responsibility for the balances or stocks which he or she is required to check.

(2) The Accountant General, the Permanent Secretary, Finance or Accounting Officer who appoints a Board of Survey shall notify the public officers concerned in writing of their appointment as Chairman and member or members respectively of the Board of Survey, and send a copy of the letter of appointment to the Auditor General and where appropriate, to the Accountant General or the Permanent Secretary, Finance.

(3) Where a public officer is unable to serve on a Board of Survey, he or she shall notify the person that appointed him or her forthwith stating the reason for his or her inability to serve, and if the reason is acceptable to the person, a replacement public officer shall be appointed.

(4) Each Board of Survey, whether appointed by the Permanent Secretary, Finance or not, shall at the conclusion of the survey, submit a report to the Permanent Secretary, Finance in the form specified by the Accountant General and in accordance with the terms of reference of the Board.

(5) The Permanent Secretary, Finance shall be responsible for ensuring that the duties assigned to the Board of Survey are effectively discharged, and appropriate action taken for any failure on the part of the Board to discharge its duties properly.

(6) Accounting Officers shall follow up and implement the recommendations of the Boards of Survey as they apply to their respective Ministries or departments with the authority of Permanent Secretary, Finance; and the Accountant General shall ensure that Accounting Officers implement those recommendations.

(7) The Permanent Secretary, Finance shall follow up the implementation of the recommendations of the Board of Survey carried out in respect of the Accountant General.

PART XXIV

HANDING OVER PROCEDURES

Duties of public officer handing over

112. (1) Accounting Officers shall ensure that on every occasion on which cash, receipt books, keys, or other public assets are handed over from one public officer to another, the hand-over shall be evidenced in writing, and shall be conducted in such a manner as to leave no doubt or ambiguity as to the items handed over and taken over.

(2) A handing over statement shall be prepared and submitted to the Accountant General and the Auditor General.

(3) The handing over statement shall record the following items if applicable—

- (a) cash and bank balances in words and figures;
- (b) the serial numbers of all fixed tickets;

- (c) the serial numbers of all unused, partly used and completely used receipt and licence books;
- (d) details of strong rooms, safes and strongboxes and their keys and duplicates;
- (e) the quantities and descriptions of sealed packets and other articles of value;
- (f) any official seals, dyes or stamps;
- (g) titles of books, regulations, rules or instructions;
- (h) references of files and similar official documents.

(4) If the statement comprises more than one sheet every sheet shall be signed and dated by both officers.

(5) Every handing over statement shall be endorsed by the Accounting Officer concerned.

Items handed over to be checked

113. (1) Every item to be handed over shall be checked in the presence of the officer handing over and the officer taking over and recorded in detail in the handing over statement.

(2) The handing over of keys of strong rooms, safes and cash boxes shall be recorded on the handing over statement.

(3) Copies of all orders, circulars, books, regulations and instructions issued to the officer handing over shall be handed over to the officer taking over.

(4) Cash ledgers, stamp registers and other accounting records shall be balanced as at the date of the handing over and signed by both officers.

Shortages and discrepancies found during hand-over

114. (1) Where, during a hand-over, shortages or discrepancies are noted between the balances or stocks of cash, receipt books, being handed over and those recorded in the relevant cash books and registers, the full facts relating to the shortage or discrepancies shall be recorded in detail in the statement respecting the handing over, together with an explanation of the shortage or discrepancy given by the public officer who is handing over.

(2) Where the shortage or discrepancy is other than of a very minor nature, the public officer taking over shall make an immediate report to the Accounting Officer who shall forthwith investigate the shortage or discrepancy and submit his or her report to the Accountant General with a copy to the Auditor General.

(3) In the case of a hand-over between outgoing and incoming Accounting Officers, the report shall be made to the Accountant General who shall forthwith investigate the shortage or discrepancy and submit his or her report to the Permanent Secretary, Finance with a copy to the Auditor General.

Procedure in case of illness or absence of public officer

115. (1) Where because of illness or for any other reason an outgoing public officer is unable to hand over his duties and responsibilities in person, he or she will forward the keys of the strong-rooms, safes, cash-boxes, in his or her custody to his or her Accounting Officer by hand under sealed personal cover.

(2) The Accounting Officer shall then appoint at least two public officers who shall, on behalf of the outgoing public officer, jointly perform the hand-over duties approved in regulations 112 and 113 and sign the statement respecting the handing over, in place of the outgoing public officer.

(3) A procedure similar to that approved in subregulation (2) shall be followed if a key-holder is unexpectedly absent from a duty, which cannot be held in abeyance until his return.

(4) Where for any reason an incoming public officer considers that the state of the records, balances, security, is such that he or she cannot conscientiously take them over, he or she must immediately seek instructions from his or her Accounting Officer and promptly submit to the Accounting Officer, a full written report of the circumstances of the case.

PART XXV

GOVERNMENT STORES

Responsibility for Government stores

116. (1) Every public officer is personally and pecuniary responsible for proper custody, care and use of Government stores under his or her control.

(2) An Accounting Officer shall be responsible for the general supervision and control of all Government stores held within the Ministry or department under him or her and for the due performance of their duties by his or her subordinate staff in relation thereto.

Purchase and receipt of inventories

117. (1) Accounting Officers are responsible for purchase and safe custody of Government stores under their control.

(2) Care must be taken to ensure that the stores received are in good condition and conform to order requirements, and the procedures governing the receipt of stores from suppliers into any Government store shall aim at ensuring that payment is made only for the quantities actually received in good order and condition and meeting the required specification.

(3) So far as possible, the task of receiving and checking stores shall be carried out by a public officer other than the one who places the orders and authorises payment for the supplies, and the documentation shall permit the various elements of the transaction, including ordering, receipt and payment, to be identified with and checked against each other.

Deliveries

118. (1) In order that investigations may be carried out and any claims supported, it is essential that—

- (a) a clear signature indicating that all the goods have been received intact and in good order, be given only when this fact has been ascertained; and
- (b) intimation of any loss shall be given to the supplier and to the carrier without delay.

(2) Where any dispute is likely to arise, the storekeeper shall report the matter immediately in writing to his superior public officer so that an enquiry may be instituted to

determine any responsibility, and in the event of loss to the Government, any failure to comply with this procedure shall be taken into account in determining responsibility for the loss.

Recording of Government stores

119. The Accountant General shall issue instructions on the format to be kept in respect of every store received and the procedure for the issuing of stores.

Accountability for inventories

120. (1) Stores are accounted for by value as well as by quantity, and it is necessary to keep records so as to determine the unit cost of each stock item and the reconciliation of the total value of the stocks with the financial records.

(2) All vouchers and ledger entries for Government stores shall show the value as well as the quantity of the items concerned.

(3) All purchases of inventories shall be charged directly to the relevant expenditure lines immediately on purchase, and the records referred to in subregulation (1) shall not form part of the general ledger.

Inspection of inventories

121. (1) Accounting Officers shall arrange for the Government stores for which they are responsible to be inspected regularly and for written reports to be made to them on the sufficiency of the storage accommodation and on the general condition of the Government stores and storage facilities.

(2) The inspecting public officer shall report to the Accounting Officer promptly and in writing, any case of loss, shortage, leakage, damage, waste, deterioration or irregularity observed in the course of his inspection and the Accounting Officer shall take prompt and appropriate action to correct any defects or deficiencies reported.

(3) In addition to the departmental internal inspections, which are designed to satisfy Accounting Officers that they are adequately discharging their own responsibilities for the correctness of Government stores and stores records, the inventory holdings of all public stores shall be verified at least once a year by continuous stock taking by an independent Stock Verifier or by the Boards of Survey.

Boards of survey of Government stores, etc.

122. In cases where Government stores have not been fully checked during a financial year by a Stock Verifier, and in stores where, even though such a check has been made, exceptionally valuable or attractive items are held, a Board of Survey shall be appointed by the close of the financial year to check the stock holdings to such extent as necessary.

Hand-over of duties in respect of Government stores by public officers

123. (1) Accounting Officers shall ensure that whenever one public officer relinquishes to another the whole or part of his responsibilities for any store, the Government stores and stores ledgers are properly examined and the hand-over conducted in such a manner that there can be no doubt or ambiguity as to the items handed over and taken over.

(2) The procedure for handing over and taking over shall be similar to that approved in regulations 112, 113 and 114 for the hand-over of cash, bank balances and stamps.

Losses of Government stores

124. (1) The procedure to be taken on the discovery of any loss or shortage of Government stores or other Government property, the manner in which enquiries into the loss or shortage are to be conducted, and the procedure for surcharging or otherwise disciplining any public officers held to be responsible are approved in Part VIII of the Ordinance.

(2) In the context of Government stores and other property, losses shall include any damage or deterioration which cannot be attributed to fair wear and tear.

Write-off of Government stores

125. (1) An Accounting Officer may, with the authority of the Permanent Secretary, Finance, write-off minor items of Government stores which have been accidentally lost or broken beyond repair such as glassware and small tools, or perishable items which have become unserviceable, provided that no question of fraud, theft or negligence is involved and the value does not exceed \$500.

(2) In each case of minor articles lost or broken, the Accounting Officer may order that the cost of the article shall be recovered from the public officer concerned.

(3) All write-offs shall be compiled and reported to the Permanent Secretary, Finance for inclusion in a resolution to be introduced in the House of Assembly.

Condemnation of unserviceable Government stores, etc

126. (1) Where it is considered that Government stores, vehicles, plant, equipment, have reached the end of their useful life, are beyond economical repair or are unserviceable for any other reason, or have become redundant through obsolescence, they shall be retained until a sufficient quantity has accumulated to merit the convening of a Board of Survey to inspect them, and it shall be the duty of such Board to determine the action to take.

(2) The Permanent Secretary, Finance may, if he or she thinks fit, appoint in writing a Board of Survey, comprising at least two public officers, one of whom shall be designated as Chairman, to inspect and report on the items referred to in subregulation (1), and where the items are of a mechanical or technical nature, necessary assistance may be sought to express a technical opinion on the state of the items.

Unwanted serviceable inventories, etc

127. Where Government stores or items which, although serviceable, are no longer required by the Government are to be sold, they shall be disposed of by public auction or by tender after public advertisement; except where the specific approval of the Permanent Secretary, Finance has been obtained for them to be sold through other means.

Operation of revolving fund

128. (1) Subject to this regulation, when the House of Assembly has authorised any Ministry or 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 the House 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 Ministry or 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 subregulation (1)(b)—
- (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 subregulation (1) together with the balance of the revolving fund shall not be greater than the amount fixed by the House of Assembly as the amount that may be charged to the revolving fund at any time or such lesser amount as the House 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, 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 the House of Assembly.
- (5) All accounting transactions with respect to a revolving fund under this regulation shall be recorded at cost; however 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 Accountant General may direct.
- (6) For the purposes of this regulation “balance of the revolving fund” means, the aggregate of all payments charged to the revolving fund, less all credits to the revolving fund.

PART XXVI

NON-CURRENT ASSETS

Nature of non-current assets

129. (1) Non-current assets are assets that, by their nature, have useful lives extending over more than one fiscal year, and include all major items of furniture and equipment for either Government offices, quarters, plant, equipment, and larger tools for Government works, vehicles and launches, owned by the Government.

(2) Such assets are required to be retained until they are finally written-off and disposed of because they are either unserviceable or are of no further use to the Government; and while the overall responsibility for such assets or equipment rests with the relevant Accounting Officer, the

public officers to whom the assets are issued have the primary responsibility over their custody, maintenance, safeguarding and proper use until they are returned to store.

(3) When the occupant of an office, quarter or location, or other person having charge or use of the equipment or furniture changes, there shall be an appropriate hand-over to the incoming public officer.

Recording of assets

130. A register, in a form approved by the Accountant General shall be maintained for all assets, and all such assets shall also be appropriately marked or engraved to ensure that they are easily identifiable as Government assets.

Use of Government vehicles or conveyances

131. (1) Journeys may only be made in Government vehicles, launches or other conveyances when use of such vehicle, launch or conveyance is required for official purposes and has been approved by the relevant Accounting Officer or other public officer designated by the Accounting Officer to give such approval.

(2) The public officer approving the journey shall ensure that the most economical vehicle or conveyance is used, commensurate with the duty to be performed, and shall satisfy himself that the distances travelled, time taken, are reasonable having regard to the conditions under which the work is executed or performed.

Hire or loan of assets

132. (1) Except where an authorised procedure exists and standard hire charges are in operation, Government property, plant or equipment may only be loaned or hired out to public officers or to the public in very exceptional circumstances.

(2) The loaning or hiring of Government property, plant or equipment under subregulation (1) shall—

- (a) be with the prior written approval of the relevant Accounting Officer; and
- (b) be supported by an agreement signed by the hirer in a form approved by the Attorney General,

and the hire charges must be paid before the plant, equipment or other non-current asset is released.

(3) Any items hired or loaned shall be recorded in a register in a form approved by the Accountant General that shall clearly record the date it was issued, hire rate charged, name and address of person hiring or loaning the asset and expected return date.

(4) Security deposits shall be requested in advance of releasing the assets and where practical any hire charges shall be paid in advance.

(5) If an asset is broken during a period of hire or loan the item will be inspected by a qualified person who shall ascertain if the item was broken as a result of misuse of the item. If it is considered that the item was misused then the repair or replacement costs for the item shall be charged against the person hiring or loaning the asset.

Maintenance and security of assets

133. Accounting Officers are responsible to keep secure and maintain assets under their control in a reasonable state of repair in order to keep them suitable for purposes for which they were purchased.

Disasters

134. Accounting and other accountable officers shall be responsible for ensuring that adequate procedures are implemented to safeguard departmental files, official documents, computer hardware and software, electronic data and other similar documents from destruction or damage arising from natural or other disasters.

Disposal and Sale of assets

135. (1) No uniforms and equipment of a uniformed service which have become unserviceable or which are no longer required for public purposes shall be sold to any person, public officer or to the public.

(2) Where assets have become unserviceable or are no longer required for public purposes, no assets shall be sold to any person, public officer or to the public unless such sale—

- (a) falls within the terms of a formal Government contract, such as the sale of materials to a contractor;
- (b) is made in accordance with a standing arrangement;
- (c) is made with the agreement of the Accounting Officer concerned that the items can be spared; or
- (d) complies with the Procurement Ordinance, and any other written law for the disposal of assets.

(3) Where assets are identified for disposal the Accounting Officer shall inform the Permanent Secretary, Finance and Director of Contracts who shall provide advice on the method of disposal, with due care being taken in relation to items that hold sensitive information and instances where data should be removed or the item destroyed so that any information cannot be reconstructed.

(4) Assets earmarked for disposal shall first be valued by a competent person and a copy of the valuation report submitted to the Permanent Secretary, Finance; and approval for disposal shall be sought as follows—

- (a) for items valued under \$1,000 the Permanent Secretary, Finance may advise on an appropriate method of disposal;
- (b) for items valued between \$1,001 and \$5,000 disposal shall be made through a public auction (notice detailing the items, time and place of the public auction shall be first issued advising the public of the Government's intention to dispose of the assets);
- (c) for items valued over \$5,001, disposal shall be made through sealed bid tenders in unmarked envelopes addressed to the Procurement Board and the procedures for receipt, custody, opening and approval shall follow the procedures contained in the Procurement Ordinance;

(d) in exceptional circumstances, where the disposal method listed at paragraph (b) or (c) is not readily available or is not feasible or practicable, approval may be granted for an alternative method of disposal by the Permanent Secretary, Finance.

(5) Where approval has been duly obtained for the sale and/or disposal of any assets or non-current assets other than within the terms of a contract or in accordance with a standing arrangement, the assets shall not be supplied to the purchaser until payment in full has been received.

(6) Any Government mark or crest appearing on such assets shall be obliterated before the property is sold or disposed of.

(7) In this Regulation, “uniformed services” means the Turks and Caicos Islands Police Force and such other institution or body as may be specified in general instructions issued by the Accountant General.

(8) Once an asset has been disposed of or sold the Accounting Officer shall update the inventories or asset registers and submit a report to the Accountant General so that master lists can be updated.

(Substituted by L.N. 121/2020)

Boards of Survey of Assets

136. At the end of each financial year, the Boards of Survey may check the assets held by Ministries and departments of the Government.

PART XXVII

ACCIDENTS

Appointment of Accident Investigation Board

137. The Permanent Secretary, Finance may appoint an Accident Investigation Board to inquire into the causes and costs of any accidents reported to him or her and to assess the extent of any responsible or negligence on the part of any driver or operator responsible for or in control of the vehicle or plant involved.

Accident reports

138. Whenever an accident involving a Government vehicle or plant occurs, the driver or operator as the case may be shall immediately notify the police and complete an accident report and submit such report to the Accounting Officer.

Assessment of damage

139. The Accounting Officer, on receiving an accident report, shall immediately refer the reports to the officer in charge of a mechanical workshop or garage for an assessment of the damage or damages sustained and an estimate of the cost of repair, or, in the case where the vehicle or plant is beyond repairs, the cost of replacement.

Report to be submitted to Accident Investigation Board

140. (1) Except where an accident is referred to the Court by the police, the Accounting Officer shall submit an accident report together with the assessment made by the officer in charge of the mechanical workshop or garage and the police report, if any, to the Accident Investigation Board.

(2) Where the matter has been referred to the Court, the Accounting Officer is obliged to await the decision of the Court and at that time all the documents including the Court decision shall be submitted to the Accident Investigation Board.

Proceedings by the Accident Investigation Board

141. (1) The Accident Investigation Board may summon any person to give any evidence or explanation concerning the accident which it may consider to be necessary.

(2) The Accident Investigation Board shall submit a report on its findings together with any recommendations as to the action to be taken against the driver or operator responsible for the accident, to the relevant Accounting Officer.

Action to be taken

142. (1) Where any Government vehicle has been damaged or involved in an accident, after consultation with the Attorney General, the Accounting Officer shall submit an accident report and the Accident Investigation Board's report together with recommendations on the extent of any surcharge against the driver or operator responsible for the accident, to the Permanent Secretary, Finance.

(2) Any surcharge imposed on the driver or operator shall be recovered in accordance with Part VIII of the Ordinance.

Claims by Government

143. (1) Where the Accident Investigation Board recommends that a claim be made against any person or insurance company in respect of any liability for an accident, the Accounting Officer shall prepare the claim and submit it to the Attorney General for his or her approval before it is issued.

(2) It is the responsibility of the Accounting Officer to immediately notify the Attorney General's Office of any claim that has been made or that might be made against Government.

Claims against Government

144. In the event of a claim being made against the Government for liability in respect of an accident, the claim shall be investigated immediately by the Accounting Officer and a copy of a report of the investigation and the claim shall be referred to the Attorney General for his or her advice on the action to be taken.

Repairs to damaged plant or vehicle

145. Where any Government plant or vehicle has been damaged, as soon as possible after an assessment has been made by the officer in charge of the mechanical workshop or garage and except as may be advised by the Accident Investigation Board or the Attorney General, the Accounting Officer shall proceed to carry out repairs to the vehicle or plant involved so as to minimise cost to the Government.

PART XXVIII
STATUTORY BODIES

Governance requirements

146. (1) Pursuant to sections 39 and 40 of the Ordinance the Minister with responsibility for a Statutory Body shall, at least six weeks before the start of a financial year, issue an annual sponsorship letter to the Statutory Body.

(2) The sponsorship letter required under subregulation (1) shall—

- (a) quantify the funds, if any, that have been appropriated by the Government for the use of the Statutory Body for that financial year;
- (b) specify, in general terms, the policies that must be followed by the Statutory Body in carrying out its functions during that financial year and the way in which it may expend its funds in doing so; and
- (c) specify any instruction that the Minister or the Governor may have, in respect of a function of the Statutory Body that should receive particular attention during that financial year.

(3) A Statutory Body shall commit its funds in a manner commensurate with a sponsorship letter received in accordance with this regulation and must not commit any of its funds in respect of a financial year until a sponsorship letter in respect of that year has been received.

(4) In its annual report for a financial year, a Statutory Body shall, explain the manner in which it has carried out any instruction given in accordance with subregulation (2)(c) and what has been achieved.

(5) An annual Statement of Internal Control shall be prepared and approved by each Statutory Body and submitted along with the Financial Statements of that body to be laid before the House of Assembly.

(6) In this regulation, “funds”, in respect of a Statutory Body, means its assets and its income, including income received by way of investments, fees, rents, charges and other imposts and any funds appropriated to it by the Government.

Estimates of expenditures

147. (1) Pursuant to section 42 of the Ordinance, prior to a Statutory Body implementing any proposals to change existing or create new policies, projects and procedures, a business case must first be forwarded to the Governor for approval and no expenditure shall be incurred by the Statutory Body until approval in writing has been obtained.

(2) The business case required under subregulation (1) shall—

- (a) set out the rationale for the change in existing or creation of new policy;
- (b) explain the level of expenditure that will be incurred;
- (c) show any cost or efficiency savings associated with the revised policy; and
- (d) explain how the change in policy or new policy will improve controls or mitigate risks.

(3) This regulation shall apply to the following policies, procedures or projects of a Statutory Body, save for the Financial Services Commission in the cases where the need to maintain confidentiality or effective Regulation of the sector can be demonstrated—

- (a) redeployment of staff to special activities that would otherwise mean their duties are not completed;
- (b) hiring of additional staff over the approved establishment, including temporary positions to backfill any persons acting
- (c) changes to the terms and conditions of staff or Board members;
- (d) hiring external consultants or advisers;
- (e) incurring unbudgeted expenditure in excess of \$30,000; or
- (f) capital expenditures that have not been otherwise budgeted.

Payments

148. Every Statutory Body shall ensure that value for money is being achieved in the delivery of its services and failure to comply with this Regulation constitutes an offence.

Financial Reporting requirements

149. (1) In accordance with section 43 of the Ordinance a Statutory Body must, in a form prescribed by the Accountant General and within fourteen days of the end of each quarter, submit to the Budget Director, a copy of its unaudited income statement—

- (a) showing progress against budget for that quarter;
- (b) attaching the balance sheet for that quarter; and
- (c) including an explanation of any deviations of greater than 5% against the amount budgeted for that quarter

(2) A summary of the Budget Director's evaluation of the financial performance statements submitted in accordance with subregulation (1) shall be published on the Government's website.

(3) Where a statutory body is funded through a monthly subvention the information submitted in accordance with subregulation (1) shall also be accompanied by an explanation of any material discrepancies against the budget and the proposed action to be taken to bring the deficit back into balance.

(4) A statutory body required to remit excess expenditure shall do so in accordance with the relevant Ordinance along with a reconciliation duly signed by the Chief Executive Officer or the Chief Finance Officer of that statutory body and failure to comply with this regulation, without reasonable excuse, constitutes an offence.

PART XXIX

MISCELLANEOUS

Penalties

150. (1) In accordance with Part VIII of the Ordinance where a public officer without reasonable excuse fails to provide by the due date any information that the Permanent Secretary, Finance required under Part IV of the Ordinance, the Permanent Secretary, Finance may take such action as he or she may deem appropriate and make a report to the Deputy Governor for such disciplinary action as may be deemed appropriate to be taken.

(2) In accordance with Part VIII of the Ordinance, where a public officer causes a loss of or deficiency in public money or damage to public property, the amount of loss, deficiency or damage and the value of the property lost, damaged or destroyed and the cost of replacing or repairing the damage to that property as the case may be, shall be a debt due to the Government and may be recovered from the public officer either administratively or through a court of competent jurisdiction.

Surcharge

151. (1) Notwithstanding anything in these Regulations, where, in pursuance of Part VIII of the Ordinance—

- (a) a loss, deficiency or damage in public moneys or other moneys that have been advanced to or were under the control of a public officer occurs; or
- (b) a loss, deficiency or damage to public property or other property occurs while in the care of a public officer, and the Permanent Secretary, Finance is satisfied after due enquiry, that the negligence or misconduct of the public officer caused or contributed to the loss, deficiency, or damage,

the amount of the loss, deficiency or damage, the value of the property lost or destroyed or the cost of replacing or repairing the damage to that property, as the case may be, shall be a debt due to the Government, and may be recovered from the public officer either administratively or through a court of competent jurisdiction.

(2) Where the negligence or misconduct of the public officer is not the sole cause of the loss, deficiency or damage resulting in an action under subregulation (1), the amount recoverable from the public officer may be restricted to only the cost of replacing or repairing the loss, deficiency, damage that the Permanent Secretary, Finance considers, after due enquiry, to be just and equitable, having regard to the contribution made by the public officer to that loss, deficiency or damage.

(3) In this regulation, reference to a public officer includes a person who at the time of the loss, deficiency or damage was a public officer.

Forms

152. The Accountant General may prescribe such forms as are required for the efficient working of these Regulations.

Compliance with and availability of Regulations

153. It is the duty of all Accounting Officers, Permanent Secretaries and heads of departments to ensure that all public officers under their control—

- (a) have access to copies of these Regulations; and
- (b) comply, and are otherwise fully conversant, with the procedures and requirements embodied in these Regulations and associated instructions.

PART XXX

CONTINGENCIES FUNDING

Accounting for Contingencies Funds

154. (1) Payments made pursuant to a Contingencies Warrant issued under section 118 of the Constitution and section 7 of the Ordinance, by the Minister and to the level authorised by the relevant appropriation Ordinances as in force from time to time shall be regarded as an advance from the Consolidated Fund to the Minister until such time as the advance is retired.

(2) Payments made under a Contingencies Warrant are authorised by the House of Assembly to be a charge on the Consolidated Fund or the Development Fund by a Supplementary Appropriation Ordinance and it is on the basis of the changes made to the estimates by such an Ordinance that the expenditure is allocated within votes and the advance retired.

(3) The Minister shall submit a Supplementary Appropriation Bill to the House of Assembly at the first sitting following the issue of a Contingencies Warrant to ensure prompt accounting and retirement of the advance.

(Inserted by L.N. 25/2015)

SCHEDULE 1

(Regulations 99)

DOCUMENTS RETENTION SCHEDULE

<i>Type of Record</i>	<i>Retention Period - Manual Records</i>	<i>Retention Period - Electronic Records</i>
Purchase orders	5 years after date of purchase order	10 years after date of purchase order
Tenders, bids, proposals	5 years after completion of contract	10 years after completion of contract
Tax refund claims	2 years after refund	5 years after refund
Tax notices	2 years after notice	5 years after notice
Custom entries	20 years	20 years
Invoices, statements, bills	7 years after payment	7 years after payment
Receipts	7 years	7 years
Journals	5 years	5 years
Vouchers	5 years	5 years
General Ledger	7 years	10 years
Subsidiary Expenditure Ledger	7 years	10 years
Subsidiary Revenue Ledger	7 years	10 years
Bank Statements and Cheques	5 years	5 years
Payroll Cards and Register	45 years	60 years
Payroll support documents <i>(time sheets, deduction order, etc.)</i>	5 years	5 years
Credit Card Statement	3 years	5 years
Registers	7 years	7 years
Procurement Contracts	15 years	15 years

SCHEDULE 2

(Regulations 8 and 9)

SPECIAL PROVISIONS RELATING TO THE CHIEF FINANCIAL OFFICER

In accordance with the Turks and Caicos Islands Constitution Order 2011 (*S.I. 2011 No.1681*) special overriding provisions remain in force so long as the Chief Financial Officer Ordinance remains in force—

- (1) Pursuant to section 4(1)(d) of the Chief Financial Officer Ordinance, the Chief Financial Officer shall set the overall levels for revenue and expenditure targets for the Appropriation and Supplementary Appropriation Bills following discussions with the Minister and taking into account any debt guarantees, or external agreements that are in place.
- (2) Pursuant to section 4(1)(e) of the Chief Financial Officer Ordinance, an Appropriation or Supplementary Appropriation Bill shall be forwarded to the Chief Financial Officer for his or her approval in writing not less than four weeks prior to the date it is to be presented to the House of Assembly, which approval must be obtained before it can be tabled in the House of Assembly.
- (3) Pursuant to section 4(1)(g) of the Chief Financial Officer Ordinance, prior to any request for the Governor's approval to issue a Contingency Warrant, the Minister responsible for finance shall first obtain the written advice of the Chief Financial officer on whether or not it should be issued.
- (4) Pursuant to section 4(4)(h) of the Chief Financial Officer Ordinance, Accounting Officers shall ensure that the Chief Financial Officer is consulted on all recurrent and non-recurrent expenditure, promissory notes, or other financial commitments over the value of \$75,000 and obtain his or her approval in writing in advance of any commitment being incurred by the Government.
- (5) Pursuant to section 4(1)(i) of the Chief Financial Officer Ordinance, all revenue exemptions including those offered under Development Agreements, land or other asset sales, licences, transfer fees, taxes, duties, fees and charges shall be first approved in writing by the Chief Financial Officer who shall receive a report that clearly explains the impact on Government revenues.
- (6) Pursuant to section 4(2) of the Chief Financial Officer Ordinance, any proposed amendments to existing taxes or levy or reduction in any expenditure where necessary to ensure compliance with 4 (1)(d), shall be presented to the Cabinet before being implemented.
- (7) Pursuant to section 4(4)(j) of the Chief Financial Officer Ordinance, Ministers shall consult with the Chief Financial Officer on all new policy initiatives that have an impact on the public finances of the Islands.
- (8) Pursuant to section 4(7) of the Chief Financial Officer Ordinance, upon request an Accounting Officer, Permanent Secretary, Budget Holder, Statutory Body or Chief Executive Officer shall provide any information as deemed necessary by or answer any query, if in the discretion of the Chief Financial Officer such requested information or answer affects the public finances of the Islands.

(9) Pursuant to section 4(4) of the Chief Financial Officer Ordinance, the Chief Financial Officer may issue written instructions to an Accounting Officer in relation to the finances of the Government or Statutory Body where such instructions would have implications for the Government to meet its abilities to achieve its debt reduction strategies and expenditure targets or affordable development programme.
