



ANGUILLA

**REVISED STATUTES OF ANGUILLA**

**CHAPTER F27**

**FINANCIAL ADMINISTRATION AND AUDIT ACT**

Showing the Law as at 15 December 2004

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

This Edition revises and consolidates:

Act 8/2003, in force 14 November 2003

Act 3/2004, in force 25 June 2004

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**FINANCIAL ADMINISTRATION AND AUDIT ACT**

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**FINANCIAL ADMINISTRATION AND AUDIT ACT**

## PART 1

## PRELIMINARY

**Interpretation****1.** In this Act—

“Accountant General” means the Accountant General appointed in accordance with section 8(1);

“accounting officer” means an accounting officer appointed under section 9(1);

“appropriation” means an appropriation voted in an appropriation or supplementary appropriation Act;

“appropriation Act” means an Act that provides for payment of those expenditures contained in the main estimates that are required to be voted on by the Legislature;

“charged on the Consolidated Fund” includes charged on the revenues of Anguilla;

“Chief Auditor” means the Chief Auditor appointed under section 66 of the Constitution of Anguilla to the office of Chief Auditor referred to in section 79(1) of the Constitution of Anguilla;

“Consolidated Fund” means the Consolidated Fund referred to in section 12(1);

“deposit” means a deposit referred to in section 47(1);

“expenditure vote” means the total amount appropriated out of the Consolidated Fund or Development Fund, as the case may be, and applied to a purpose by an appropriation or supplementary appropriation Act;

“financial instructions” means the financial instructions issued by the Accountant General under section 8(3)(h);

“financial year” means the 12 months ending on the 31st day of December in any year;

“fiscal stabilization fund” means the fiscal stabilization fund established by regulation;

“Government” means the Government of Anguilla;

“government agency” means any corporation—

- (a) all of the members of which, or all of the members of the board of management, board of directors or governing board of which, are appointed by —
  - (i) an Act of the Legislature,
  - (ii) the Governor,

- (iii) the Governor in Council,
  - (iv) a minister, or
  - (v) any combination of subparagraphs (i) to (iv); or
- (b) prescribed by regulation as a government agency for the purpose of this definition;

“imprest” has the meaning assigned to it in the regulations;

“law” means—

- (a) any Act of the United Kingdom that is applied to Anguilla by statutory instrument or otherwise;
- (b) the Constitution of Anguilla or any other statutory instrument made under an Act or power of the United Kingdom that applies to Anguilla; or
- (c) this or any other Act of the Legislature;

“main estimates” means the annual estimates of revenue and expenditure, both recurrent and capital, approved by the Legislature;

“Minister of Finance” means the member of the Executive Council responsible for finance;

“money” includes negotiable instruments;

“negotiable instrument” means a cheque, draft, traveller’s cheque, bill of exchange, postal note, money order or other similar instrument;

“Permanent Secretary” means the Permanent Secretary of the Ministry of Finance;

“public accounts” means the public accounts referred to in section 52;

“Public Accounts Committee” means the Standing Committee constituted under section 66A of the Legislative Assembly (Procedure) Rules, 1976;

“public money” means all money belonging or payable to, or received, collected or held by, for or on behalf of, the Government and includes—

- (a) the revenue of the Government;
- (b) money raised or received for the public purposes of the Government; and
- (c) money or funds held in his or her official capacity, whether temporarily or otherwise, by a public officer, either alone or jointly with any other person, whether a public officer or not;

“regulation” means a regulation made under section 68;

“securities” means bonds, debentures, promissory notes, treasury bills and other documents evidencing debt and includes documents commonly known as securities;

“sinking fund” means a sinking fund established by regulation;

“special fund” means a special fund referred to in section 48(1);

“supplementary appropriation Act” means an Act that provides for the payment of expenditures contained in supplementary estimates;

“supplementary estimate” means a supplementary estimate approved by the Legislature.

### **Interpretation of power to delegate, appoint or authorise**

2. When a power to delegate, appoint or authorise a person to do an act or thing is given under this Act or the regulations, the delegation, appointment or authorisation may be by the person’s name, title or office, and when a delegation, appointment or authorisation is by title or office, the delegation, appointment or authorisation applies to every person while he or she holds that office or title.

### **Application of Act**

3. If there is a conflict between this Act and any other Act of the Legislature, this Act prevails unless the other Act contains a provision that the other Act or a provision of it applies notwithstanding this Act.

## PART 2

### ORGANISATION

#### **Interpretation of this Part**

4. The responsibilities and powers of the Minister of Finance, the Permanent Secretary, the Accountant General, an accounting officer and any delegate of an accounting officer set out in this Part are in addition to the responsibilities and powers specifically provided under this or any other Act or by regulation.

#### **General responsibilities of Minister, Permanent Secretary, Accountant General, accounting officers, etc.**

5. (1) The Minister of Finance, the Permanent Secretary or the Accountant General shall discharge his or her responsibilities and exercise his or her powers in accordance with this Act and the regulations and any other Act relating to matters provided for in this Act and any regulations under that other Act.

(2) An accounting officer and any delegate of an accounting officer shall discharge his or her responsibilities and exercise his or her powers in accordance with this Act and the regulations and any other Act relating to matters provided for in this Act and any regulations under that other Act and the financial instructions.

#### **Responsibilities and powers of Minister of Finance**

6. (1) The Minister of Finance—

- (a) is responsible for—
  - (i) the preparation of the main and supplementary estimates,
  - (ii) Government fiscal management and control, including the management and control of revenue and expenditures,
  - (iii) ensuring that a full account of the finances of the Government is given to the House of Assembly in the public accounts,
  - (iv) management of the public debt, of the investment of public money held by the Government and of loans and advances made and guarantees given by the Government, and
  - (v) a government agency for which he or she is responsible by virtue of being Minister of Finance; and
- (b) has such responsibilities in relation to procurement and stores and other government property as are provided by the regulations.

(2) The Minister of Finance may give directions as to the form of the main and supplementary estimates.

(3) The Minister of Finance, or any public officer authorised by him or her, may enter into and execute agreements on behalf of the Government in relation to matters of a financial nature, including, without limitation agreements—

- (a) in relation to borrowing referred to in section 39;
- (b) in relation to raising money referred to in section 40;
- (c) in relation to guarantee financial liabilities referred to in section 45; and
- (d) for the payment by instalments of money owing to the Government.

### **Responsibilities and powers of Permanent Secretary**

7. (1) Subject to the directions of the Minister of Finance, the Permanent Secretary—

- (a) is responsible for—
  - (i) the management of the Ministry of Finance,
  - (ii) overseeing the preparation of the main and supplementary estimates on behalf of the Minister of Finance,
  - (iii) advising the Minister of Finance, and
  - (iv) assisting the Minister of Finance in the discharge of his or her responsibilities in relation to the government agencies for which he or she is responsible by virtue of being Minister of Finance; and

- (b) has such responsibilities in relation to procurement and stores and other government property as are provided by the regulations.

(2) Within his or her areas of responsibility, the Permanent Secretary may give directions to the Accountant General.

### **Appointment, responsibilities and powers of Accountant General**

**8.** (1) There is hereby established the public office of Accountant General to whom a fit and proper person shall be appointed in accordance with section 66 of the Constitution of Anguilla.

(2) In accordance with the directions of the Permanent Secretary, the Accountant General—

(a) is responsible for—

- (i) maintaining the central accounts of the Government so as to show the current state of the Consolidated Fund and the Development Fund and the financial condition of the Government,
- (ii) receiving and banking, or overseeing the receiving and banking of, public money,
- (iii) preparing the main accounts of the Government and any other financial statements or reports required by the Minister of Finance or Permanent Secretary,
- (iv) maintaining a system for the examination of payments to reasonably ensure that they are made in accordance with this Act and the regulations,
- (v) ensuring that the proper system of accounts is established in every ministry, department and public service, and that all money received and paid by the Government is brought promptly and properly to account,
- (vi) refusing payment on any voucher when it comes to the attention of the Accountant General that the voucher—
  - (A) is wrong or insufficient in content,
  - (B) contravenes the regulations or financial instructions, or
  - (C) is in any way unacceptable in support of the payment out of public money,

*(Act 3/2004 s.1)*
- (vii) reporting to the Permanent Secretary, in writing, any apparent defect in the control of revenue, expenditures, cash, stamps, stores and other property of the Government or any breach or non-observance of this Act, the regulations or financial instructions by a ministry, department or public service that may come or be brought to his or her notice,
- (viii) evaluating accounting and the financial management systems throughout Government, and

- (ix) exercising supervision over the receipt of revenue and as far as possible securing its punctual collection, except to the extent that those tasks have been assigned by regulation or by law to the Director of Inland Revenue;  
(Act 3/2004 s.1)
  - (b) has such responsibilities in relation to procurement and stores and other government property as are provided by the regulations; and
  - (c) has such responsibilities in relation to stamps and securities as are provided in the regulations.
- (3) The Accountant General—
- (a) shall at all times have access to all ministries, departments or places where accounting for public services takes place and accounting records are kept or where money, stamps, securities, stores or other government property are or are believed to be located;
  - (b) may require from any officer or employee of the Government the information necessary for the performance of the Accountant General's responsibilities;
  - (c) may examine and report to the Permanent Secretary on the financial and accounting operations of a ministry, department or public service;
  - (d) may examine any person under oath with respect to any matter within the responsibilities of the Accountant General and may for that purpose administer oaths;
  - (e) may provide accounting and other services in connection with the financial management of a ministry, department or public service;
  - (f) may station a person employed in the Treasury in any ministry, department or place where accounting for a public service takes place when the Accountant General considers it necessary to discharge his or her responsibilities;
  - (g) has such powers in relation to procurement and stores and other government property as are provided by the regulations; and
  - (h) within his or her areas of responsibility and his or her powers, may issue financial instructions to accounting officers and to persons to whom accounting officers have delegated their responsibilities under this Act and the regulations.

(4) The Accountant General may delegate any of the powers set out in paragraphs (3)(a) to (g) to any public officer.

#### **Appointment and responsibilities of accounting officers**

**9.** (1) An accounting officer shall be appointed in writing by the Minister of Finance in respect of—

- (a) each expenditure vote or part of an expenditure vote;

- (b) each head or part of a head of expenditure charged on the Consolidated Fund or Development Fund by law and identified in the main or supplementary estimates; and
- (c) each head of revenue or part of a head of revenue in the main estimates.

(2) An accounting officer—

- (a) is responsible to the House of Assembly through the Public Accounts Committee and is responsible as a public officer for—

- (i) the prompt collection and receipt of revenue under a head of revenue or part of a head of revenue in respect of which he or she has been appointed accounting officer,

- (ii) the control of, and accurate accounting for, expenditure under—

- (A) the expenditure vote or part of a vote,

- (B) each head or part of a head of expenditure charged on the Consolidated Fund or Development Fund by law and identified in the main or supplementary estimates, and

- (C) each head of revenue or part of a head of revenue in the main estimates,

- in respect of which he or she is appointed accounting officer,

- (iii) the control of, and accurate accounting for, public money, other than money for public purposes, received by the ministry, department or public service for which he or she is accounting officer, and

- (iv) the control of, and accurate accounting for, the disbursement of public money, other than money for public purposes, received by the ministry, department or public service for which he or she is accounting officer,

- in accordance with this Act and the regulations and any other Act and its regulations and in accordance with the financial instructions;

- (b) has such responsibilities in relation to procurement and stores and other government property as are provided by the regulations; and

- (c) has such responsibilities in relation to stamps and securities as are provided by the regulations.

(3) An accounting officer is not absolved of responsibility for the proper discharge of his or her responsibilities by reason of the discharge by the Accountant General or an auditor of his or her responsibilities such as the examination and approval by the Accountant General of payment, the acceptance for deposit of money by the Accountant General or by reason of the auditing of the account by an auditor.

(4) Notwithstanding anything in this section, an accounting officer who—

(a) is directed by the Accountant General to do a thing that he or she knows or has reason to believe is contrary to this Act or the regulations or any other Act or its regulations or the financial instructions; and

(b) objects in writing to the Accountant General to do that thing before he or she does it;

is absolved of his or her responsibilities in relation to that thing.

(5) An accounting officer is accountable for discharging his or her responsibilities under this Act, the regulations and the financial instructions with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

### **Delegation by accounting officer; responsibility of delegate**

**10.** (1) An accounting officer may delegate some or all of his or her responsibilities to a public officer who reports to him or her, and the delegate is responsible, in relation to the responsibilities delegated, for the discharge of the accounting officer's responsibilities.

(2) Delegation of his or her responsibilities by an accounting officer to a public officer does not absolve the accounting officer from ensuring that his or her responsibilities under this Act, the regulations and the financial instructions are discharged with diligence and honesty.

(3) An accounting officer shall set out in writing the extent to which he or she has delegated his or her responsibilities to a public officer under his or her control.

(4) Subject to subsection (5), a delegate of an accounting officer is not absolved of responsibility for the proper discharge of his or her responsibilities by reason of the fact that he or she is discharging the responsibilities of the accounting officer.

(5) Notwithstanding anything in this section, a delegate of an accounting officer who—

(a) is directed by the accounting officer to do a thing that he or she knows or has reason to believe is contrary to this Act or the regulations or any other Act or its regulations or the financial instructions; and

(b) objects in writing to the accounting officer to do the thing before he or she does it;

is absolved of his or her responsibilities in relation to that thing.

(6) The delegate of an accounting officer is accountable for discharging his or her delegated responsibilities under this Act, the regulations and the financial instructions with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

### **General responsibility of public officers coming into possession of money, stamps or securities**

**11.** (1) A public officer, other than an accounting officer or a public officer referred to in section 10, who in the course of discharging his or her responsibilities as a public officer comes into the possession or control of—

(a) money that he or she knows or has reason to believe is intended to be paid to or received by the Government; or



- (b) stamps or securities that he or she knows or has reason to believe are the property of the Government or that he or she knows or has reason to believe are intended to be placed on deposit with or entrusted to the Government;

shall without delay deliver the money, stamps or securities to an accounting officer or a delegate of an accounting officer or to the Accountant General.

(2) An accounting officer or delegate of an accounting officer who comes into possession or control of money, stamps or securities from a public officer referred to in subsection (1) shall without delay deliver them into the possession of the public officer responsible for the money, stamps or securities.

(3) A public officer referred to in subsection (1) or an accounting officer or delegate of an accounting officer referred to in subsection (2) is accountable for discharging his or her responsibilities under those subsections with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

### PART 3

#### CONSOLIDATED FUND AND DEVELOPMENT FUND

##### **Consolidated Fund**

- 12.** (1) There shall be a Consolidated Fund.
- (2) All public money shall be paid into the Consolidated Fund, other than public money—
- (a) that is to be paid into the Development Fund under section 13(1);
  - (b) that is deducted as a fee or commission under section 17;
  - (c) that has not been paid and is subsequently remitted under section 18 or under section 76 of the Constitution of Anguilla;
  - (d) that is written off under section 19(1);
  - (e) to the extent that the amount of a claim referred to in section 20(1) exceeds the amount for which it is settled;
  - (f) that is to be held as a deposit;
  - (g) that is to be paid by or under this or any other Act into a special fund; and
  - (h) that is not required to be paid into the Consolidated Fund under any other Act.

##### **Development Fund**

- 13.** (1) There shall be a Development Fund into which, subject to subsection (2), shall be paid—
- (a) money appropriated for the purpose of the Development Fund by the Legislature;

- (b) the proceeds of a loan raised for the purpose of the Development Fund by the Government;
  - (c) money received by way of interest or dividend on an investment of money belonging to the Development Fund;
  - (d) the proceeds of the sale or other disposition of a fee simple interest in real property of the Government;
  - (e) money received in reimbursement of the capital cost of a project financed wholly or partly by the Development Fund; and
  - (f) any grant made for development purposes by a government or an agency of a government or by a regional or international organization.
- (2) Subsection (1) does not apply to—
- (a) a fee or commission deducted under section 17 in relation to money payable into the Development Fund; or
  - (b) an amount payable to the Development Fund that is written off under section 19(1).

#### PART 4

#### BANKING

##### **Banking arrangements**

**14.** No bank account shall be opened, maintained or closed by or on behalf of the Government or in respect of public money except by the Accountant General with the approval of the Minister of Finance.

##### **Payment and deposit of public money**

- 15.** (1) Subject to subsection (2), all public money received by or on behalf of the Government—
- (a) is payable to the Accountant General;
  - (b) shall be so paid without delay; and
  - (c) subject to subsection (2), shall be deposited in a bank account referred to in section 14 by the Accountant General or as directed by the Accountant General.

(2) Paragraph (1)(c) does not apply to imprests authorised by warrant under the hand of the Minister of Finance to the Accountant General in respect of a ministry, department or public service.

## PART 5

PAYMENT OF MONEY INTO  
CONSOLIDATED FUND AND DEVELOPMENT FUND.**Payment to credit of Consolidated Fund or Development Fund**

**16.** All public money, other than deposits or money payable into a special fund, shall be paid to the credit of the Consolidated Fund or Development Fund, as the case may be.

**Fees and commissions**

**17.** (1) The Governor in Council may, by regulation of general application or application to a class or classes of persons or by directive in a specific case—

- (a) authorise payment of a fee or commission to be retained by or paid out of the Consolidated Fund or Development Fund for services to the Government in respect of one of its activities; and
- (b) establish the rates or levels of fees or commissions and the methods by which they may be paid.

(2) A regulation made under subsection (1) does not apply when the payment or retention of a fee or commission for services to the Government in respect of one of its activities is required or authorised by or under any other Act.

**Remission of money paid or payable**

**18.** (1) When the Governor in Council is satisfied that it is in the public interest to do so or that hardship or injustice has resulted or is likely to result, the Governor in Council may, by regulation applicable to a class or classes of persons or by certificate in a specific case and subject to subsection (4), remit all or part of any tax, fee or other amount (other than the amount of a penalty or forfeiture due to a conviction within the meaning of section 76(d) of the Constitution of Anguilla) that is imposed, or authorised to be imposed, under this or any other Act.

(2) The remission of money may be conditional or unconditional, and may be granted—

- (a) before, after or during the course of, any proceeding for the recovery of the money;
- (b) before or after the payment has been made or enforced by process or execution; or
- (c) in the case of a tax, fee or other amount, before the liability arises.

(3) When a condition of a remission is not performed, the authorisation of the remission has no effect, and all proceedings may be taken as if it had not been made.

(4) A remission of a tax, fee or other amount referred to in subsection (1) shall not exceed \$1,000 or such greater amount as may be prescribed by regulation by the Governor in Council with the approval of the House of Assembly.

(5) Money that has been paid and is subsequently remitted under this section or under section 76(d) of the Constitution of Anguilla shall be refunded from the Consolidated Fund.

**Write off of debts and obligations**

**19.** (1) The designated authority may by certificate write off all or part of a debt or obligation due to the Government that the designated authority considers to be uncollectible or the collection of which the designated authority considers not to be cost effective.

(2) The write off of all or part of a debt or obligation does not extinguish the right of the Government to collect it.

(3) In subsection (1), “designated authority” means the Governor in Council except to the extent that the Governor in Council has, by regulation, delegated its authority to a public officer, in which case the delegate, to the extent of the delegation, is a designated authority in addition to the Governor in Council.

(4) A delegation under subsection (3) may be general or may relate to a class or classes of write offs and may be made subject to conditions.

**Settlement of debt or obligation claimed by Government**

**20.** (1) When a claim for a debt or obligation is made on behalf of the Government, whether or not proceedings have been commenced, and the designated authority is satisfied that it is in the public interest to enter into an agreement to settle the claim for a specified amount that is or may be less than the amount of the claim, the designated authority may settle the claim for the amount in full satisfaction of the claim.

(2) In subsection (1), “designated authority” means the Governor in Council except to the extent that the Governor in Council has, by regulation, delegated its authority to a public officer, in which case the delegate, to the extent of the delegation, is a designated authority in addition to the Governor in Council.

(3) A delegation under subsection (2) may be general or may relate to a class or classes of write offs and may be made subject to conditions.

(4) The Governor in Council may by regulation require that claims or a class or classes of claims be settled on the advice of the Attorney General or a Law Officer.

**Report and register of remissions, write offs and settlements**

**21.** (1) A summary statement of the remissions by regulation or certificate under section 18, write offs by certificate under section 19 and settlements under section 20 shall be included in the public accounts.

(2) A summary statement is sufficient if it identifies the type of remission, write off or settlement, the number of persons affected and the total value of each type of remission, write off or settlement.

(3) The Accountant General shall ensure that the particulars of the amount of, and the name of the person or persons affected by, each remission by regulation or certificate under section 18, each write off by certificate under section 19 and each settlement under section 20—

(a) are available for inspection by the public in a register in the Treasury; and

(b) continue to be so available until the public accounts containing the summary statement of the remission, write off or settlement are laid before the House of Assembly and for 1 year thereafter.

(4) The register may be in such form as the Accountant General determines.

### **Repayment of expenditure charged to an appropriation**

**22.** The repayment to the Government of an expenditure charged to an appropriation—

(a) that is received before the end of the financial year in which the expenditure was made shall be credited to the appropriation against which the expenditure was charged; and

(b) that is received after the end of the financial year referred to in paragraph (a), shall be credited to the revenue of the financial year in which it is received.

### **Interest on overdue accounts**

**23.** (1) Unless a regulation is made under subsection (2), the Accountant General may require persons who owe money to the Government or are liable to pay money to the Government to pay simple interest on that money at the rate of 12% per annum from the date the money becomes due to the Government.

(2) The Governor in Council may make regulations establishing an interest rate or rates other than that established in subsection (1) and those regulations may—

(a) be of general application or may apply to a class or classes of persons who owe money or are liable to pay money to the Government or to a class or classes of money owed or liable to be paid to the Government; and

(b) determine whether and how the interest rate is to be calculated and compounded.

(3) Interest is recoverable by the same means as the money to which it applies is recoverable or as a civil debt due to the Government.

(4) Neither subsection (1) nor the regulations made under subsection (2) applies where another Act requires or authorises the imposition of interest on money owed or liable to be paid to the Government.

## **PART 6**

### **PAYING MONEY OUT OF CONSOLIDATED FUND OR DEVELOPMENT FUND**

#### **Payment out of Consolidated Fund or Development Fund**

**24.** (1) No money shall be paid out of the Consolidated Fund except—

(a) to meet an expenditure that is charged on the Consolidated Fund by law;

(b) to make a payment authorised by an appropriation or supplementary appropriation Act;

- (c) to be deposited in a sinking fund or a fiscal stabilization fund; or
  - (d) to make a payment or advance authorised by this or any other Act or by a regulation made under section 68.
- (2) No money shall be paid out of the Development Fund except—
- (a) in the case of expenditures referred to in section 13(1)(a) to (e), when the payment is authorised by—
    - (i) an appropriation or supplementary appropriation Act, or
    - (ii) this or any other Act or by a regulation made under section 68(c); and
  - (b) in the case of expenditures referred to in section 13(1)(f), in accordance with this Act or the regulations or in the absence of such a provision, as directed by the Permanent Secretary.

**Authorisation of expenditure: main estimates and appropriation bills**

**25.** (1) The Minister of Finance shall cause to be prepared and laid before the House of Assembly, before the commencement of each financial year, main estimates of the revenue and expenditure, both current and capital, of Anguilla for that year.

- (2) The main estimates shall be in the form that the Minister of Finance directs, and—
- (a) shall provide for the expenditures that are to be incurred by the Government for public services during the financial year and that are required to be voted on by the Legislature, and, in relation to each expenditure vote shall—
    - (i) describe the ambit of the vote,
    - (ii) show the amount required to be supplied for the vote by appropriation, and
    - (iii) contain a reference to the accounting officer appointed by the Minister of Finance under section 9(1) in respect of the expenditure vote or any part of the expenditure vote or head or any part of the head of revenue;
  - (b) shall—
    - (i) include the estimated amount of the expenditure to be incurred on each public service, the expense of which is charged on the Consolidated Fund by law,
    - (ii) include a reference to the provision of the law that authorises the expenditure to be charged on the Consolidated Fund, and
    - (iii) contain a reference to the accounting officer appointed by the Minister of Finance under section 9(1) in respect of each head of expenditure or part of a head of expenditure for each public service charged on the Consolidated Fund by law; and

- (c) shall not charge any expenditure to the Development Fund, other than an expenditure for the purpose of a development project.

(3) The heads of expenditure contained in the main estimates for a financial year, other than the expenditures referred to in paragraph (2)(b), shall be included in a bill, to be known as an appropriation bill, introduced into the House of Assembly to provide for the payment from the Consolidated Fund and from the Development Fund, as the case may be, of the amounts necessary to meet that expenditure and the appropriation of those sums for the purposes specified in the bill.

#### **Authorisation of expenditure: supplementary estimates and supplementary appropriation bills**

**26.** If in a financial year it is found that the amount appropriated by the appropriation Act for the purposes included in any head of expenditure is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the appropriation Act, a supplementary estimate showing the amount required shall be prepared and, together with any other supplementary estimates, laid before the House of Assembly and the heads of expenditure shall be included in a supplementary appropriation bill introduced in the House of Assembly to provide for the appropriation of those amounts.

#### **General warrants**

**27.** (1) No money shall be expended under an appropriation Act or a supplementary appropriation Act unless the Minister of Finance has authorised the Accountant General by general warrant under his or her hand to pay that money out of the Consolidated Fund or Development Fund.

(2) A general warrant may reserve specified expenditures and may make provision for expending the reservation.

(3) Notwithstanding the issue of a general warrant, if, in his or her opinion, financial exigencies of the public interest so require, the Minister of Finance may in his or her discretion by written notice reserve at any time any expenditure authorised under an appropriation Act or a supplementary appropriation Act and may in the notice make provision for expending the reservation.

(4) Notice in writing of the reservation of an expenditure under subsection (3) shall be given without delay to the Permanent Secretary, the Accountant General and to affected accounting officers.

(5) An expenditure that is reserved by a general warrant or by notice under subsection (3) may be expended—

- (a) in accordance with the general warrant or notice; or
- (b) where no provision is made in the general warrant or notice, in accordance with the procedures set out in the regulations.

(6) No general warrant is valid unless the Permanent Secretary certifies that the warrant has been issued in accordance with this Act.

#### **Limitation on payment of appropriated money and amounts charged by law**

**28.** (1) Except as provided by this Act, no appropriation shall be charged with an amount that is—

- (a) for a purpose other than that for which the appropriation was voted; and

(b) in excess of the amount available in that appropriation at the time it is charged.

(2) No expenditure for a public service charged on the Consolidated Fund by law shall be paid out of the Consolidated Fund unless it is for the purpose for which it was charged.

### **Expenditures before appropriation Act comes into force**

**29.** (1) If the appropriation Act for a financial year has not come into force by the beginning of that financial year, the Minister of Finance may, by provisional warrant under his or her hand addressed to the Accountant General, authorise the payment from the Consolidated Fund or from the Development Fund, as the case may be, of such amounts as may be necessary to carry on the public services of the Government until the expiration of 4 months from the beginning of that financial year, or the coming into force of the appropriation Act for that year, whichever is the earlier, but—

(a) in the case of payments from the Consolidated Fund—

(i) only expenditures upon public services in the main estimates and supplementary estimates for which there was provision in the appropriation Act or any supplementary appropriation Act in force in the previous financial year are authorised by this section, and

(ii) the expenditures so authorised for any public service shall not—

(A) in any month exceed  $1/12^{\text{th}}$  of the amount provided for that public service in those main and supplementary estimates or such other amount as may be prescribed under subsection (5), and

(B) in total exceed  $1/3$  of the amount provided for that public service in those main and supplementary estimates; and

(b) in the case of payments from the Development Fund—

(i) only expenditures upon public services in the main estimates and supplementary estimates—

(A) for which there was provision in the appropriation Act or supplementary appropriation Act in force in the previous financial year, and

(B) that are expenditures of a continuing nature required to be made in the financial year,

are authorised by this section, and

(ii) the expenditures so authorised for any public service shall not—

(A) in any month exceed  $1/12^{\text{th}}$  of the amount provided for that public service in those main and supplementary estimates, or such other amount as may be prescribed under subsection (5), and

(B) in total exceed  $1/3$  of the amount provided for that public service in those main and supplementary estimates.



(2) The amounts paid pursuant to a provisional warrant referred to in subsection (1) are deemed to have been paid pursuant to an appropriation until the appropriation Act is passed.

(3) Sections 27(2) to (6) apply with such modifications as the circumstances require to a warrant under subsection (1).

(4) On the coming into force of the appropriation Act, the provisional warrant shall lapse, and any expenditure made under it shall be deemed to have been made for the corresponding public services in the main estimates for which provision was made under the appropriation Act and shall be accounted for accordingly.

(5) The Governor in Council may in respect of a public service prescribe an amount other than  $1/12^{\text{th}}$  for any month referred to in sub-subparagraph (1)(a)(ii)(A) or (1)(b)(ii)(A), but the sum of the amounts for that public service for the 4 months from the beginning of the financial year shall not exceed  $4/12^{\text{ths}}$  of the amount provided for that public service in the main and supplementary estimates for which there was provision in the appropriation Act or any supplementary appropriation Act in the previous financial year.

### **Contingency warrants**

**30.** (1) When in a financial year—

(a) an expenditure for a public service not foreseen and provided for, or not sufficiently provided for, is required for the public good; and

(b) the Legislature is not meeting and will not meet for a period of more than 10 days,

the Minister of Finance may, in anticipation of approval of the expenditure in a supplementary appropriation Act, issue a contingency warrant under his or her hand authorising the expenditure to be made out of the Consolidated Fund, but the aggregate of the amounts authorised by contingency warrants issued under this section in the financial year and not approved in a supplementary appropriation Act shall not exceed  $2\frac{1}{2}\%$  of the main estimates of recurrent in that financial year.

*(Act 3/2004 s.2)*

(2) When a contingency warrant is issued with respect to an expenditure for a public service for which there is an appropriation, the amount provided by the contingency warrant shall be added to and deemed to be part of the appropriation specified in the warrant for the financial year for which the warrant is issued until the supplementary appropriation Act is passed.

(3) When a contingency warrant is issued with respect to an expenditure for a public service for which there is no appropriation, the amount provided by the contingency warrant is deemed to be an appropriation for the public service specified in the warrant for the financial year for which the warrant is issued until the supplementary appropriation Act is passed.

(4) On the coming into force of the supplementary appropriation Act that appropriates money for expenditures authorised by a contingency warrant, the contingency warrant lapses and the expenditures made under it are deemed to have been made for the corresponding expenditures under the supplementary estimates for which provision is made under the supplementary appropriation Act.

**Virement warrants**

**31.** (1) If, in the opinion of the Minister of Finance, the exigencies of the public service render it necessary or expedient—

- (a) to vary the amount assigned to any purpose within an expenditure vote as shown in the main or supplementary estimates of expenditure for a financial year; or
- (b) to make provisions for any new purpose within that vote;

he or she may direct by means of a virement warrant under his or her hand that a surplus arising from underexpenditure on an item in the expenditure vote contained in the main or supplementary estimates be applied in aid of another item in the expenditure vote contained in the estimates or in aid of any new item of expenditure, if—

- (c) the amount of the appropriation is not thereby exceeded; and
- (d) the new purpose to which any sum is assigned is within the ambit of the vote.

(2) Nothing in this section shall be construed as permitting the avoidance of the terms and conditions attached to the grant of money to the Government by any other government, institution or authority.

**Reallocation**

**32.** With the approval of the House of Assembly, the Minister of Finance may, by means of a reallocation warrant under his or her hand, direct that any surplus arising from underexpenditure on any item in an expenditure vote contained in the main or supplementary estimates be applied in aid of any item in any other expenditure vote in the estimates or in aid of any new item of expenditure.

**Refund of money**

**33.** (1) A refund of all or part of money received by the Government—

- (a) that is erroneously paid or collected; or
- (b) that is a drawback, rebate or other amount required or permitted to be refunded under any law;

may be paid out of the Consolidated Fund or Development Fund, as the case may be, upon presentation of proof satisfactory to the Accountant General of the application of this section.

(2) A refund that is identified as being payable in a financial year, other than the financial year in which the money was paid, may be charged against an appropriation for the same or a similar purpose as determined by the Accountant General or, if there is no such appropriation, then, notwithstanding section 28(1)(a), against such appropriation as the Accountant General directs.

**Settlement of claims against Government**

**34.** (1) Subject to this section, with the approval of the Minister of Finance and on the recommendation of the Attorney General, the Accountant General may pay the following—

- (a) money required to be paid by the Government by order of a court;

- (b) money required to be paid by the Government by order of a tribunal;
- (c) an award by an arbitrator against the Government.

(2) In subsection (1)—

“arbitrator” means one or more persons to whom the power to make an award requiring the payment of money is conferred by an Act of the Legislature;

“order of a court” includes a judgment, decree or rule;

“order of a tribunal” means an order, award, decision or determination;

“tribunal” means one or more persons, other than a person acting as a judge, on whom a power to make an award requiring the payment of money is conferred by an Act of the Legislature.

(3) When a claim is made against the Government, whether or not proceedings have been commenced, and the Minister of Finance is satisfied, on the opinion of the Attorney General—

- (a) that the claim, if pursued in a court of competent jurisdiction or before a tribunal or an arbitrator, could reasonably be expected to result in an order or award, as the case may be, requiring the Government to pay money; and
- (b) that it is in the public interest to settle the claim for a specified amount of money;

the Minister of Finance may, subject to subsection (4), in writing, direct the Accountant General to pay the amount in settlement of the claim out of the Consolidated Fund or Development Fund, as the case may be.

(4) No claim shall be paid under subsection (3) except with the approval of the Governor in Council if the amount exceeds \$10,000 or such other amount as may be prescribed by regulation.

### **Right of set off**

**35.** (1) Subject to this section and the regulations, when a person owes money to the Government or to a government agency in a specific amount (in this section referred to as the “indebtedness”) and that person is owed money by the Government in a specific amount, the Accountant General may exercise a right of set off in relation to the indebtedness.

(2) When the Government exercises the right of set off under subsection (1) against the indebtedness of a person, the Accountant General shall give notice in writing to the person—

- (a) stating the Government has exercised the right of set off against the person under this section;
- (b) indicating the nature and amount of the indebtedness, and whether it represents money owing to the Government or a government agency, and the specific amount owing by the Government; and
- (c) if, after exercising the right of set off—
  - (i) money is owing by the Government to the person, showing how the amount of money was arrived at,

- (ii) the indebtedness is not discharged in full, showing how the amount of indebtedness was reduced and the balance of the indebtedness, or
- (iii) the indebtedness is discharged by the money owed and no balance is owing, stating that the indebtedness has been so discharged.

(3) Subject to the directions of the Permanent Secretary, the Accountant General shall determine when and to what extent the right of set off is exercised in favour of a government agency.

(4) When the right of set off is exercised in favour of a government agency, the Accountant General shall without delay remit the amount of the set off to the government agency.

### **Lapse of appropriations and warrants**

**36.** The balance in an appropriation that remains unexpended at the end of the financial year, after adjustment for the recording of debts referred to in section 37, and any warrant in relation to the balance of the appropriation, shall lapse.

### **Recording and discharge or settlement of debts unpaid at end of financial year**

**37.** (1) Subject to the directions of the Permanent Secretary, a debt incurred by the Government of Anguilla before the end of the financial year that remains unpaid at the end of the financial year shall be recorded as a charge against the appropriation to which it relates, but nothing in this section permits the recording of a payment that is in excess of the balance available in the appropriation.

(2) Within 30 days after the end of the financial year or such longer period as may be prescribed by regulation, the debt recorded as a charge under subsection (1) may be discharged or settled.

## PART 7

### PUBLIC DEBT, GUARANTEES AND ADVANCES

#### **Authorisation of debt**

**38.** No money shall be raised on the credit of the Government except under the authority of this or another Act of the Legislature or of a resolution of the House of Assembly.

#### **Short-term borrowing**

**39.** (1) The Minister of Finance may, in order to meet current requirements, borrow by means of an advance or advances from a body corporate, such amounts as may be approved by a resolution of the House of Assembly, but no resolution shall have effect for a period exceeding 12 months.

(2) An advance may be made under subsection (1) by means of a fluctuating overdraft.

#### **Raising money other than under section 39**

**40.** (1) When this or another Act of the Legislature or a resolution of the House of Assembly confers on the Government the power to raise money on the credit of the Government, other than as provided in section 39, the Minister of Finance may raise the money as provided in this section.

(2) Subject to an Act of the Legislature or resolution of the House of Assembly conferring the power to borrow money, money raised under this section may be raised for one or more of the following purposes—

- (a) the capital or recurrent expenditures of Government;
- (b) the purchase of securities issued by the Government or a government agency;
- (c) for on-lending to any government agency;
- (d) advances or payments to public officers provided by law or General Orders.

(3) The Minister of Finance shall determine how the money is to be raised.

(4) If the money is raised by the issue and sale of government securities, the Minister of Finance or a public officer authorised by him or her may determine any matter with respect thereto, including, without limitation—

- (a) the principal amount of the government securities to be issued;
- (b) the rate of interest payable and the rate of any premium or discount applicable to the government securities;
- (c) the currency in which the principal amount of the government securities and any interest or premium are payable;
- (d) the sale price of the government securities;
- (e) the form, denomination and dates of issue and maturity of the government securities; and
- (f) any other terms and conditions of the government securities.

(5) When raising money by way of the issue and sale of government securities, the Minister of Finance or a public officer authorised by him or her may do all acts and things necessary or advisable to satisfy the requirements of any jurisdiction with respect to the offer, issue, sale and trade of securities and other transactions relating to securities in the jurisdiction, including, without limitation—

- (a) the preparation, approval, filing or delivery of a prospectus or other document or any amendment or supplement to any of them;
- (b) the registration, qualification or exemption from registration or qualification of the Government under the laws of the jurisdiction regarding the offer, issue, sale or trade of securities;
- (c) the listing and trading of securities on a stock exchange;
- (d) the disclosure of financial and other information;

- (e) entering into agreements with respect to the offer, issue, sale or trade of securities or other transactions relating to securities including underwriting and similar agreements; and
- (f) the execution of all documents and instruments in relation to matters described in this subsection.

### **Execution of government securities**

**41.** (1) Subject to subsection (2), government securities shall be—

- (a) executed by the Minister of Finance; and
- (b) countersigned by the Permanent Secretary.

(2) The Governor in Council may make regulations of general application or application to a class or classes of government securities or to a specific case providing for the execution of government securities in a manner, other than that provided in subsection (1), or for the authentication of government securities other than by execution.

### **Regulations respecting government securities**

**42.** The Governor in Council may make regulations respecting the inscription, registration, transfer, transmission, exchange, redemption and cancellation of government securities.

### **Loans, guarantees and debt charges to be charged on Consolidated Fund**

**43.** Money required to—

- (a) repay the principal amount of loans and interest and other amounts due on loans;
- (b) pay guarantees for which the Government is liable;
- (c) redeem or repay the principal amount of government securities and to pay any interest, premium or other amount payable on them;
- (d) satisfy a discount on government securities;
- (e) make investments under section 51;
- (f) provide for losses on investments described in section 51;
- (g) pay sinking fund charges; or
- (h) pay costs, expenses and charges incurred in relation to—
  - (i) negotiating and raising loans by the Government or the issue, redemption, repayment, servicing or management of loans by the Government,
  - (ii) giving guarantees for which the Government is liable, or

- (iii) making investments under section 51;

is charged on the Consolidated Fund.

#### **Change in form of public debt**

**44.** (1) Subject to subsection (2) and to the consent of the creditor holding the public debt or where entitled to do so, the Minister of Finance may change the form of the public debt or part of the public debt.

(2) The Minister of Finance shall not make a change in the form of the public debt or part of the public debt that has the effect of increasing the present value of the public debt except with the approval of the House of Assembly.

#### **Government guarantees**

**45.** No guarantee of a financial liability shall be given by the Government unless it is—

- (a) given in accordance with the provisions of an Act; or
- (b) authorised by resolution of the House of Assembly.

#### **Advances**

**46.** (1) Subject to this section, the Minister of Finance may, by advance warrant under his or her hand, authorise the Accountant General to make advances from the Consolidated Fund or from a deposit specified in section 47—

- (a) on behalf of, and recoverable from, a government or agency of a government or a regional or international organisation;
- (b) to or on account of a special fund or the Development Fund;
- (c) to or on behalf of any person where the advance is required in the public interest;
- (d) to a public officer for the purposes and under the conditions specified in the regulations or General Orders; or
- (e) for the purpose of expenditure authorised by any law that regulates the raising of loans by or on behalf of the Government in anticipation of the raising of all or part of the loan.

(2) An advance to or on account of a special fund or an advance to or on account of the Development Fund, other than an advance issued under paragraph (1)(e), shall be recoverable within a period not exceeding 12 months after the end of the financial year in which it was made.

(3) Advances issued under paragraphs (1)(b), (c) and (d) shall not, after deduction of any repayment, in the aggregate exceed \$500,000 at any time or such other amount as may be prescribed by regulation and approved by the House of Assembly.

(4) Advances issued under paragraph (1)(e) shall not in the aggregate exceed such amount as the Minister of Finance may authorise.

## PART 8

## DEPOSITS AND SPECIAL FUNDS

**Deposits**

**47.** (1) Any deposit, being money, other than money raised or received for the public purposes of Anguilla or money that accrues to a special fund or to the Development Fund, that may be deposited with the Accountant General or any other public officer authorised to receive the deposit by the Accountant General, by the regulations or by General Orders, shall not form part of the Consolidated Fund and shall not, except as provided in subsections (2) and (3), be applied in any way for the public purpose of Anguilla.

(2) Every deposit—

(a) shall be held by the Accountant General; and

(b) may—

(i) with the approval of the Minister of Finance, be invested in the manner specified in section 51(1)(a), or

(ii) be used to finance advances in the manner specified in section 46.

(3) Any interest or dividend received from the investment of a deposit shall, as soon as possible thereafter and, unless the Minister of Finance directs otherwise, be credited to the Consolidated Fund.

(4) Subject to the other provisions of this section, the Accountant General may administer a deposit in such manner as he or she thinks fit and may, in any appropriate case, refund a deposit or any part of it to any person entitled to it.

(5) A deposit that is unclaimed for 5 years shall, subject to the provisions of any law, cease to be a deposit and shall accrue to the Consolidated Fund, but the Minister of Finance may direct the refund of a deposit or any part of it to a person who subsequently satisfies the Minister of Finance that that person is entitled to it.

**Special funds**

**48.** (1) For the purposes of this Act—

(a) a fund of public revenues established by regulation under section 68(i) or (j) or by or under any other Act for a specific purpose;

(b) a fund established under subsection (2); or

(c) a trust fund held by the Government;

is a special fund.

(2) The Minister of Finance may by regulation establish special funds.



(3) Every regulation made under subsection (2) shall state the purpose of, and the money to be paid into, the special fund established thereby and the public officer responsible for the administration of the fund.

(4) Every regulation made by the Minister of Finance under subsection (2) shall be laid before the House of Assembly at its next sitting commencing after the regulation is made.

#### **Administration of special funds**

**49.** (1) A special fund shall be administered and expenditures from it shall be authorised in the manner provided by the law or trust instrument establishing the fund or any other law relating to it.

(2) If there is no provision in the law or trust instrument establishing the fund, the Minister of Finance may provide for the administration of it.

(3) If, in his or her opinion, further or better provision should be made for the administration of a special fund, the Minister of Finance may provide for the further or better administration of the fund.

(4) A special fund shall be kept in a separate account by the Accountant General or, where by virtue of any law some other public officer is responsible for the administration of the fund, by that other public officer, but it shall be lawful for the Accountant General to keep the accounts on behalf of the other public officer.

(5) Except where the Minister of Finance otherwise directs, any interest or dividend received in respect of any investment of money belonging to a special fund shall be paid into that special fund.

(6) Within a period of 6 months after the end of the financial year, the public officer administering a special fund shall prepare, sign and submit to the Chief Auditor statements showing the financial position of the fund at the end of the financial year.

(7) The statements required under subsection (6) shall include—

- (a) a statement of assets and liabilities;
- (b) a detailed statement of receipts and payment of the fund; and
- (c) a statement of any investments.

(8) If—

- (a) the money in a special fund referred to in section 48(1)(a) or (b) is exhausted and no legal provision exists whereby further money may be paid into that special fund; or
- (b) the objects for which a special fund referred to in section 49(1)(a) or (b) was established have been fulfilled or cease to exist and, in the opinion of the Minister of Finance, there is no likelihood that any objects for which that special fund could lawfully be used will arise in the future;

the Minister of Finance may dissolve the special fund—

- (c) by publishing a notice in the *Gazette* in the case of a special fund referred to in section 48(1)(a);
- (d) by repealing the regulation establishing the special fund in the case of a special fund established under section 48(2).

(9) Any money remaining in any special fund dissolved under subsection (8) shall be paid into the Consolidated Fund.

### **Trusts**

**50.** (1) Nothing in this Act shall extend to abridge or alter the terms of any trust or be construed as authorising the making of any regulation or the giving of any direction or instruction requiring any person to obey the regulation, direction or instruction in relation to money held on trust, that contravenes or is inconsistent with the terms of the trust.

(2) No public officer shall accept appointment as a trustee in his capacity as a public officer without the written authority of the Minister of Finance and any appointment contrary to this subsection is void.

## PART 9

### INVESTMENTS

#### **Investment of Consolidated and Development Funds, deposits and special and other funds**

**51.** (1) The Minister of Finance may authorise the investment of money standing to the credit of the Consolidated Fund or the Development Fund or held as a deposit or in a special fund—

- (a) with a bank either at call or subject to notice;
- (b) in deposits with the Eastern Caribbean Central Bank;
- (c) in securities of, or guaranteed by, the government of any state or territory within a state that the Minister of Finance may approve; or
- (d) in such investments as are prescribed by regulation.

(2) Money held in trust by the Government that is invested under subsection (1) may, while invested, be intermingled with other invested money, whether that other money is trust money or otherwise.

## PART 10

### PUBLIC ACCOUNTS

#### **Public accounts**

**52.** (1) All public money shall be accounted for in the public accounts of Anguilla.

(2) Subject to subsection (3), the Accountant General shall, as soon as possible and in any event not later than 6 months after the end of every financial year, sign and submit to the Chief Auditor the statements referred to in subsection (4) for the financial year accounting for all public money and showing fully the financial position of Anguilla on the end of the financial year.

(3) The Minister of Finance may, by direction to the Accountant General, extend the period within which the statements are required to be submitted to the Chief Auditor, and any direction so given shall be laid before the House of Assembly if it is sitting and, if it is not sitting, then without delay after it next sits.

(4) The statements required under subsection (2) shall include—

- (a) a statement of assets and liabilities;
- (b) an abstract account of revenue and expenditure of the Consolidated Fund;
- (c) an abstract account of revenue and expenditure of the Development Fund;
- (d) a comparative statement of actual and estimated revenue by subheads;
- (e) a comparative statement of actual and estimated expenditure by subheads;
- (f) a detailed statement of revenue of the Consolidated Fund;
- (g) a detailed statement of expenditure of the Consolidated Fund;
- (h) a detailed statement of revenue of the Development Fund;
- (i) a detailed statement of expenditure of the Development Fund;
- (j) a statement of all special funds, indicating the assets by which such funds are represented;
- (k) a statement of the balance on each of the advance accounts referred to in sections 46(1)(a) to (e);
- (l) a detailed statement of balances on deposit accounts;
- (m) a detailed statement of investments;
- (n) a detailed statement of public debt and accumulated sinking funds;
- (o) a statement of the balance of the fiscal stabilization fund;
- (p) a detailed statement of contingent liabilities, including details of any loans, bank overdrafts or credit facilities guaranteed by the Government;
- (q) a statement of outstanding loans made from the Consolidated Fund, by annual and aggregate receipts and payments;
- (r) a statement of arrears of revenue by subhead;

- (s) the summary statements referred to in section 21;
- (t) statements of any gifts made under section 69;
- (u) such other statements as the House of Assembly may from time to time require; and
- (v) any other information required under this or any other Act to be reported in the public accounts.

## PART 11

### CHIEF AUDITOR

#### **Chief Auditor**

**53.** (1) While holding the office of Chief Auditor, the Chief Auditor shall not be capable of holding any other public office of profit in Anguilla.

(2) The terms and conditions of office applicable to the Chief Auditor upon his or her appointment shall not be made less favourable to him or her during the currency of his or her appointment.

(3) Subject to subsection (2), the annual salary of the Chief Auditor shall be at such rate and on such terms as the Governor shall from time to time prescribe and shall be charged on the Consolidated Fund.

#### **Powers of audit staff and authorised persons**

**54.** (1) Any responsibility of the Chief Auditor, other than the certifying of and reporting on the public accounts and laying them before the House of Assembly, may be discharged and any power of the Chief Auditor may be exercised—

- (a) by an officer of his or her staff;
- (b) by any qualified accountant authorised by the Chief Auditor to do so; or
- (c) with the concurrence of the head of any ministry or department or the person in charge of a public service—
  - (i) by an officer of that ministry or department, or
  - (ii) by a person in charge of that public service,  
authorised by the Chief Auditor to do so.

(2) A qualified accountant or officer or person referred to respectively in paragraph (1)(b) or (c) shall report to the Chief Auditor on what he or she was authorised to do.

#### **Scope of audit**

**55.** (1) The public accounts of Anguilla shall be audited and reported on by the Chief Auditor.

(2) In his or her examination of these accounts, the Chief Auditor shall make such checks as he or she considers necessary to enable him or her to form an opinion as to, but not limited to whether—

- (a) the accounts accurately reflect the underlying transaction and are an accurate reflection of the financial affairs of Anguilla at the end of the financial year;
- (b) all reasonable precautions have been and are taken to safeguard the collection of public money;
- (c) all laws, directions or instructions relating to public money have been and are duly observed;
- (d) all money appropriated or otherwise disbursed is applied to the purpose for which the House of Assembly intended to provide, and that the expenditure conforms to the authority that governs it; and
- (e) adequate directions or instructions exist for the guidance of public officers entrusted with responsibilities and powers connected with finance or storekeeping, and that such directions or instructions have been and are duly observed.

(3) The Chief Auditor may make such checks as he or she considers necessary to enable him to form an opinion as to whether a ministry, department or other body has used its resources with economy, efficiency and effectiveness, but this subsection shall not be interpreted to entitle the Chief Auditor to question the merits of the policy objectives of any ministry, department or other body.

*(Act 3/2004 s.3)*

### **Powers of Chief Auditor**

**56.** In the discharge of his or her responsibilities under this Act, the Chief Auditor—

- (a) shall not be subject to the direction or control of any person or authority;
- (b) shall not be required to undertake any responsibilities outside those pertaining to his or her office, if, in his or her opinion, such responsibilities are incompatible with the responsibilities of that office;
- (c) shall not be required to undertake any examination of accounts partaking of the nature of a pre-audit and involving acceptance by him or her of responsibility that would preclude him or her from full criticism of any accounting transactions after those transactions have been duly recorded;
- (d) shall have access, without payment of any fee, to all records, books, vouchers, documents, irrespective of form, and to all money, stamps, securities, stores or other Government property in the possession or control of any public officer;
- (e) may call upon any public officer for any explanation or information that he or she may require in order to enable him or her to discharge his or her responsibilities;
- (f) may examine any person under oath with respect to any matter within his or her responsibilities and may for that purpose administer oaths;

- (g) may lay before the Attorney General a case in writing as to any question regarding the interpretation of any law concerning the powers of the Chief Auditor or the discharge of his or her responsibilities, and the Attorney General shall give a written opinion on the case; and
- (h) may at any time, if it appears to him or her to be desirable, send a special report on any matter incidental to his or her responsibilities or powers under this Act to the Speaker and shall concurrently send a copy of the report to the Minister of Finance.

### **Reporting irregularities**

**57.** If at any time it appears to the Chief Auditor that any fraud or serious loss or serious irregularity has occurred—

- (a) in the receipt, custody or expenditure of public money;
- (b) in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property; or
- (c) in accounting for a matter referred to in paragraph (a) or (b);

he or she shall immediately bring the matter to the notice of the Permanent Secretary who shall forthwith report it to the Minister of Finance.

### **Admittance of certified accounts without further examination**

**58.** (1) After satisfying himself or herself that the vouchers relating to an account have been examined and certified as correct by the appropriate accounting officer, the Permanent Secretary may, when it appears to him or her to be reasonable and expedient for the public service, approve the account as one that may be accepted by the Chief Auditor without further examination.

(2) The Chief Auditor may, without further examination, admit and allow in support of the charges to which it relates the amount of any account approved under subsection (1).

### **Unvouched charges**

**59.** In the event that any voucher has been lost or inadvertently destroyed, the Permanent Secretary may, if upon due inquiry he or she is satisfied as to the circumstances of the loss or destruction, authorise the payment to stand charged in the accounts.

### **Audit report and certificate**

**60.** The Chief Auditor shall, as soon as possible and in any event not later than 4 months after receiving the public accounts, send to the Speaker and concurrently to the Minister of Finance copies of the public accounts, together with a certificate of audit, and a report upon his or her examination and audit of all accounts relating to public money, stamps, securities, stores and other property of the Government.

### **Laying audit documents before House of Assembly**

**61.** Following 14 days after the date on which the documents were received by him or her, the Speaker shall cause a copy of every document transmitted to him or her by the Chief Auditor under section 56(h) or 60 to be laid before the House of Assembly if it is then sitting and, if it is not then sitting, then without delay after it next sits.

**Audit of government agencies and recipients of public money**

**62.** (1) Notwithstanding anything to the contrary contained in any Act, the Chief Auditor shall, subject to subsection (2), examine and audit the accounts and annual financial statements of a government agency.

(2) The Chief Auditor may accept the audit of the accounts and financial statements of a government agency by an independent auditor of the government agency if the appointment of the auditor has been approved by the Chief Auditor and the audit of the government agency has been performed in accordance with the directions of the Chief Auditor.

(3) An auditor of a government agency is not an independent auditor if, in the financial year in which he or she is appointed or in the preceding financial year, the auditor—

- (a) is or was a member of the board of management, board of directors or other governing body of the government agency;
- (b) has or had a direct or indirect interest in a contract with the government agency, other than the contract respecting the audit; and
- (c) is or was an officer or other employee of the government agency.

(4) The Chief Auditor may audit the accounts and financial statements of any corporation or association that received a contribution of appropriated money in the previous financial year.

(5) Sections 54, 55 and 56 apply with appropriate modifications as the circumstances require to the discharge of the responsibilities imposed on the Chief Auditor under subsection (1) and to the exercise of powers by him or her under subsection (4).

(6) After he or she examines and audits the books and accounts of a government agency referred to in subsection (1) or a corporation or association referred to in subsection (4), or accepts the audit of the accounts and financial statements of a government agency by an independent auditor of the government agency, the Chief Auditor shall issue a certificate of audit and prepare a report—

- (a) on the examination and audit of the accounts and annual financial statements of the government agency or corporation or association; or
- (b) that evidences the acceptance of the audit of an independent auditor of the government agency.

(7) The certificate of audit and report shall—

- (a) in the case of a government agency, be sent to the government agency, to the minister responsible for the government agency and to the Minister of Finance; and
- (b) in the case of a corporation or association, be sent to the minister responsible for the expenditure vote from which the appropriated money was paid and to the Minister of Finance.

(8) The minister responsible for the expenditure vote from which the appropriated money was paid to a corporation or association audited by the Chief Auditor shall, following 14 days after the

date on which the certificate and report are received, lay it before the House of Assembly if it is sitting and, if it is not sitting, without delay after it next sits.

### **Audit fees**

**63.** A government agency and any corporation or association, the accounts of which are audited by the Chief Auditor under section 62 shall, in respect of the audit, pay the fee determined by the Chief Auditor, but the Minister of Finance may, with the concurrence of the Chief Auditor, in any case in which it is in the public interest that some lesser fee be paid or that no fee be charged, reduce or waive the fee, as the case may be.

## PART 12

### GOVERNMENT AGENCIES

#### **Interpretation**

**64.** In this Part, “appropriate minister”, in relation to a government agency, means the Minister under whose portfolio the government agency falls.

#### **Application of sections 66 and 67**

**65.** Sections 66 and 67 apply to a government agency except where other provisions are made in respect of those matters in an Act establishing the government agency.

#### **Estimates of expenditures by government agencies**

**66.** (1) A government agency shall, before 31 October preceding the commencement of its financial year, submit to the appropriate minister for his or her approval estimates of its recurrent and capital expenditure and its estimates of revenue and other financing required for that year in such form as the Minister of Finance may direct.

(2) The appropriate minister shall, before the commencement of the financial year of the government agency, submit to the Minister of Finance for his or her approval the estimates of recurrent and capital expenditure and its estimates of revenue and other financing required by the government agency.

(3) The government agency shall, whenever the appropriate minister or the Minister of Finance directs, furnish any further information in relation to its estimates of recurrent and capital expenditure and its estimates of revenue and other financing required.

(4) The estimates of recurrent and capital expenditure of the government agency and its estimates of revenue and other financing required as approved by the Minister of Finance may not be altered without the approval of the Minister of Finance.

(5) The appropriate minister shall, without delay after approval by the Minister of Finance, lay the estimates approved by the Minister of Finance before the House of Assembly, if the House of Assembly is sitting, and, if it is not sitting, then without delay after it next sits.



**Annual report of government agencies**

**67.** (1) A government agency shall, as soon as reasonably possible after it receives the certificate and report of the Chief Auditor mentioned in section 62(6), submit an annual report to the appropriate minister, the Permanent Secretary and the Minister of Finance.

(2) An annual report shall include an account of the activities of the government agency, its financial statements and the certificate and the report of the Chief Auditor.

(3) On receipt of the annual report, the appropriate minister shall without delay lay it before the House of Assembly, if the House of Assembly is sitting, and, if it is not sitting, then without delay after it next sits.

## PART 13

## REGULATIONS AND MISCELLANEOUS

**Regulations**

**68.** The Governor in Council may make regulations for the better carrying out of this Act and, without limitation, may make regulations—

- (a) prescribing anything that by this Act may be prescribed by regulation;
- (b) exempting a government agency from the definition of government agency for the purpose of this Act or any provision of this Act;
- (c) providing for the payment of interest on late payments by the Government, including permitting a specified person to determine when interest is payable and the rate of that interest;
- (d) respecting the collection, receipt, custody, banking, expenditure, due accounting for, care and management of, and forms of records relating to public money;
- (e) 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;
- (f) respecting the accounts when they are kept electronically including their authentication;
- (g) 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 board;
- (h) defining “government property” and “stores”;

- (i) 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;
- (j) respecting stores including their classification and operation, the writing off of stores and declaring stores surplus and disposing of them;
- (k) respecting the hours of business of the Treasury, the hours of attendance of officers and the signing of cheques;
- (l) prescribing fees for dishonoured cheques;
- (m) establishing a sinking fund for the orderly payment of debt, providing that it does not lapse under section 36 and providing for its management, operation and termination;
- (n) establishing a fiscal stabilization fund, providing that it does not lapse under section 36 and providing for its management, operation and termination.

### **Gifts**

**69.** (1) After having made reasonable efforts to sell surplus stores and property of the Government, the Minister of Finance may authorise the gift of the surplus stores or property of the Government to institutions or organisations in Anguilla established solely or principally for educational, scientific, cultural or charitable purposes, but, where the value of such stores or property exceeds \$5,000, the prior approval of the House of Assembly is required.

(2) No public officer shall accept any gift of money, stores or property on behalf of Government without the prior approval in writing of the Minister of Finance.

### **Voting of shares held by Government**

**70.** Except as provided in any other Act, the voting rights attached to shares held by the Government of Anguilla in a body corporate may be exercised by the minister responsible for the portfolio under which the body corporate falls, or a person authorised by the minister to exercise the voting rights.

## PART 14

### CITATION AND TRANSITIONAL PROVISIONS

#### **Citation**

**71.** This Act may be cited as the Financial Administration and Audit Act, Revised Statutes of Anguilla, Chapter F27.

#### **Transitional provisions and regulations**

**72.** (1) In this section, “former Act” means the Finance (Control and Audit) Act.

(2) On 14 November 2003—

- (a) every person acting under the former Act at the time of its repeal shall continue to act under this Act as if he or she has been authorised to act under this Act;
  - (b) the Consolidated Fund, the Development Fund, deposits and special funds under the former Act and all warrants subsisting under the former Act at the time of its repeal are continued under this Act;
  - (c) all orders made under the former Act remain in force and shall be deemed to have been made under this Act, in so far as they are not inconsistent with this Act; and
  - (d) any reference in an unrepealed enactment to the former Act shall, with respect to a subsequent transaction, matter or thing, be construed as a reference to the provisions of this Act relating to the same subject matter as the repealed enactment.
- (3) Section 17 does not apply to a fee or commission authorised to be retained or paid out of the Consolidated Fund or Development Fund before 14 November 2003, but such authorization is not valid after 1 year following 14 November 2003.
- (4) Section 20 applies to a claim for a debt or obligation by the Government that exists on 14 November 2003.
- (5) Section 23 (interest on overdue accounts) applies to money owing or liable to be paid to the Government on 14 November 2003.
- (6) Section 34 applies in respect of money required to be paid by the Government or claims made against the Government on 14 November 2003.
- (7) Section 35 applies to indebtedness and to money owing by the Government on 14 November 2003.
- (8) For greater certainty, when a claim has been written off or abandoned under section 34 of the former Act, the write off or abandonment is deemed not to have extinguished the claim.
- (9) Notwithstanding the repeal of the former Act, the Chief Auditor may in respect of the years 2001 and 2002 perform the obligations of Chief Auditor under that Act.
- (10) The Governor in Council may make regulations providing for any transitional matter not dealt with or not sufficiently dealt with by this Act.
- (Act 3/2004 s.4)*
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