



PUBLIC FINANCE ACT. 2005

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ACT NO. 12 OF 2005

I ASSENT

Amani Abeid Karume
{**AMANI ABEID KARUME**}
PRESIDENT OF ZANZIBAR
AND

CHAIRMAN OF THE REVOLUTIONARY COUNCIL

1ST JULY....., 2005

**AN ACT TO REPEAL AND REPLACE THE FINANCIAL
ADMINISTRATION ACT, 1996 AND OTHER
MATTERS CONNECTED THEREWITH**

Enacted by the House of Representatives of Zanzibar

**PART I
PRELIMINARY PROVISIONS**

Short title and commencement.

1. This Act may be cited as the Public Finance Act, 2005 and shall come into operation immediately after being assented to by the President.

Act to bind the government.

2. For the purpose of this Act, the Revolutionary Government of Zanzibar shall ensure transparency, accountability, and sound management of the revenue, expenditure, assets and liabilities of the institutions to which this Act applies.

Application.

3. This Act shall apply to the business and operations conducted by the Treasury and under the supervision and authority of the operations of the Paymaster General and of the Controller and Auditor General.

Interpretation.

4. In this Act, unless the context requires otherwise:-

"Accountant General" means the officer appointed under section 7 of this Act;



"Accounting officer" means any officer appointed by the Paymaster General and charged with the duty of accounting for any service in respect of which money have been appropriated by the House of Representatives or any person to whom issues are made from the Consolidated Fund;

"Accounting staff" means an officer with at least certificates of accounting from recognized Institution or accounting body and working in accounts division of the Ministry or Department;

"Appropriation Act" means any Act to apply a sum out of the Consolidated Fund to the service of a financial year;

"Consolidated Fund" means the Consolidated Fund of the Government of Zanzibar referred to in section 10 of this Act;

"Constitution" means the Constitution of Zanzibar of 1984;

"Controller and Auditor General" means the officer referred to in Article 112 of the Constitution;

"department" in relation to a Ministry of the Government or other public authority or other body, includes any division or unit, by whatever name known, of that Ministry, authority of other body;

"financial year" means in relation to:-

- (a) the Government, a period of twelve months commencing on 1st day of July of each year;
- (b) a public authority or other body, the period specified by or under the relevant law or instrument relating to that authority or body or as determined by the competent authority of that authority or body;



"generally accepted accounting practice" means accounting practices and procedures recognized by International Accounting Standards as appropriate for reporting financial information relating to government, a Ministry or department, a fund, an agency or other reporting unit, being practices and procedures that are consistent with this Act and any relevant Appropriation Act;

"government" means the Central Government and local government;

"Minister" means the Minister for the time being responsible for matters relating to finance;

"out-puts" means goods produced or services provided;

"Paymaster General" means the officer referred to in section 6 (7) of this Act and vested with the power to control the issue of public money to accounting officers;

"President" means the President of Zanzibar and Chairman of the Revolutionary Council;

"Principal Secretary" means the Principal Secretary to the Treasury;

"public authority" means a body of persons, whether or not corporate; established by or under any written law, other than the Companies in furtherance of the public policy determined by the Government;

"Public officer" or "Officer" means:-

- (a) any person holding or acting in the office of emolument in the service of the Government; or a person holding or acting in the office of Minister in the Government;
- (b) any employee of any body corporate such as is referred to in the public authority;



- (c) any person conducting negotiation, for in relation to public contract, or a prospective public contract on behalf of a public body; or a person who is a consultant to public authority;

“public moneys” include:-

- (a) the public revenues of the Revolutionary Government of Zanzibar;
- (b) any trust or other money held, whether temporarily or other wise, by an officer in his official capacity, either alone or jointly with any other person, whether an officer or not;

“resources” include; moneys, stores, property, assets, loans and investments;

“Responsible Minister” means the minister for the time being the office of the Controller and Auditor General is under his responsibility;

“statutory expenditure” means expenditure charged by an Act of House of Representatives, including this Act, on the Consolidated Fund, but does not include the expenditure of moneys appropriated or granted by an Appropriation Act or a supplementary appropriation Act;

“subsidiary legislation” means any order, proclamation, rule, rule of court, regulation, notice, by-law, instrument or directions made or issued under this Act or other lawful authority;

“supplementary appropriation Act” means any Act, for which it’s purpose is to supplement the appropriation already granted by an Appropriation Act;

“the Audit Office” means the Public National Audit office established by section 25 of this Act;



"the Treasury" means the Minister, and includes such officer or officers as may be deputed by the Minister to exercise powers and to perform duties under this Act;

"Trust Fund." means moneys received by the government for special purpose according to the respective law or special agreement between the Financier and the Government.

PART II

CONTROL AND MANAGEMENT OF PUBLIC FINANCE

Control,
management and
supervision of
public finances.

5.(1) It shall be the duty of the Minister:-

- (a) to develop and implement a macroeconomic and fiscal policy framework for the Revolutionary Government of Zanzibar and shall, for that purpose:-
 - (i) supervise and monitor the finances of the Revolutionary Government of Zanzibar;
 - (ii) coordinate international and inter-governmental financial and fiscal relations;
- (b) to advise the Government on the total of resources to be allocated to the public sector and the appropriate level of resources to be allocated to individual programs within that sector.

(2) For the purposes of the full discharge of the duties set out in subsection (1), the Minister shall ensure:-

- (a) that full and transparent annual accounts are made and presented to House of Representatives indicating the current and projected state of the economy and finances of the Revolutionary Government of Zanzibar and the fiscal policy of the Government;
- (b) that systems are established throughout Government for planning, allocating, and budgeting for the use of



resources and approve all requests for the issue of public moneys prior to their inclusion in any estimates of expenditure for submission to the House of Representatives in accordance with the provisions of this Act; and

(c) that the control of the House of Representatives over such resources and public moneys is maintained and transparent systems are established:-

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

(ii) ensure the exercise of regularity and propriety in the handling and expenditure of resources and public money.

(3) For the purposes of the full exercise of supervision over the finances of the Zanzibar Government, the Minister shall, subject to this Act and to any other law, have the management of the consolidated fund and the supervision, control and direction of all matters relating to the financial affairs of the Revolutionary Government of Zanzibar.

Role of Principal Secretary.

6.(1) The Principal Secretary shall be responsible to the Minister for ensuring the effective application of this Act and any subsidiary legislation made or issued under it.

(2) For the purposes of discharging the responsibility referred to in subsection (1) of this Act, the Principal Secretary may be consulted by Accounting Officers on any matter concerning the application of the provisions of this Act, and shall promptly appraise the Minister concerning any defect in this Act or any subsidiary legislation which might result in a diminution of control over the assets and finances of the Government, and he may, subject to this Act, give any directions and instructions which he may consider necessary for the safety, advantage, efficient and economy use of public resources.



(3) The Principal Secretary shall ensure that:-

- (a) there is established and operated an effective system for the collection of information to ensure that 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 Representatives; and
- (b) such estimates are prepared in conjunction with any general or specific direction of the Minister and reflect, as can best be ascertained at the time good value for money and the effective use of Government's resources.

(4) The Principal Secretary may, by writing under his hand, from time to time require any Accounting officer or any entity whose accounts are required by law to be audited by the Controller and Auditor General or any entity that manages an asset or liability of the Government to supply such information as he considers necessary for the purposes of section 5 of this Act, and may in such writing specify the date and the manner in which the information required is to be provided, and the date specified being reasonable for the information required.

(5) The Principal Secretary and any officer deputed by him, shall be entitled to inspect all offices and to be given access to them at all reasonable times of the day, and be given all available information he may require with regard to the moneys and records in respect of them, so far as may, in any way, be necessary for the purpose of compliance with the provision of this Act.

(6) Nothing in this Act or any subsidiary legislation made or issued under it shall be construed as requiring any person not to do anything in respect of moneys held on trust which contravenes or is inconsistent with the terms of that trust.



The Accountant
General.

(7) The Principal Secretary shall be also the Paymaster General who shall, in that capacity and subject to the directions of the treasury, control the issue of public moneys to ministries and departments of the Government, and perform such other functions as the Minister may by regulations under this Act, prescribe.

7.(1) There shall be an Accountant General under the Principal Secretary, who shall be appointed by the President from amongst senior professional accountants and auditors on such terms and conditions as shall be specified in the appointment.

(2) The Accountant General shall be accountable to the Principal Secretary for the compilation and management of the accounts, custody, and safety of the public money and public property of the Government and for that purpose the Accountant General may, with the prior consent of the Principal Secretary, give such instructions of a general or specific character to Accounting officers as may be necessary for the effectual implementation of the purposes and provision of this Act.

(3) Without prejudice to the generality of the provisions of subsection (2) of this section, the Accountant General shall:-

- (a) specify for every Ministry, division, department, fund agency or other reporting unit the basis of the accounting to be adopted and the classification system to be used there and ensure that a proper system of account is established in each of them, and that all money received and paid by the Government is brought promptly and properly to account;
- (b) refuse payment on any voucher which is wrong or deficient in content, or that contravenes any subsidiary legislation or instructions properly made or given in pursuance of the provisions of the Constitution, this Act or of any other written law for the management of public money, or that is in any way unacceptable in support of a charge on public funds;



- (c) report 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 financial regulations, directions or instructions which may come or be brought to his attention;
- (d) ensure, in so far as is practicable, that adequate provisions exist for the safe custody of public money, securities and accountable documents;
- (e) take precautions, by the maintenance of efficient checks including surprise inspections, against the occurrence of fraud, embezzlement or carelessness; and
- (f) recruit, train, promote and transfer of accounting staff in the civil service.

Accounting
Officers.

8.(1) There shall be appointed by name and office and in writing by the Paymaster General an Accounting officer who shall be normal the Principal Secretary of the respective Ministry or head of department in respect of each expenditure vote, who shall control and be accountable for the expenditure of money applied to that vote by an Appropriation Act and for all revenues and other public moneys received, held or disposed off, by or on account of the department or service for which the vote provides.

(2) An Accounting officer may, and shall if so required by any subsidiary legislation under this Act, define in writing the extent to which the powers and duties conferred and imposed on him may be exercised or performed on his behalf by any Public officer under his control and give such directions as may be necessary to ensure the proper exercise or performance of those powers and duties, although the delegation of power and duties shall not abate or abridge the personal accountability of the Accounting officer.

(3) Every Accounting officer shall comply with any subsidiary legislation made or issued under this Act and all instructions that may from time to time be given by the Accountant General in



respect of the custody and handling of, and the accounting for Public money, public stores, investments, securities or negotiable instruments, whether property of the Government on deposit with or entrusted to the government or to any Public officer in his official capacity or any other person.

Penalties and surcharge.

9.(1) The Minister may by regulations prescribe penalties, not with-standing that such penalties exceed the limits prescribed in the Interpretation of Laws and General Clauses Act No. 7 of 1984, for any failure to comply with or the contravention of any provision of this Act or any subsidiary legislation made or issued under the Act.

(2) If a person contravenes or fails to comply with any provision of this Act or any subsidiary legislation made or issued under it and the Act or legislation declares that such contravention or failure to comply is an offence, that person shall be guilty of an offence and liable on summary conviction to a fine not exceeding that prescribed by the Minister under subsection (1) of this section.

(3) Where 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 or where a loss or destruction of or damage to public property or misconduct of the officer caused or contributed to such loss or deficiency, then:-

- (a) the amount of such loss or deficiency; or
- (b) 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 officer in accordance with the provisions of this Act or its regulations.

(4) Where the negligence or misconduct of a public officer was not the sole cause of any loss, deficiency damage or destruction resulting in an action under subsection (3) of this section, the amount recoverable from the officer may be restricted to so much only on the cost of, or the cost of replacing or repairing, the loss,



deficiency, damage or destruction as the Minister considers, after due enquiry, to be just and equitable having regard to the contribution made by the officer to that loss, deficiency damage or destruction.

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

The Consolidated Fund.

10. Subject to the provisions of Article 104 of the Constitution, all revenues or other moneys raised or received for the purposes of the Government (not being revenues or other moneys that are payable by or under any law into some other fund established for any specific purpose or that may, by or under any law, be retained by the authority that received them for the purpose of defraying the expenses of that authority) shall be paid into and out of the Consolidated Fund.

Special funds.

11.(1) The Minister may by order published in the Gazette, establish special funds which shall not form part of the Consolidated Fund; and the receipts, earnings and accruals of such funds at the end of the financial year shall not be repaid to the Consolidated Fund but shall be retained by the funds for the purposes for which they were established.

(2) Any order made under subsection (1) of this section, shall:-

- (a) state the purposes for which the special fund is being established; and
- (b) identify the Accounting Officer responsible for its operations; and that order shall be tabled before the House of Representatives and shall be subject to annulment by the House of Representatives and shall cease to have effect when so annulled but without prejudice to the making of a further order.

(3) No expenditure will be incurred by a special fund except under the authority of a warrant under the hand of the Principal



Secretary addressed to the responsible Accounting officer and no such warrant shall be issued in respect of any financial year unless estimates of the income and expenditure of the special fund for that financial year, approved by the Minister, have been tabled before the House of Representatives.

(4) Subject to subsection (3) of this section, the Minister may make regulations and issue directions for the management and control of any Fund established under this section.

(5) The Minister shall have the power at any time to wind up any fund established under this section and any funds standing to the credit of such fund at the time of winding up shall be paid into the Consolidated Fund.

Investment of moneys in the consolidated fund.

12.(1) Any sum standing to the credit of the Consolidated Fund may, subject to compliance with authorized procedures, be:-

- (a) kept in cash or in such bank accounts as the Accountant General may from time to time determine;
- (b) invested with a bank at call or subject to notice not exceeding twelve months or in an investment authorized by law for the investment of trustee funds and approved by the Minister.

(2) For the avoidance of doubt, the investment of such funds shall not constitute a withdrawal from the Consolidated Fund in terms of section 16 of this Act.

Money by deposit or trust.

13. For the avoidance of doubt any reference to moneys raised or received by the Government does not include moneys received on deposit or moneys held on trust by or under the control of any court, officer of a court, the Public Trustees, the Official Receiver or any sum of money held on trust by any other officer for purposes other than the purposes of the Government.



Custody of public money and Bank Account.

14.(1) The Paymaster General shall establish such accounts with the Bank of Tanzania and other bank appointed by the Bank of Tanzania after consultations with the Government of Zanzibar.

(2) No public or official account shall be opened in any bank without the authority in writing of the Paymaster General.

Issue from the Consolidated Fund.

15.(1) Subject to Article 112 of the Constitution, no money shall be withdrawn from the Consolidated Fund except upon the authority of a warrant under the hand of the Paymaster-General addressed to the Accountant General.

(2) No warrant shall be issued by the Paymaster General for the purpose of meeting any expenditure unless a grant of credit sufficient to cover the sum involved has been issued by the Controller and Auditor General and:-

- (a) the expenditure has been authorized for the financial year during which the withdrawal is to take place:-
 - (i) by an Appropriation Act, or
 - (ii) by a Supplementary Appropriation Act, or
 - (iii) by Warrant issued under section 20 (1) of this Act; or
- (b) it is expenditure (referred to in this part as statutory expenditure) that is charged on the Consolidated Fund by the provisions of the Constitution or any other law; or
- (c) for the purpose of repaying any moneys that are received in error by the Consolidated Fund; or
- (d) for the purpose of paying such sum as may be required for any advance, refund, rebate or drawback is provided for in this or any other Act.



(3) The Minister may suspend, withdraw or limit any Warrant or other authority issued by the Principal Secretary; provided that he is satisfied that such action is required by reason of financial exigencies or the public interest.

Accountant
General's
Notification of
Expenditure.

16.(1) The Accountant General shall, subject to this Act, by Notification of Expenditure under his hand authorize Accounting officers to incur expenditure up to the limits and for the purposes and subject to the conditions contained therein.

(2) No Notification of Expenditure shall 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 Paymaster General under section 15(2) of this Act, and every notification issued by the Accountant General shall be subject to such limits and conditions as the Minister may determine.

(3) The Accountant General may not make any payment or accept any charge in his accounts, and an Accounting officer may not incur any commitment or expenditure, unless and until authorized by Warrant so to do.

(4) For the purposes of subsection (3) of this section, "commitment" means a contract or other arrangement providing for a payment.

PART III ESTIMATES OF REVENUE AND EXPENDITURE

Estimates of
revenue and
expenditure.

17.(1) Subject to Article 106 of the Constitution, the Minister shall cause to be prepared and tabled before the House of Representatives as soon as practicable before the commencement of each financial year:-

- (a) estimates of the revenues, expenditure and financing requirements for the Government of Zanzibar for that year;



- (b) for each vote of expenditure a statement of the classes of out puts expected to be provided from that vote during the year and the performance criteria to be met in providing those outputs.

(2) Notwithstanding subsection (1) of this section, if the House of Representatives is dissolved less than three months before the commencement of any financial year, the estimates for that year may be tabled before the House of Representatives as soon as practicable after the commencement of that year.

(3) The votes of expenditure contained in the estimates (other than statutory expenditure) shall be included in a Bill to be known as an Appropriation Bill which shall be introduced into the House of Representatives to provide for the issue from the Consolidated Fund of the sum necessary to meet that expenditure and the appropriation of those sums to the purpose specified there.

(4) If in respect of any financial year it is found that the amount appropriated by an Appropriation Act is insufficient or that a need has arisen for expenditure for a purpose to which no amount has been appropriated by that Act, a supplementary estimate, showing the amount required, shall be tabled before the House of Representatives and the votes of expenditure shall be included in a Supplementary Appropriation Bill to be introduced in the House to provide for the appropriation of those sum.

Excess
expenditure.

18.(1) If at the close of account for any financial year it is found that moneys have been expended:-

- (a) on any expenditure vote in excess of the amount appropriated for it by an Appropriation Act;
- (b) for a purpose for which no moneys have been voted and appropriated; or
- (c) on any sub-head of an expenditure vote in excess of the sum assigned thereto in the estimates of expenditure for the financial year and to which no further sum has



been applied under any provision of this Act or any subsidiary legislation issued under it, the amount of the excess expended or not appropriated as the case may be shall be included in a statement of expenditure in excess which shall be tabled before the House of Representatives.

(2) Where the House of Representatives shall, by means of a motion allows any excess or any amount expended but not appropriated to stand charged to public fund, the sum required to meet such excess or such amount as shall be allowed, shall be included in a Supplementary Appropriation Bill for appropriation.

Grant of credit.

19. The Controller and Auditor General shall, from time to time, by Warrant under his hand issue Grants of Credit on the Consolidated Fund to the Minister:-

- (a) for the amounts becoming payable during the ensuing three months for statutory expenditure; and
- (b) for the amounts becoming payable for the service of a financial year under the authority of an Appropriation Act or under the provisions of sections 15 (2) (c) and (d), 20 (1) and 21 of this Act.

Provision of Appropriation Act not in force.

20.(1) Subject to Article 109 of the Constitution, and to subsection (2) of this section, if the Appropriation Act has not come into force at the commencement of any financial year, the President may, by Warrant under his hand addressed to the Minister, authorize 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 Act, whichever is earlier.

(2) Any sum so authorized shall not exceed the sum specified for such service in the estimates presented for the current year or one third of the sum provided in the Appropriation and Supplementary Appropriation Acts of the previous year, whichever is



the lesser, and shall be set off against the amounts respectively provided in the Appropriation Act upon the same coming into operation.

Minister may authorize advances.

21. The Minister may, by Warrant under his hand addressed to the Paymaster General authorize the issue of advances from the Consolidated Fund:-

- (a) to special funds if those advances are repayable not later than the end of the financial year in which they were issued;
- (b) to public officers, for the purpose of funding approved expenditure, if those advances are repayable not later than the end of the financial year in which they were issued.

Duration of Appropriation and Warrant.

22. Every Appropriation by the House of Representatives of public moneys for the service of a financial year and every Warrant or other authority issued under this Act in respect of such financial year, shall lapse and cease to have any effect at the close of that year and the unexpended balance of any moneys withdrawn from the Consolidated Fund shall be repaid to the Consolidated Fund.

Development project contracts.

23. Where for the purposes of any development project which has been approved by the House of Representatives by resolution or otherwise a contract for the supply of goods or services is entered into on behalf of the Revolutionary Government of Zanzibar which provides that any payment (other than a payment charged on the Consolidated Fund by virtue of the provision of this or any other Act) is to be made on or after the first day of the next accounting period, the Minister shall as soon as possible after the making of such contract give notice thereof to the House of Representatives and every such notice shall specify:-

- (a) the names of the contracting parties;
- (b) the nature of the goods or services to be supplied;



- (c) the total amount payable by the Revolutionary Government of Zanzibar in respect of such goods or services and the date or dates on which payment is to be made, the development project to which such contract is referable.

PART IV PREPARATION AND EXAMINATION OF ACCOUNTS

Annual accounts.

24.(1) The Accountant General shall, within a period of six months or such longer period as the House of Representatives may by resolution appoint after the end of each financial year, prepare and transmit to the Minister and to the Controller and Auditor General:-

- (a) a balance sheet showing the assets and liabilities of the Consolidated Fund;
- (b) a cash flow statement for the Consolidated Fund showing the revenues, expenditures, investing and financing of the Fund for the year;
- (c) a summary statement of revenue and expenditure, being a summary of all the statements signed by Accounting officers under subsection (2) (a) and (c) of this section,;
- (d) a statement of the amounts outstanding at the end of the year in respect of the Public Debt;
- (e) a statement of the amounts guaranteed by the Government at the end of the financial year in respect of bank overdrafts, loans, public loan issued and other contingent liabilities;
- (f) a statement of the amount outstanding at the end of the year in respect of loans issued by the Government;
- (g) a summary statement of arrears of revenue for each revenue head being a summary of the statements of



arrears of revenue signed by Accounting officers under subsection (2) (d) of this section;

- (h) a summary statement of commitments outstanding for the supply of goods and service for each vote at the end of the financial year being a summary of the amount included for such commitments in the statement signed by Accounting officers under subsection (2) (b) of this section,;
- (i) a summary statement of stores and other assets for each vote being a summary of the Statement of assets signed by Accounting officers under subsection (2) (e) of this section;
- (j) such other statements and in such form as the House of Representatives may from time to time require.

(2) Each Accounting officer shall, within a period of three months after the end of each financial year prepare and transmit to the Controller and Auditor General in respect of the past financial year and in respect of the votes, revenues and moneys for which he is responsible:-

- (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, and the state of each vote compared with the amount appropriated for that vote by the House of Representatives;
- (b) a statement signed by the Accounting officer and in such form as 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 and such other information as the Minister may require;
- (c) a statement of revenues received signed by the Accounting officer and in such form as the Accountant



General may direct showing the amount contained in the estimates of revenue for each source of revenue and the amount actually collected, and containing an explanation for any variation between the revenues actually collected and the amount estimated;

- (d) 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 such information and in such form as the Accountant General may direct, a nil return should be submitted if appropriate;
- (e) a statement of assets signed by the Accounting officer containing details and values of all unallocated stores under his control at the end of the financial year together with the details and values of such other classes of assets under the control of the Accounting officer as the Accountant General may from time to time determine;
- (f) a statement of performance in providing each class of outputs provided during the year signed by the Accounting officer, being a statement that:-
 - (i) compares that performance with the forecast of the performance contained in the Estimates tabled before the House of Representatives pursuant to section 17 (1) (b) of this Act; and
 - (ii) gives particulars of the extent to which the performance criteria specified in that Estimates in relation to the provision of those outputs were satisfied.

(3) Any Public officer administering a fund established or deemed to have been established under section 11 of this Act, and any Public officer administering any agency, trust or other fund or account not provided for in this section, shall prepare, sign and transmit to the Controller and Auditor General an account of that



agency, fund or account in the form which the Accountant General may from time to time direct.

(4) All accounts submitted under this section shall:-

- (a) be prepared in accordance with generally accepted accounting practices and in accordance with any instruction approved by Principal Secretary and issued by the Accountant General; and
- (b) state the basis of accounting used in their preparation and identifies any significant departures there from and the reason for that departure.

Existence of
Public National
Audit.

25.(1) There shall continue in existence a Public National Audit Office which, for the purposes of this Act, the Controller and Auditor General shall be assigned and responsible for examining, inquiring into, auditing and reporting on the accounting of:-

- (a) all Ministries and departments of Government and their Accounting officers;
- (b) all persons entrusted with the collection, receipt, custody, issue or payment of public monies or with the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other public property;
- (c) all public authorities and other bodies;
- (d) any authority or body which receives funds from the Consolidated Fund or from public moneys for a public purpose;
- (e) any authority or body which is authorized by law to receive money for a public purpose; and
- (f) any authority or body required by law to be audited by the Controller and Auditor General.



(2) The Controller and Auditor General shall submit to the responsible Minister all reports issued under subsection (1) of this section, and the Minister shall promptly submit them to the House of Representatives and to any other relevant authorities as required by this Act or any other written law and, except as may otherwise be provided by law or by a resolution of the House of Representatives, those reports shall there upon be made public.

(3) In exercising his powers of inquiry, examination and audit of accounts, the Controller and Auditor-General shall, in addition to satisfying himself as to the matters specified in that behalf in the Constitution and any other written law, satisfy himself that:-

- (a) all accounts referred to in subsection (1) of this section, have been kept in accordance with generally accepted accounting practice as required by section 24 of this Act;
- (b) all reasonable precautions have been taken to safeguard:-
 - (i) the collection of revenue; and
 - (ii) the receipt, custody, disposal, issue and proper use of public property, and that the law, directions and instructions applicable there to have been duly observed;
- (c) all expenditure of public monies has been properly authorized and applied to the purposes for which they were appropriated and that the law, directions and instructions applicable there to have been duly observed and provide an effective check of the assessment and collection of revenue; and
- (d) economy, efficiency and effectiveness have been achieved in the use of public moneys resources.



Power of
Controller and
Auditor General.

26.(1) In the performance of his functions to audit and examine accounts, the Controller and Auditor General may:-

- (a) call upon any public officer for any explanation and information which the Controller and Auditor General may require in order to enable him to perform those function;
- (b) summon and examine on oath any person as he may determine in connection with the receipt or expenditure of public moneys or the receipt or issue of any public property affected by the provisions of this Act and in connection with any matter necessary for the proper, performance of his functions;
- (c) authorize any person eligible to be appointed as an auditor of a company or to be registered as an accountant or an auditor or any public officer to conduct an inquiry, examination or audit on his behalf and that person or officer shall report thereon to the Controller and Auditor General;
- (d) without payment of any fee, cause search to be made in and extracts to be taken from any book, document or record in any public office;
- (e) seek the professional opinion or advice of the Attorney General or any other qualified person on matters of a legal nature or of any qualified person on any accounting, auditing or other matter;
- (f) from time to time, acquire the services of any person, whether or not that person is a public officer, qualified for the purpose and on such terms and conditions as may be agreed upon;
- (g) accept as correct without further examination, or rely upon, a certificate of any other person as he thinks fit, on the accounts of any other person entrusted with the collection,



receipt, custody, control or payment of public moneys or public property or with the issue, sale, transfer or delivery of public property.

(2) If at any time it appears to the Controller and Auditor General that:-

- (a) any payment has been made without due authority according to law;
- (b) any irregularity has occurred in the receipt, custody, control, issue, transfer or delivery of any public property;
- (c) any deficiency or loss occasioned by negligence, misconduct, fraud, or corruption has occurred;
- (d) any failure to observe a policy of the highest thrift has occurred; or
- (e) any sum which ought to have been, has not been brought to account; he shall:-
 - (i) in the case of expenditure of or by the accounting officer, the Judiciary or House of Representatives, disallow the expenditure as a charge on public funds; or
 - (ii) in any other case, call in question the sum concerned.

(3) Where any of the matters referred to in paragraphs (a) to (e) of subsection (2) of this section, relate to expenditure of or by the Government, the Judiciary or the House of Representatives, the Controller and Auditor General shall submit to the President every report he makes, and the provisions of sub-article (5) of Article 112 of the Constitution shall apply to every such report, but nothing in this subsection shall be construed as preventing the Controller and Auditor General from submitting a report to the President of any audit matter relating to any public authority or other body.



(4) In every case, where the Controller and Auditor General makes a report under this section, he shall notify the Treasury or the appropriate Accounting officer or authority whether it is appropriate entailing any person or persons involved in the use of public funds or property entailing any of the matters in subsection (2) of this section, should make good the loss or deficiency resulting there from and whether disciplinary, surcharge, or legal proceedings, or all of them, should be instituted against the person concerned.

(5) In the exercise of his duties the Controller and Auditor General or any person duly authorized by him in writing, shall have access to all records, books, vouchers, documents, cash, stamps, securities, stores or public property in possession of any officer or any other person who has received or dealt with public money or property.

(6) Subject to any duty imposed on him by any written law the Controller and Auditor General shall have complete discretion in the discharge of his functions and, in particular, in determining whether to carry out an examination under part V of this Act and as to the manner in which such examination is carried out; in determine whether to carry out any such examination he shall take into account any proposals made by the Public Accounts Committee, the Local Authorities Accounts Committee and any other Committee of the House of Representatives.

(7) The Controller and Auditor General may charge fees for auditing the accounts of any person or body.

Value for money audits.

27.(1) The Controller and Auditor General may, for the purposes of establishing the economy, efficiency and effectiveness of any expenditure or use of resources by any Ministry or department in respect of which Appropriation Accounts are required to be prepared under this Act or any public authority or other public body to which section 31 applies, enquire into, examine, investigate and report, insofar as he considers necessary, on:-



- (a) the expenditure of public moneys and the use of resources by such Ministries, departments and all such public authorities and other bodies;
- (b) the conduct of and the performance of their functions by Accounting officers, head of department and Chief Executives of all such departments and public authorities and other bodies;
- (c) any other activity undertaken by such Ministries, departments public authorities and other bodies.

(2) Every report prepared by the Controller and Auditor General as a result of the examinations, enquiries and investigations under this section shall be tabled by the Responsible Minister before the House of Representatives.

(3) The provisions of section 32 of this section, shall apply to any examinations, enquiries and investigations conducted by the Controller and Auditor General in the performance of his functions under this section.

(4) Nothing in this section shall be construed as entitling the Controller and Auditor General to question the merits of the policy objectives of any Ministry, department, public authority or other body in respect of which an examination is carried out.

Power to make recommendations.

28. The Controller and Auditor General may, from time to time, for the purpose of:-

- (a) preventing or minimizing the unproductive expenditure of public moneys;
- (b) maximizing the collection of public revenues;
- (c) averting loss by negligence, carelessness, theft, dishonesty, fraud, corruption relating to public moneys and resources, make such recommendations and submit such proposals to the Minister as he considers necessary



for the better management of public moneys and resources including the revision of any regulations, directives or instructions issued under this Act.

Annual and other reports.

29.(1) On receipt of the accounts prescribed in section 24 of this Act, the Controller and Auditor General shall cause them to be examined and audited and shall, within a period of nine months or such longer period as the House of Representatives may by resolution appoint after the end of the year to which the accounts relate certify, in respect of each account, the result of the examination and audit:-

- (a) prepare a report upon the examination and audit of all such accounts; and
- (b) submit to the President, the responsible Minister and the Minister the report, either complete from time to time or in parts, as may be convenient, together with copies of the relevant accounts certified.

(2) If at any time it appears the Controller and Auditor General desirable that any matter relating to public monies or public property should be drawn to the attention of the House of Representatives without undue delay, he shall prepare a special report relating to such matter and transmit the report to the President, with a copy to the responsible Minister.

(3) A special report in terms of subsection (2) of this section, may be made in relation to any matter incidental to the power and duties of the Controller and Auditor General under this Act or any other written law.

(4) The provisions of Article 112 of the Constitution shall apply to the submission of reports under this section.

Report to be tabled before the House of Representatives.

30.(1) Every report made under this Part shall be tabled by the responsible Minister before the House of Representatives within seven days of the House.



(2) Where the responsible Minister does not lay the report before the House of Representatives in accordance with subsection (1) of this section, the Controller and Auditor-General shall transmit the report to the Speaker of the House of Representatives who shall lay it before the House of Representatives.

PART V
AUDIT OF PUBLIC AUTHORITIES AND OTHER BODIES

Audit of public
authorities.

31.(1) subject to subsections (2) and (3), this section applies to:-

- (a) any public authority or body:-
 - (i) established by a written law or other instrument which is in receipt of a contribution from, or the operations of which may, under the law or instrument relating thereto, impose or create a liability upon, public funds;
 - (ii) executing a Government project in respect of which a foreign Government or institution or an international organization provides, any money, goods or services, whether or not it is specifically provided in relevant agreement for the project that the accounts of the public authority or body are subject to audit by the Controller and Auditor General;
 - (iii) whose accounts are, by or under a written law, required to be audited, or are open to inspection, by the Controller and Auditor General.
- (b) any body which has, in any of its financial years, received more than half of its income from public funds; and for the purpose of this paragraph, no money shall be considered as having been received from public funds if it is paid as consideration for the acquisition of property of the supply of goods or



services or as remuneration, pensions, allowances or similar benefits for or in respect of a person as the holder of an office.

(2) In the exercise of his duties under this section, the Controller and Auditor General shall have the same powers in relation to the moneys, stamps, securities, stores and other property of the bodies referred to in subsection (1) of this section, and the officers and employees of such bodies of such as are conferred upon him by section 34 of this Act, as if the moneys, stamps, securities, stores or other property of those bodies were public moneys, stamps, securities, stores or other public property and as if their officers and employees held public office.

(3) Where the functions of the Controller and Auditor General in relation to any authority or body falling within paragraph (a) (ii) and (iii) of subsection (1) of this section, are by the relevant law or agreement restricted to particular activities of the authority or body, and examination under this section in respect of that authority or body shall be correspondingly restricted.

(4) Notwithstanding anything to the contrary in any law in force, the accounts of any body to which this section applies shall be audited by the Controller and Auditor General.

(5) The Controller and Auditor General may authorize any person eligible to be appointed as an auditor of company or any officer to inspect, examine or audit on behalf of the Controller and Auditor General the books and accounts of any body which the Controller and Auditor General may be required to audit pursuant to the provisions of this section, and such person or officer shall conduct the audit and report thereon to the Controller and Auditor General in such manner as the Controller and Auditor General may direct.

Reports on audit.

32.(1) The Controller and Auditor General shall prepare a report on the audit of the accounts referred to in this section and shall transmit the same to the responsible Minister and to the body concerned, and the body may within twenty one days transmit to



the responsible Minister its observations on such report, in which case it shall transmit a certified copy of such observations to the Controller and Auditor General.

(2) The responsible Minister shall, within forty two days of the receipt of a report prepared by the Controller and Auditor General under subsection (1) of this section, cause the same, and any observations made on it by a body under the provisions of subsection (1) of this section, and any observations by the responsible Minister, to be tabled before the House of Representatives.

(3) The Controller and Auditor General may raise the charge on any body audited or reported under this section for the costs of conducting the audits and preparing the reports and such charges shall be payable by the body concerned on demand.

PART VI

FINANCES AND AUDIT OF THE OFFICE OF THE CONTROLLER AND AUDITOR GENERAL AND RELATED PROVISIONS

Fund for
Controller and
Auditor General.

33.(1) The funds and resources for the Office shall consist of moneys:-

- (a) appropriated by House of Representatives for the purposes of the Office;
- (b) earned in connection with the services rendered in accordance with this Act or any other law;
- (c) accruing to the Office from any other source;
- (d) which are donations or bequest and the terms of which are acceptable to the Controller and Auditor General.

(2) The full amount of moneys from time to time appropriated by the House of Representatives under paragraph (a) of subsection (1) of this section, shall be paid by the Treasury out of the Consolidated Fund into an Audit Revenue Fund, into which all other



monies received by, or accruing to the Office shall be paid; and the Fund shall be independent of the control of any person or authority other than the Controller and Auditor General.

(3) For the purposes of this Part, "office" means the office of the Controller and Auditor General.

Accountability.

34.(1) The Controller and Auditor General shall:-

- (a) keep full and proper records of all revenue and expenditure and of all the assets, liabilities and financial transactions of the Office;
- (b) satisfy himself that all reasonable management measures have been taken to ensure that resources which are necessary for achieving the objectives of the Office are as possible, obtained, safeguarded and utilized in the most economic, efficient and effective manner;
- (c) prepare appropriation accounts for the Office in accordance with the provisions of section 24 of this Act.

(2) The provisions of section 8 of this Act shall, with appropriate modifications apply to the Controller and Auditor General as the Accounting officer of the Office.

Estimate of
revenue and
expenditure.

35.(1) The Controller and Auditor General shall, in respect of the first financial year of the Office under this Act and for each subsequent financial year, prepare and submit to the responsible Minister who shall submit to the House Representatives, estimates of the revenue and expenditure of the office.

(2) In considering the estimates submitted to it under subsection (1) of this section, the House of Representatives shall have regard to the advice of the Public Accounts Committee and that of the responsible Minister.



Audit of the accounts of the Controller and Auditor General.

36.(1) The accounts of the Office shall be audited, at least once in every financial year, by a person appointed by the responsible Minister from amongst persons who are registered as auditors or possessing such other qualifications as the responsible Minister may determine, at such remuneration and on such other terms and conditions as the responsible Minister may determine.

(2) The remuneration of the auditor appointed under subsection (1) of this section, shall be defrayed from the funds of the Office.

(3) In the performance of his functions as such, the auditor shall have the same powers as the Controller and Auditor General has in respect of the audit of public authorities and other bodies under section 31 of this Act.

(4) Upon completion of his examination of the accounts of the Office, the auditor shall certify the accounts of the office and submit his report to the responsible Minister, who shall then lay that report before the House of Representatives within three months, or at the next meeting of the assembly, after he has received the report.

PART VII MISCELLANEOUS PROVISIONS

Abandonment of claims, and write-off of public money and stores

37.(1) The House of Representatives may, by resolution, authorize the Minister to the extent specified in the resolution to abandon and remit any claims by or on behalf of the Government or any service thereof and to write off losses of moneys or stores belonging to the Government or provided for the public service.

(2) The Minister may by writing under his hand delegate to any officer any powers which he is authorized to exercise by resolution of the House of Representatives under this section.

Offences.

38.(1) A person commits an offence against this Act if:-

- (a) without reasonable cause fails to provide by the due date, such information as the Principal Secretary may reasonably require under section 6 (4) of this Act;



(b) without reasonable cause hinders, obstructs the Principal Secretary or any officer or refuses entry or access to any office for the purposes of inspecting such office in accordance with subsection (5) of section 6 of this Act.

(2) Any person convicted of an offence against this Act is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both the fine and imprisonment.

Regulations and directions.

39.(1) The Minister may make such regulations or give such directions as may appear to him to be necessary or expedient for the proper carrying out of the objects, purposes and provisions of this Act, and the ensuring of the safety, economy and advantage of the public revenue and public property.

(2) The Minister shall take all proper steps to ensure that any directions given under this section are brought to the notice of all persons directly affected by them, and such regulations or directions may be published in any manner which is proper and efficient and in addition to publication in the Gazette.

Repeal and Saving.

40.(1) The Financial Administration Act No. 8 of 1996 is hereby repealed.

(2) Notwithstanding the repeal of the said Act, anything done under the said Act which is in force on the effective date shall be deemed to have been made under the provisions of this Act.

PASSED in the House of Representatives on the 18th day of April, 2005.

Khamis Juma Chande

{ **KHAMIS JUMA CHANDE** }
CLERK OF THE HOUSE OF REPRESENTATIVES