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PUBLIC FINANCE MANAGEMENT ACT [CHAPTER 22:19]

Act 11/2009, 5/2014¹, 4/2015², 3/2016³ and 6/2016⁴.

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² Public Debt Management Act, 2015, with effect from 4th September 2015.

³ General Laws Amendment Act, 2016 [GLA Act], with effect from 1st July 2016. Please note that the GLA Act's many substitutions of "Auditor-General" (for "Comptroller and Auditor-General") and "National Assembly" (for "House of Assembly") have been incorporated in the text of this document but have not been footnoted. References to "Public Service", "Public Service Commission" have not, however, been updated because the GLA Act did not, as it should have, amend them; they should nevertheless be construed as referring to the "Civil Service" and the "Civil Service Commission", respectively, in accordance with the Sixth Schedule to the Constitution, paragraph 11(d) and (e).

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ACT

AN ACT to provide for the control and management of public resources and the protection and recovery thereof; to provide for the appointment, powers and duties of the Accountant-General and of his or her staff; to provide for the national budget; to provide for the preparation of financial statements; to provide for the regulation and control of public entities; ⁵to provide for general treasury matters; to provide for the examination and audit of public accounts; to provide for matters pertaining to financial misconduct of public officials; to repeal the Audit and Exchequer Act [*Chapter 22:03*] and the State Loans and Guarantees Act [*Chapter 22:13*]; and to provide for matters connected with or incidental to the foregoing.

ENACTED by the President and Parliament of Zimbabwe.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Public Finance Management Act [*Chapter 22:19*].

⁵ Words referring to State loans and guarantees deleted from the long title by Act 4/2015 (Public Debt Management Act) with effect from 4th September 2015.

2 Interpretation ⁶

In this Act—

“Accountant-General” means the person appointed as such in terms of section 9;

“accounting authority” means the person or body referred to in section 41(2);

“accounting officer” means a person who is prescribed to be an accounting officer in terms of section 10;

“appropriate Minister”, in relation to—

(a) a public entity, means the Minister responsible for administering the Act by or in terms of which the public entity was established;

(b) a company, partnership or joint venture referred to in paragraph (b) or (d) of the definition of “public entity”, means—

(i) the Minister who, according to the memorandum and articles of association of the company, the partnership agreement or the foundational document of the joint venture, as the case may be, is the Minister who holds the shares or interests on behalf of the State; or

(ii) in the absence of any indication referred to in subparagraph (i), the Ministry responsible for the sector of the economy in which the company, partnership or joint venture carries on its main activities.

“Appropriation Bill” or “Appropriation Act” means a Bill referred to in section 28(3), or Act resulting from an Appropriation Bill or Supplementary Appropriation Bill;

“appropriate”, in relation to public moneys, means appropriate through an Appropriation Bill or Act;

“audit committee” means a committee established in terms of section 84;

“Auditor-General” means the person appointed in terms of section 309 of the Constitution; ⁷

“bond” means a document issued in pursuance of Part VI acknowledging a debt and binding the State to pay a specified sum at a stated time or on special conditions, and includes a debenture or other form of certificate of indebtedness;

“budgeted”, in relation to expenditure, means itemised in the estimates of expenditure and voted for in an Appropriation Act;

“capital budget”, in relation to a public entity, means a programme of capital expenditure which that public entity proposes to incur or to which it proposes to commit itself during its financial year, whether or not such capital expenditure is in respect of projects which will be completed during that financial year, together with proposals for the financing thereof;

“capital expenditure” means expenditure on any project involving the acquisition of capital assets such as land, buildings, plant, machinery, fixtures and fittings, whether such acquisition is additional to, an improvement of or in replacement of capital assets already

⁶ Definitions of the following terms were repealed by Act 4/2015 with effect from 4th September 2015: agent; cancelled; sinking fund; State loan; stock. This was a consequence of the repeal by the same Act of Part VI of this Act which formerly dealt with States Loans and Guarantees.

⁷ Definition inserted by Act 3/2016 with effect from 1st July 2016.

held and includes, in relation to a public entity, such other expenditure as the appropriate Minister and the Minister may designate prior to the approval or alteration of a capital budget as being capital expenditure;

“consolidate,” in relation to annual financial statements, means to combine the annual financial statements of every Ministry, reporting unit, public entity (other than a local authority) and constitutional entity;

“Consolidated Revenue Fund” means the Consolidated Revenue Fund referred to in section 302 of the Constitution;⁸

“constitutional entity” means—

- (a) the Judiciary; or
- (b) Parliament; or
- (c) ...⁹
- (d) the Public Service Commission; or
- (e) the Defence Forces Service Commission;¹⁰ or
- (f) the Police Service Commission; or
- (g) the Prisons and Correctional Service¹¹[sic]; or
- (h) the Zimbabwe Electoral Commission; or

any other body or commission appointed in terms of the Constitution¹²;

“designated corporate body” means any corporate body or company referred to in paragraph (a) or (b) of the definition of “public entity” which is designated or deemed to be designated in terms of section 39;

“director of finance” means a person responsible for the financial affairs of a Ministry who is directly accountable to the accounting officer of that Ministry;

“discount” means any reduction allowed on an amount of revenue due to the Consolidated Revenue Fund which is authorised by the Treasury;

“estimates of expenditure” means an official publication of the amounts itemised by Ministry or other heading that are sought by the Minister to be appropriated;

“financial institution” means—

- (a) the Reserve Bank; or
- (b) a building society registered under the Building Societies Act [Chapter 24:02]; or
- (c) a banking institution registered under the Banking Act [Chapter 24:20]; or

⁸ Definition as substituted by Act 3/2016 with effect from 1st July 2016.

⁹ Paragraph referring to the Public Protector repealed by Act 3/2016 with effect from 1st July 2016.

¹⁰ Paragraph as substituted by Act 3/2016 with effect from 1st July 2016.

¹¹ Paragraph as substituted by Act 3/2016 with effect from 1st July 2016. Note erroneous omission of word “Commission”.

¹² *Note by Veritas.* Examples of such other commissions are the Zimbabwe Anti-Corruption Commission, the Zimbabwe Media Commission, Zimbabwe Human Rights Commission, the Zimbabwe Gender Commission and the National Peace and Reconciliation Commission.

- (d) the People's Own Savings Bank established by the People's Own Savings Bank of Zimbabwe Act [Chapter 24:22];

“financial statements” means—

- (a) a statement of financial position; and
- (b) a statement of comprehensive income; and
- (c) a statement of cash-flow; and
- (d) audited or unaudited monthly, quarterly or annual financial accounts; and
- (e) any other statements that may be prescribed;

“financial year”, in relation to—

- (a) the State or the finances of Zimbabwe, means the period of twelve months ending on the 31st December in any year;
- (b) a public entity or statutory fund means the period specified under the Act or memorandum and articles of association or foundational document, as the case may be, by or in terms of which that public entity or statutory fund is established;
- (c) a fund established by or in terms of this Act, means the period of twelve months ending on the 31st December in any year or such other period as may be fixed by the Treasury;

“fruitless and wasteful expenditure” means expenditure which was made in vain and would have been avoided had reasonable care been taken;

“generally accepted accounting practice” means accounting practices and procedures that are consistent with this Act and are recognised by the accounting profession as appropriate for reporting financial information relating to a Ministry, reporting unit, constitutional entity, statutory fund or public entity;

“local authority” means—

- (a) a municipal council, town council, local board or rural district council; or
- (b) any other board, council or body which is declared by the Minister, by notice in the *Gazette*, to be a local authority for the purposes of this Act;

“Minister” means the Minister of Finance or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“officer” or “public officer” means any person—

- (a) in the employment of the State or a designated corporate body; or
- (b) whose salary is paid from a fund required to be audited by the Auditor-General other than the Consolidated Revenue Fund or the funds of a designated corporate body;

“outputs” means goods produced or services provided;

“prescribed” means prescribed by Treasury instructions in terms of section 78, or by regulations in terms of section 88 or 92, as may be appropriate;

“public entity” means—

- (a) any corporate body established by or in terms of any Act for special purposes;

- (b) any company in which the State has a controlling interest, whether by virtue of holding or controlling shares therein or by virtue of a right of appointment of members to the controlling body thereof or otherwise, and includes any company which is a subsidiary, as determined in accordance with section 143 of the Companies Act [Chapter 24:03], of such a body;
- (c) a local authority;
- (d) any partnership or joint venture between the State and any person and which is prescribed by the Minister for the purposes of the application of this Act to be a partnership or joint venture;

and unless otherwise specified, refers to a public entity prescribed for the purposes of Part V;

“public money” means—

- (a) revenues; and
- (b) all other money received and held, whether temporarily or otherwise, by an officer in his or her official capacity;

“public resources” means public money and State property;

“quarter” means a period of three months ending on the 31st March, 30th June, 30th September or 31st December in any financial year;

“receiver of revenue” means any person who is prescribed to be a receiver of revenue;

“reporting unit” means a division, department, agency or other unit of a Ministry that is independently required to report or account through the accounting officer of the Ministry concerned to the Secretary or the Auditor-General in terms of this Act:

Provided that if a constitutional entity is required to report or account to the accounting officer of any Ministry that constitutional entity shall be deemed to be a reporting unit of that Ministry;

“Reserve Bank” means the Reserve Bank of Zimbabwe established by the Reserve Bank of Zimbabwe Act [Chapter 22:10];

“revenues” means all taxes, fees and other income of the State from whatever source arising (not being moneys which are required by law to be paid into a separate fund), including the proceeds of all loans raised by the State which, in terms of section 101 of the Constitution, form part of the Consolidated Revenue Fund;

“registrar” means a person appointed in terms of section 70(b) for the registration of bonds and stock;

“Secretary” means the Secretary responsible for finance and Paymaster-General;

“specified public entity” means a local authority or joint venture referred to in paragraph (c) or (d) of the definition of “public entity” which is specified for the purposes of Part V;

“State property” means property which is owned by the State or property for the custody and care of which the State is responsible;

“statutory fund” means any fund established by or under any enactment not including—

- (a) a fund established under section 18; or

- (b) a fund established by or for the purposes of a public entity which does not contain public money;

“Treasury” means the Minister or any officer in the Treasury authorised by the Minister in writing to act on behalf of the Treasury;

“Treasury bill” means a Treasury bill issued in pursuance of Part VI;

“trustees”, in relation to a sinking fund, means trustees appointed in terms of section 75.

3 Object of Act

The object of this Act is to secure transparency, accountability and sound management of the revenues, expenditure, assets and liabilities of any entity specified in section 4(1).

4 Application of Act

(1) This Act, to the extent hereinafter indicated, shall apply to—

- (a) Ministries; and
- (b) designated corporate bodies and public entities; and
- (c) constitutional entities; and
- (d) statutory funds.

(2) To the extent that a provision of this Act applies to Parliament, any controlling and supervisory functions of Treasury in terms of that provision shall be performed by the Speaker of the National Assembly.

(3) In the event of any inconsistency between this Act and any other enactment, this Act shall prevail.

5 Amendments to this Act

Proposed legislation directly or indirectly amending this Act, or providing for the enactment of subordinate legislation that may conflict with this Act, may be introduced in Parliament—

- (a) by the Minister only; or
- (b) only after the Minister has been consulted on the contents of the proposed legislation.

PART II

CONTROL AND MANAGEMENT OF PUBLIC RESOURCES

6 Treasury to manage and control public resources

(1) The Treasury shall, subject to this Act and any other enactment—

- (a) manage the Consolidated Revenue Fund;
- (b) determine the manner in which public resources shall be accounted for; and
- (c) exercise a general direction and control over public resources.

(2) The Treasury may by notice to officers concerned issue instructions or directions in terms of section 78 in relation to matters involving—

- (a) the collection, receipt, custody, control, issue or expenditure of public money;
- (b) the acquisition, receipt, custody, control, issue, sale, delivery, transfer or disposal of any State property;

- (c) expenditure on any service involving a charge on the Consolidated Revenue Fund;
- (d) the operation of any statutory fund;
- (e) the acceptance, on behalf of the State, of any gift, donation, bequest or other grant of moneys or other property which is made subject to a condition or is likely to involve a charge on the Consolidated Revenue Fund;

and the accounting therefor.

(3) Instructions or directions issued in terms of subsection (2) may require an accounting officer or receiver of revenue to issue written departmental instructions to the officers in his or her Ministry or department relating to any matter referred to in subsection (2).

(4) Section 21 of the Interpretation Act [Chapter 1:01] shall apply, with the necessary changes, in relation to the power conferred on the Treasury by subsection (2) to issue instructions or directions.

7 Duties and Powers of Minister

(1) It shall be the duty of the Minister—

- (a) to develop and implement a macroeconomic and fiscal policy for Zimbabwe and he or she shall, for that purpose—
 - (i) supervise and monitor the finances of Zimbabwe; and
 - (ii) coordinate international and inter-governmental financial and fiscal relations;
- (b) to advise the Government on the allocation of public resources as between Ministries, reporting units, public entities, constitutional entities and any programmes of Government independent of the foregoing.

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

- (a) full and transparent accounts are from time to time and not less than annually made to Parliament indicating the current and projected state of the economy, the public resources of Zimbabwe and the fiscal policy of the Government;
- (b) systems are established throughout Government for planning, allocating and budgeting for the use of public resources and approving all requests for the issue of public moneys prior to their inclusion in any estimates of expenditure for submission to Parliament in accordance with the provisions of this Act; and
- (c) the control of the National Assembly over such public resources is maintained and that transparent systems are established and maintained which—
 - (i) provide a full account to the National Assembly for the use of public resources;
 - (ii) ensure the exercise of regularity and propriety in the handling and expenditure of public resources.

(3) For the purpose of effectively supervising the public resources of Zimbabwe, the Minister shall, subject to this Act and any other enactment, be responsible for the management of the Consolidated Revenue Fund and the supervision, control and direction of all matters relating to the public resources of Zimbabwe.

8 Secretary and Paymaster-General

(1) The Secretary shall be responsible to the Minister for ensuring the effective implementation of this Act.

(2) For the purposes of subsection (1), the Secretary may be consulted by accounting officers on any matter concerning the application of this Act, and he or she shall promptly appraise the Minister concerning any defect in this Act which might result in a diminution of control over public resources, and he or she may, subject to this Act, give any directions and instructions not inconsistent with this Act which he or she may consider necessary for the safety, advantage, economy and efficient use of those public resources.

(3) The Secretary shall ensure that—

- (a) there is established and operated an effective system for the collection of information to ensure timely and effective preparation of the annual estimates of expenditure for consideration and approval by the Minister and submission to Parliament; and
- (b) such estimates—
 - (i) are prepared in conjunction with any general or specific directions of the Minister; and
 - (ii) reflect, as can best be ascertained at the time, good value for money and the effective use of public resources.

(4) The Secretary may, for the purpose of subsection (3)—

- (a) in writing, from time to time require an accounting officer or any entity referred to in section 4(1)(b), (c) or (d) to supply such information as he or she considers necessary for the purposes of section 7, and may specify the date by which and the manner in which the information required is to be supplied:

Provided that the Secretary shall, in specifying the date by which any information is to be supplied, allow a reasonable time for it to be supplied having regard to the nature of the information being required;

- (b) in relation to every Ministry and the entities referred to in paragraph (a) inspect all offices of the Ministry and entities in question and be given access to them at all reasonable times of the day, and be given all available information he or she may require with regard to public resources and any records relating to them.

(5) The Secretary shall also be the Paymaster-General who shall, in that capacity and subject to the directions of the Treasury, control the issue of public money to Ministries and departments of the Government, and perform such other functions as the Minister may prescribe.

9 Accountant-General

(1) There shall be an Accountant-General answerable to the Secretary, whose office shall form part of the Public Service, and who shall be appointed by the President on the recommendation of the Public Service Commission for a term of five years and on such other terms and such conditions as shall be specified in the appointment.

(2) The Accountant-General shall be—

- (a) a senior professional accountant or auditor; and
- (b) registered as a Public Accountant or Auditor in terms of the Public Accountants and Auditors Act [Chapter 27:12] for a period of not less than five years.

(3) The Accountant-General shall be responsible to the Secretary for the compilation and management of the public accounts and the custody and safety of public resources, and for that purpose the Accountant-General may, in the manner prescribed and with the prior consent of the Secretary, give such instructions of a general or specific character to accounting officers as may be necessary for the effectual implementation of this Act.

(4) Without prejudice to the generality of subsection (3), the Accountant-General shall—

- (a) specify for every Ministry, reporting unit or statutory fund, the basis of the accounting system to be adopted and the classification system to be used, and ensure that a proper system of accounts is established in each of them, and that all money received and paid by the Government is brought promptly and properly to account; and
- (b) refuse payment on any voucher in support of a charge on the Consolidated Revenue Fund which is defective in any way or which contravenes this Act or any other enactment or instructions properly made or given in pursuance of the Constitution, this Act or any other enactment for the management of public money, or that is in any other way unacceptable:

Provided that the Accountant-General may admit or allow any payment against a defective, lost or destroyed voucher if satisfied with the explanation given to him or her by an officer; and

- (c) report in writing any apparent defect in the control of revenue, expenditure, cash, stores and other public resources in the care of any Ministry, reporting unit or statutory fund and any breach or non-observance of regulations, directions or instructions pertinent to such public resources, which may come or be brought to his or her attention; and
- (d) ensure, in so far as is practicable, that adequate provisions exist for the safe custody of public moneys, securities, negotiable instruments and financial statements; and
- (e) take precautions, by the maintenance of efficient checks, including inspections against the occurrence of fraud, embezzlement and negligence in connection with public resources.

10 Accounting officers

(1) The Minister on the advice of the Secretary shall prescribe an accounting officer 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 money received, held or disposed of, by or on account of any Ministry, reporting unit, public entity or constitutional entity for which the vote provides.

(2) An accounting officer may define in writing the extent to which the powers and duties conferred and imposed on him or her may be exercised or performed on his or her behalf by any officer under his or her control, and may give such directions as may be necessary to ensure the proper exercise or performance of those powers and duties:

Provided that such delegation shall not derogate from the personal accountability of the accounting officer.

(3) Every accounting officer shall comply with 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—

- (a) public resources; and

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

(4)¹³ Every accounting officer, with regard to public entities and statutory funds for which his or her Ministry is responsible, shall —

- (a) ensure that each such public entity or statutory fund has systems in place for planning, allocating, budgeting and reporting on the use of public resources and that public resources are safeguarded against loss; and
- (b) review the recurrent and capital budgets of each such public entity or statutory fund and make recommendations to the appropriate Minister and recommend to the Minister whether the budgets should be varied, approved or not to be approved;
- (c) have power to order an investigation to be conducted into the affairs of each such public entity or statutory fund;
- (d) have power to call upon any accounting authority of each such entity or fund to provide an explanation on an issue affecting the use of public resources;
- (e) have power to give directions which the accounting officer thinks necessary for the efficient running of each such entity or fund.

11 Powers of Treasury in relation to public resources

(1) Notwithstanding anything to the contrary contained in any other enactment, the Treasury may—

- (a) write off any losses or deficiencies of public money or the value of any lost, deficient, condemned, unserviceable or obsolete State property; and
- (b) write off any public resources payable to or receivable by the State or to or by an officer for the benefit of a fund established in terms of section 18 which in the opinion of the Treasury is irrecoverable; and
- (c) write off any public resources payable to or receivable by the State or to or by an officer for the benefit of a fund established in terms of section 18 if the difficulties, disadvantages or cost of collection thereof in the opinion of the Treasury outweighs the value thereof; and
- (d) waive or remit any claim by the State against any person or another government or agency of another government; and
- (e) on such terms and conditions as the Treasury may determine, invest or authorise the investment of any public money held in an account or fund; and
- (f) in compliance with section 16(3), make a refund of any revenues or public resources erroneously brought to account as revenues.

(2) Where any public resources have been written off in terms of subsection (1)(b) or (c) during any financial year, the Minister shall lay before the National Assembly, within thirty days before or not later than thirty days after the end of that financial year, a statement of the public resources so written off.

¹³ Subsection (4) added by Act 6/2016 with effect from 28th October 2016.

(3) Any investment made in terms of subsection (1)(e) shall, when it is realised, be repaid to the fund or account from which the money was withdrawn for the purpose of making such investment.

(4) Any refund made in terms of subsection (1)(f) shall be paid out of the Consolidated Revenue Fund which is hereby appropriated to the purpose.

12 Loss or destruction of or damage to State property

(1) If it comes to the notice of an accounting officer that there is any deficiency in, or destruction of or damage to, State property, he or she shall cause an investigation to be held into the circumstances of such deficiency, destruction or damage, as the case may be.

(2) If after an investigation in terms of subsection (1) the accounting officer considers that—

(a) any person is responsible for the deficiency, destruction or damage, being a person who is or was in the employment of the State at the time of such deficiency, destruction or damage, as the case may be; and

(b) a satisfactory explanation in respect of the matter has not been furnished;

he or she shall report the matter to the Secretary with a recommendation as to the action that he or she considers should be taken to recover the cost of the replacement of the property concerned, if it has been lost or destroyed, or the cost of the repairs thereto, if it has been damaged, as the case may be, or any portion of such cost.

(3) On receipt of a report in terms of subsection (2) and after considering the recommendation of the accounting officer and consulting such other bodies or persons as he or she considers should be consulted, the Secretary may make an order against the person referred to in subsection (2) requiring him or her to pay to the State an amount equal to the cost of the replacement of the property concerned, if it has been lost or destroyed, or the cost of repairs thereto, if it has been damaged, as the case may be, or such portion of that cost as the Secretary considers to be equitable in the circumstances:

Provided that the Secretary may, before making an order in terms of this subsection, remit the matter to the accounting officer for further investigation or consideration.

(4) The Secretary shall withdraw an order made in terms of subsection (3) if it appears to him or her that the order should not have been made.

(5) The Secretary may, by notice in a statutory instrument, delegate the powers conferred on him or her by subsections (3) and (4) to an accounting officer and in that case—

(a) it shall not be necessary for a report to be made in terms of subsection (2) and the powers conferred by subsection (3) may be exercised after the investigation in terms of subsection (1);

(b) the references in subsections (3) and (4) to the Secretary shall be read as references to the accounting officer concerned.

(6) For the purposes of this section, property shall be deemed to have been destroyed where the cost of repairing the damage to the property is estimated to be in excess of the cost of replacing the property.

(7) Any person who is aggrieved by an order made against him or her in terms of subsection (3) may, within thirty days after he or she has been notified thereof or such further period as the appropriate Minister in special circumstances may allow, appeal in writing to the Minister against such surcharge, giving reasons why he or she feels that the order should be revoked.

(8) An appeal in terms of subsection (7) shall be lodged with the appropriate Minister who, before forwarding it to the Minister, shall submit it to the Auditor-General for any comments he or she may wish to make thereon.

(9) After considering an appeal in terms of subsection (7) the Minister shall—

- (a) reject the appeal; or
- (b) make an order directing that the person concerned be released wholly or in part from the original order;

as may appear to him or her to be just and reasonable.

13 Financial responsibilities of Ministers

(1) The management and disbursement of public resources allocated to a Ministry by any Appropriation Act or other enactment shall be undertaken by the accounting officer in consultation with the appropriate Minister.

(2) In performing his or her duties every Minister shall, in so far as the performance of these duties impinge on the management and disbursement of public resources, take into consideration the monthly reports submitted to him or her in terms of Part IV.

(3) An appropriate Minister shall endeavour to ensure that any public entity for which he or she is responsible complies with this Act.

14 Ministerial directives having financial implications

(1) If—

- (a) an accounting officer is directed by a Minister or Deputy Minister to order or commit a payment which such accounting officer believes he or she is not authorised to make in terms of this Act or any enactment; or
- (b) a receiver of revenue is directed by a Minister or Deputy Minister—
 - (i) not to collect any public money which such receiver of revenue believes he or she should collect; or
 - (ii) to deal with public money in a manner in which the receiver of revenue believes he or she is not authorised to deal with in terms of this Act or any enactment;

he or she shall submit in writing to the Minister or Deputy Minister, as the case may be, his or her objections and reasons therefor.

(2) If, after receiving any objections and reasons under subsection (1), the Minister or Deputy Minister instructs the accounting officer or receiver of revenue, as the case may be, in writing to do anything referred to in subsection (1)(a) or (b), the accounting officer or receiver of revenue shall comply with the instruction and shall immediately submit a written report thereon to the Minister, the Accountant-General, the Auditor-General and the Secretary to Cabinet.

(3) If an officer is directed by a superior officer or by a Minister or Deputy Minister—

- (a) to order or commit a payment which the officer believes he or she is not authorised to make in terms of this Act or any enactment; or
- (b) not to collect any public moneys which the officer believes he or she should collect; or
- (c) to deal with public money in a manner which the officer believes he or she is not authorised to deal with in terms of this Act or any enactment;

the officer shall submit to his or her accounting officer in writing his or her objections and reasons therefor.

(4) If, after receiving any objections and reasons under subsection (3), the accounting officer or a Minister or Deputy Minister instructs the officer in writing to do anything referred to in subsection (3)(a), (b) or (c), the officer shall comply with such instruction and shall immediately submit a written report thereon to—

- (a) the Accountant-General; and
- (b) the Auditor-General; and
- (c) where the direction that gave rise to the objections was given by a Minister or Deputy Minister, to the Secretary to the Cabinet;

and shall submit with the report a copy of the instruction concerned.

15 Reports to be laid before National Assembly

(1) Every Minister shall lay before the National Assembly—

- (a) the annual report and financial statements referred to in Part IV and the audit report on those statements, within one month after the accounting officer for the public entity or constitutional entity for which the Minister is responsible, receives the report; and
- (b) the finding of a disciplinary authority, and any sanctions imposed by such authority, which presided over a case of financial misconduct against an accounting officer or accounting authority or other person in terms of section 87.

(2) If a Minister fails to lay before the National Assembly, in accordance with subsection (1)(a), the annual report and financial statements of the public entity or constitutional entity, and the audit report on those statements, within six months after the end of the financial year to which those statements relate—

- (a) the Speaker of the National Assembly shall require the Minister concerned to give a written explanation to the National Assembly setting out the reasons why they were not laid before it; and
- (b) the Auditor-General may issue a special report on the delay.

16 Money to be paid into Consolidated Revenue Fund

(1) In subsection (5)—

“small-scale commercial land” has the meaning given to it by section 2(1) of the Rural District Councils Act [Chapter 29:13].

(2) Subject to this section and section 18(9), all revenues shall be paid into the Consolidated Revenue Fund.

(3) A receiver of revenue may, if authorised by the Treasury and subject to such conditions as may be fixed by the Treasury, withhold from the Consolidated Revenue Fund revenues which have been collected and shall retain revenues so withheld in a deposit account for the purpose of making refunds of revenues or money erroneously brought to account as revenues.

(4) Public moneys that are not revenues shall, if so prescribed, be paid into the Consolidated Revenue Fund with effect from such date as may be prescribed.

(5) Revenues received from the lease of a business or residential site in small-scale commercial land shall be paid to the local authority in whose area that business or residential site is situated.

17 Control of expenditures and issues from Consolidated Revenue Fund

(1) Notwithstanding anything to the contrary contained in any other enactment—

- (a) no payment involving a charge upon the Consolidated Revenue Fund shall be made without the written authority of the Treasury;
- (b) no expenditure of public moneys shall be incurred on any service unless provision therefor has been made by or in terms of this Act or any other enactment.

(2) The Treasury may authorise the issue from the Consolidated Revenue Fund of money appropriated by this Act or any other enactment to any specific purpose—

- (a) not exceeding the amount so appropriated; or
- (b) where the appropriation is made for a specific purpose without specifying the amount so appropriated, the amount estimated by the Treasury to be required for such purpose.

(3) The Treasury may authorise the issue from the Consolidated Revenue Fund of—

- (a) any amount which it considers appropriate to withdraw from the Consolidated Revenue Fund for investments otherwise than through the accounts established in terms of section 22(1) which form part of the Consolidated Revenue Fund;
- (b) any public moneys, that are not revenues, which have been or may be paid into the Consolidated Revenue Fund for any purpose.

(4) Notwithstanding any authority issued in terms of subsection (2) or (3), the Treasury may limit or suspend any expenditure authorised by such authority if, in its opinion, such action is in the public interest.

(5) Whenever any money has been appropriated under a vote of Parliament for a particular purpose, the Treasury may authorise the application of an expected saving on that vote to meet an excess of expenditure on any existing subhead of that vote or expenditure on a new subhead of that vote.

(6) Where, prior to the closing of the accounts of a financial year which relate to money appropriated by any enactment, it is found that an amount has been improperly charged against such appropriation, that amount shall be disallowed and the expenditure recorded against that appropriation in that financial year shall be reduced by the amount so disallowed.

(7) Any expenditure disallowed in terms of subsection (6) shall be dealt with as an advance in terms of section 25 until such time as the amount has been recovered or the charge has been otherwise adjusted.

(8) Where provision is made in an Appropriation Act and in an authority issued in terms of this Act for the incurring of expenditure on any service, such provision shall lapse and cease to have effect at the close of the financial year to which that Appropriation Act relates and, save as is otherwise provided in this Act, the unexpended balance of any money withdrawn from the Consolidated Revenue Fund shall be re-deposited in the Consolidated Revenue Fund:

Provided that where any amount appropriated by any provision of an Appropriation Act is specified in the Estimates of Expenditure to which such appropriation relates as being required

for a grant, then, unless the Treasury otherwise directs, the provisions of this subsection shall not apply in respect of that amount or in respect of the effect of that provision.

18 Establishment of other public funds

(1) Whenever—

- (a) money is appropriated by Act of Parliament for the establishment of a fund for a particular purpose; or
- (b) in the opinion of the Minister, it is necessary or desirable for the purpose of facilitating the accounting for public resources that a separate fund be established;

the Treasury shall establish a fund for that purpose.

(2) On the establishment of a fund in terms of subsection (1), the Treasury shall draw up a constitution for the regulation of the affairs of that fund, which constitution—

- (a) shall specify the objects of the fund and the money which shall be payable into that fund; and
- (b) shall provide for the payments which may be made out of that fund; and
- (c) may provide for such other matters as are considered to be necessary or desirable.

(3) A constitution drawn up in terms of subsection (2) may be amended from time to time or replaced as the Treasury thinks fit.

(4) Where a constitution has been drawn up in terms of subsection (2) or amended or replaced in terms of subsection (3) the Minister shall lay a copy of that constitution or the amendment to or replacement of that constitution, as the case may be, before the National Assembly on one of the ten days on which the National Assembly sits next after that constitution was drawn up or after that amendment or replacement of the constitution was drawn up, as the case may be.

(5) Where a fund has been established before the date of commencement of this Act, and is operating on that date in accordance with a constitution drawn up by or with the approval of the Treasury—

- (a) that fund shall be deemed to have been established in terms of subsection (1); and
- (b) that constitution shall be deemed to be a constitution drawn up in terms of subsection (2) but it shall not be necessary to lay a copy thereof before the National Assembly in terms of subsection (4); and
- (c) if that constitution purported to confer on the fund powers which may only be exercised by a corporate body and the Minister has, by notice in the *Gazette*, declared that the fund concerned shall be a corporate body—
 - (i) that fund shall be regarded as a body corporate with such powers as may be conferred upon it by or in terms of its constitution, and shall be deemed to have become a body corporate with effect from the date on which the fund was established; and
 - (ii) any assets or liabilities of that fund shall not be regarded for any purposes as assets or liabilities of the State; and
 - (iii) any employee of that fund shall not be regarded for any purposes as an employee of the State; and

- (iv) the provisions of subsection (3), the proviso to subsection (9) and subsection (10) shall not apply in relation to the constitution of that fund but that constitution shall not be amended without the approval of the Treasury.

(6) Subject to subsection (1), no fund shall be established by an officer in the employment of the State for the deposit of public moneys unless the establishment of that fund is authorised by or in terms of this Act or any other enactment.

(7) Where a fund administered by an officer in the employment of the State has been established in terms of this Act or any other enactment—

- (a) there shall be paid into and credited to that fund any moneys which are—
 - (i) appropriated by Act of Parliament for the purposes of that fund; or
 - (ii) required by any enactment or, in the case of a fund established in terms of subsection (1), by the constitution thereof, to be paid into that fund;
- (b) there may, subject to the approval of the Treasury, be paid into and credited to that fund any money made available from other sources for the purposes of that fund.

(8) The Minister may, on such terms and conditions as he or she may fix, make loans or advances for a period not exceeding three hundred and sixty days to any statutory fund or fund referred to in this section to enable the functions that should be carried out by means of the use of the money in that fund to be carried out:

Provided that money loaned or advanced in terms of this subsection shall not be used for capital expenditure unless the Minister has approved such use.

(9) Notwithstanding anything to the contrary contained in this Act, the receipts, earnings or accruals of a statutory fund or fund referred to in this section shall be paid into and form part of that fund:

Provided that, subject to any enactment by or in terms of which the fund is established or, in the case of a fund established in terms of subsection (1), the provisions of the constitution thereof, the Treasury may at any time direct that any moneys in such fund shall be paid into the Consolidated Revenue Fund.

(10) Subject to any enactment by or in terms of which a fund is established or, in the case of a fund established in terms of subsection (1), the provisions of the constitution thereof, the Treasury may wind up that fund and shall transfer any moneys in that fund to the Consolidated Revenue Fund.

(11) Any loan made in terms of subsection (8) shall be paid out of the Consolidated Revenue Fund which is hereby appropriated to the purpose.

19 Anticipated or unauthorised excess expenditure

(1) If in respect of any financial year it is found that the amount appropriated by the Appropriation Act to any purpose 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 sums required shall be laid before the National Assembly and, when such estimates have been approved by the House, a supplementary Appropriation Bill shall be introduced into the House providing for the issue of such sums from the Consolidated Revenue Fund and the appropriation of those sums, under separate votes for the several heads of expenditure approved, to the purposes specified therein.

(2) If at the close of accounts for any financial year it is found that money has been expended—

- (a) on any expenditure vote in excess of the amount appropriated for it by an Appropriation Act; or
- (b) for a purpose for which no money has 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;

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 laid before the National Assembly.

(3) Where the National Assembly, by means of a motion, allows any excess or any amount expended but not appropriated to stand charged to the Consolidated Revenue Fund, the sum required to meet such excess or such amount as shall be allowed, shall be included in a Financial Adjustments Bill introduced to the National Assembly in accordance with section 103(5) of the Constitution.

20 Investment of money in Consolidated Revenue Fund

(1) Any sums standing to the credit of the Consolidated Revenue Fund may, subject to compliance with authorised procedures, be—

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

(2) For the avoidance of doubt it is declared that, the investment of the sums referred to in subsection (1) shall not constitute a withdrawal from the Consolidated Revenue Fund.

21 Money raised or received to exclude trust funds

(1) In this section “trustee” means an employee of the State appointed as a trustee of any money or property by operation of the law or under the terms of a will or trust settlement.

(2) For the avoidance of doubt it is declared that any reference to money raised or received by the State does not include money held in trust by or under the control of any court, officer of a court, a trustee, the Attorney-General or any receiver of revenue or any sums of money held in trust by any other officer for purposes other than the purposes of the State.

22 Establishment of banking accounts

(1) The Treasury shall establish accounts to be known as the Consolidated Revenue Fund account and one or more sub-accounts of the Consolidated Revenue Fund, for the deposit of money forming part of the Consolidated Revenue Fund, and may, within the Consolidated Revenue Fund account and sub-accounts of the Consolidated Revenue Fund, establish separate accounts for the investment of surplus funds, which accounts shall be part of the Consolidated Revenue Fund.

(2) The Treasury may establish with a financial institution or any similar body or authorise the establishment therewith, of such other accounts as it may deem necessary or desirable for the purposes of controlling or administering public money.

(3) No account shall be opened with a financial institution or other such body, whether within or outside Zimbabwe, for the deposit of public moneys otherwise than in terms of this Act, unless the written authority of the Accountant-General has been obtained therefor.

(4) Where an account has been opened with a financial institution or other body in terms of this section, the officer responsible for the administration of that account shall not incur any overdraft on that account otherwise than in accordance with the written authority of the Accountant-General.

23 Accountant-General's warrants

(1) The Accountant-General shall, subject to this Act, by warrant under his or her hand, authorise accounting officers to incur expenditure up to the limits and for the purposes and subject to the conditions contained therein.

(2) No warrant shall be issued by the Accountant-General unless the sum and purpose for which it is issued has been included in a warrant issued by the Paymaster-General, and every warrant 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 from or accept any charge in his or her accounts, and an accounting officer may not incur any commitment or expenditure, unless and until authorised by warrant to do so.

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

24 Special warrants for issues to meet unforeseen expenditure

(1) Subject to this section, the President may, by special warrant under his or her hand directed to the Minister, authorise the issue from the Consolidated Revenue Fund in advance of appropriation by Act of Parliament of such sums as may be required for the purpose of meeting expenditure which—

- (a) is unforeseen or has not been provided for or has been inadequately provided for by any enactment; and
- (b) in the opinion of the President cannot, without detriment to the public interest, be postponed.

(2) The total amount of issues authorised under subsection (1) shall not at any one time exceed one and a half¹⁴ *per centum* of the total amount appropriated in the last main Appropriation Act.

(3) An issue authorised in terms of subsection (1) shall be submitted for appropriation by Act of Parliament on one of the fourteen days on which the National Assembly sits next after such issue has been authorised.

25 Advances by Treasury

(1) Subject to this section, the Treasury may make advances to or payments on account of—

- (a) another government;
- (b) a trust or other account or fund administered by the State, a Minister or an officer;
- (c) a public entity or person;

¹⁴ Figure reduced from "five" to "one and a half" by Act 3/2016 with effect from 1st July 2016.

- (d) any constitutional entity where—
- (i) the account or fund to which the cost is to be charged cannot immediately be ascertained; or
 - (ii) the Treasury has directed that payment in respect of that entity shall be made forthwith on receipt of an account relating thereto.

(2) The aggregate amount of the advances or payments made in terms of subsection (1) which are outstanding at any one time shall not exceed—

- (a) such amount as may be prescribed by the Minister; or
- (b) five per centum of the total amount appropriated in the last main Appropriation Act;

whichever is the lesser¹⁵:

Provided that the aggregate amount ascertained in terms of this subsection shall not include any advances or payments which have been misappropriated.

(3) Save as is provided in subsection (1)(d), no advance or payment may be made in terms of subsection (1) to meet expenditure for which—

- (a) provision is voted in an Appropriation Act; or
- (b) a special warrant in terms of section 24 may or should be issued.

(4) The Consolidated Revenue Fund is hereby appropriated for the purpose of any advance or payment in terms of subsection (1).

26 Issue of money to carry on government at the beginning of each financial year

(1) Subject to this section, the President may in any financial year authorise in advance of the main Appropriation Act for that year the issue from the Consolidated Revenue Fund of such money as may be necessary to carry on the services of the Government during the period commencing with the beginning of that financial year and expiring four months thereafter or on the date of commencement of the main Appropriation Act, whichever is the earlier.

(2) Immediately the main Appropriation Act comes into operation after any issue authorised in terms of subsection (1), the issue so authorised shall be deemed to have been made for the purposes of such Act and shall be accounted for in accordance with the provisions thereof.

(3) The aggregate of all sums authorised to be issued from the Consolidated Revenue Fund in terms of subsection (1) shall not exceed one-third of the sums included in the estimates of expenditure for the preceding financial year that have been laid before the National Assembly.

27 Issue of money to carry on government after dissolution of Parliament

(1) Subject to subsection (2), if at any time Parliament has been dissolved before any provision or sufficient provision has been made in terms of Chapter XVII of the Constitution or this Act for the carrying on of the Government of Zimbabwe, the President may authorise the issue of money from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period beginning on the

¹⁵ Word “lesser” substituted for “greater” by Act 3/2016 with effect from 1st July 2016.

dissolution of Parliament and expiring thirty days after the day on which Parliament first meets after that dissolution.¹⁶

(2) An issue authorised in terms of subsection (1) shall be submitted for appropriation by the National Assembly in the first Appropriation Act after the issue was authorised and shall be accounted for in accordance with that Appropriation Act.

PART III NATIONAL BUDGET

28 Submission to Parliament of annual estimates of revenue and expenditure

(1) The Minister shall lay before the National Assembly the annual budget for the forthcoming financial year,¹⁷ not later than thirty days after the start of the forthcoming financial year, stating—

- (a) estimates of the revenues, expenditure and financing requirements for the Government of Zimbabwe for that year;
- (b) for each vote of expenditure a statement of the classes of outputs expected to be provided from that vote during the year and the performance criteria to be met in providing those outputs.

(2) Notwithstanding subsection (1), if Parliament is dissolved less than three months before the commencement of any financial year, the estimates for that year may be laid before the National Assembly within thirty days after the National Assembly first meets following the dissolution.¹⁸

(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 National Assembly to provide for the issue from the Consolidated Revenue Fund of the sums necessary to meet the expenditure and the appropriation of those sums to the purposes specified therein.

(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 laid before the National Assembly and the votes of expenditure shall be included in a Supplementary Appropriation Bill to be introduced to the National Assembly to provide for the appropriation of those sums.

(5) The Minister may, through the appropriate portfolio committee of Parliament, seek the views of Parliament in the preparation and formulation of the national annual budget, for which purpose the appropriate portfolio committee shall conduct public hearings to elicit the opinions of as many stakeholders in the national annual budget as possible.

¹⁶ Subsection (1) as substituted by Act 3/2016 with effect from 1st July 2016 (only change of substance being reduction of “three months” to “thirty days”).

¹⁷ Words “not earlier than thirty days before or” deleted by Act 3/2016 with effect from 1st July 2016.

¹⁸ Subsection as amended by Act 3/2016 with effect from 1st July 2016.

29 Minister may authorise advances

The Minister may, by warrant under his or her hand addressed to the Accountant-General, authorise the issue of advances from the Consolidated Revenue 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.

30 Withholding of appropriated funds

The Treasury—

- (a) may withhold from a Ministry any remaining funds appropriated for a specific function if that function is transferred to another Ministry or any other institution; and
- (b) shall allocate those remaining funds to that other Ministry or institution.

31 Duration of appropriation and warrants

Every appropriation by Parliament of public money 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 Revenue Fund shall be repaid to the Consolidated Revenue Fund.

PART IV

FINANCIAL STATEMENTS

32 Preparation and reporting of annual financial statements by Ministries

(1) Every director of finance shall prepare or cause to be prepared the annual financial statements of the Ministry concerned and shall submit such statements to the accounting officer in that Ministry and to the Accountant-General within thirty days of the year concerned.

(2) The Auditor-General or any independent auditor shall audit the annual financial statements and return the audited statements to the accounting officer within sixty days of receipt thereof.

(3) The annual report and audited financial statements shall—

- (a) contain a report on the activities, outputs and outcomes of the Ministry;
- (b) fairly present the state of affairs of the Ministry, reporting unit, constitutional entity or public entity for which the Ministry is responsible;
- (c) include, where appropriate—
 - (i) particulars relating to losses arising through criminal activities, and criminal and disciplinary action taken;
 - (ii) instances of unauthorised expenditure;
 - (iii) instances of irregular expenditure;
 - (iv) instances of fruitless and wasteful expenditure;
 - (v) recoveries and write-offs of public resources;
 - (vi) any other matters as may be prescribed.

33 Preparation and reporting of quarterly financial statements

(1) Every director of finance shall prepare or cause to be prepared quarterly financial statements of the Ministry concerned and shall submit such statements to the accounting officer in that Ministry and the Accountant-General, within fourteen days of the end of the respective quarter.

(2) Every accounting officer shall submit quarterly financial statements and reports for submission by the Minister to the appropriate Parliamentary Portfolio Committee, within sixty days of the end of the respective quarter.

(3) The Accountant-General shall prepare consolidated quarterly financial statements and shall submit such statements to the Secretary, for presentation by the Minister to the National Assembly and to the appropriate Parliamentary Portfolio Committee, within sixty days of the end of the respective quarter.

34 Preparation and reporting of monthly financial statements

(1) Every director of finance shall prepare or cause to be prepared monthly financial statements of the Ministry concerned and shall submit such statements to the accounting officer in that Ministry and to the Accountant-General, within fourteen days of the end of the respective month.

(2) Every accounting officer shall submit monthly financial statements and reports for submission by the Minister to the appropriate Parliamentary Portfolio Committee, within thirty days of the respective month.

(3) The Accountant-General shall prepare consolidated monthly financial statements and shall submit such statements to the Secretary, who shall publish or cause to be published such statements in the *Gazette*, within thirty days of the next succeeding month.

35 Consolidation of annual financial statements

(1) Unless the Accountant-General otherwise directs, all appropriation accounts shall be closed and the final returns submitted to the Treasury within one month after the end of the financial year.

(2) Every accounting officer or receiver of revenue shall prepare and transmit to the Accountant-General, within two months after the end of each financial year in such form as may be required by the Accountant-General and with such explanatory notes as the accounting officer or receiver of revenue may consider necessary, statements showing receipts and disbursements of public money, not being public money which was paid into a separate trust, fund or account (for which special provisions are made under subsection (4)).

(3) Within three months after the end of each financial year the Accountant-General shall prepare and transmit to the Auditor-General, in such detail as the Accountant-General, after consultation with the Auditor-General, considers necessary, statements of accounts showing the transactions of the Consolidated Revenue Fund and the financial position of the State on the last day of that financial year.

(4) Save as otherwise provided by this Act or any other enactment, an officer administering a trust, fund or account shall, within three months after the end of each financial year, prepare and transmit to the Accountant-General financial accounts, statements or returns in relation to that trust, fund or account during that financial year in such form as the Accountant-General may direct.

(5) If in the opinion of the responsible Minister it would not be in the public interest to publish any account, statement or return which is required to be transmitted to the Accountant-General in terms of subsection (4), the accounting officer shall, on the instructions of the Minister given in writing, endorse the account, statement or return accordingly.

(6) Every accounting officer of a Ministry shall—

- (a) keep or cause to be kept proper records of account; and
- (b) submit financial statements within sixty days of the end of the financial year to—
 - (i) the Auditor-General for audit; and
 - (ii) the Accountant-General for consolidation.

(7) Every accounting officer of a constitutional entity or public entity shall submit to the Minister, the appropriate Minister and to the Accountant-General, within one hundred and twenty days of the end of the financial year—

- (a) an annual report on the activities of the entity;
- (b) audited financial statements of the entity;
- (c) the audit report on those statements.

(8) Every accounting officer referred to in subsections (6) and (7) shall—

- (a) submit to the National Assembly the annual report and the audited financial statements relating to the operations of the constitutional entity or public entity, as the case may be, within thirty days of the completion of the audit;
- (b) submit to the Minister, the appropriate Minister, the Accountant-General, the National Assembly and the Auditor-General, any other reports that may be required in terms of this Act.

(9) Every accounting officer of a Ministry shall, within ninety days of the end of the financial year, submit to the respective Parliamentary Portfolio Committee the unaudited annual financial statements of his or her respective Ministry.

(10) The Minister shall, within ninety days of the end of the financial year, submit to the National Assembly the unaudited consolidated annual financial statements.

(11) Every appropriate Minister shall within thirty days of the tabling of the Report of the Auditor-General thereon before the National Assembly, submit to the respective Parliamentary Portfolio Committee the audited annual financial statements of his or her respective Ministry.

(12) The Minister shall submit to the National Assembly, audited consolidated annual financial statements within one hundred and eighty days of the end of the financial year.

36 Content of financial statements

(1) Every financial statement shall state the following amounts and compare such amounts in each case with the corresponding budgeted amount in respect of the relevant period—

- (a) the actual revenue for the relevant period and for the financial period concerned to the end of that period;
- (b) the actual expenditure for each vote, distinguishing between capital and recurrent expenditure for that period.

(2) The Accountant-General may determine—

- (a) the format of the statement of revenue and expenditure and the annual report; and

- (b) any other details that the financial statement may contain.

37 Financial statements and budgets to comply with generally accepted accounting practice

The financial statements required to be prepared in terms of this Act shall be prepared in accordance with generally accepted accounting practice.

38 Publishing of reports on financial statements

(1) Within thirty days after the end of each month, the Treasury shall publish in the *Gazette* a statement of actual revenue and expenditure with regard to the Consolidated Revenue Fund.

(2) After the end of a prescribed period, but at least quarterly, every Ministry shall submit to the Treasury a statement of revenue and expenditure with regard to the Consolidated Revenue Fund, for publication in the *Gazette* within thirty days after the end of each prescribed period.

(3) The statement shall specify the following amounts and compare those amounts in each instance with the corresponding budgeted amounts for the relevant financial year—

- (a) the actual revenue for the relevant period, and for the financial year up to the end of that period; and
- (b) the actual expenditure for each vote, distinguishing between capital and recurrent expenditure, for the relevant period, and for the financial year up to the end of that period; and
- (c) actual borrowing for the relevant period, and for the financial year up to the end of that period.

(4) The Treasury may determine—

- (a) the format of the statement of revenue and expenditure and the annual report; and
- (b) any other details the statement may contain.

PART V

PUBLIC ENTITIES

39 Application of Part V

Subject to section 40, this Part shall apply to public entities specified in—

- (a) paragraph (a) or (b) of the definition of “public entity” in section 2 that are designated by the Minister by notice in a statutory instrument for the purpose of this Act; and
- (b) paragraph (c) and (d) of the definition of “public entity” in section 2 that are specified by the Minister by notice in a statutory instrument for the purpose of this Act:

Provided that every corporate body referred to in paragraph (a) of the definition of “public entity” in section 2, and every company referred to in paragraph (b) of that definition, which existed immediately before the date of commencement of this Act, shall be deemed to be a designated corporate body unless the Minister by notice in the *Gazette* excludes any such corporate body or company.

40 Public entities that are not prescribed

(1) The accounting officer of a Ministry responsible for any public entity that is not a designated corporate body or is not specified in terms of section 39(b) shall, within thirty days of

the formation, creation, incorporation or registration of the public entity, notify the Treasury, in writing, that the public entity is not so designated or specified.

- (2) The Minister shall not, in terms of section 39(a), designate the following—
- (a) any constitutional entity; and
 - (b) the Reserve Bank of Zimbabwe referred to in the Reserve Bank of Zimbabwe Act [Chapter 22:15]; and
 - (c) the Audit-Office referred to in the Audit Office Act.

41 Accounting authorities

(1) Every public entity shall have an authority which shall be accountable for the purposes of this Act.

- (2) If the public entity—
- (a) has a board or other controlling body, that board or body shall be the accounting authority for that entity; or
 - (b) does not have a board or other controlling body, the chief executive officer or the person in charge of that public entity shall be the accounting authority for that public entity unless the enactment or memorandum and articles of association or foundational document relating to that public entity designates another person as the accounting authority.

(3) The Treasury may, in exceptional circumstances, approve or appoint a person other than one referred to in subsection (2) as the accounting authority for a public entity.

(4) The Treasury may at any time withdraw an approval or instruction made in terms of subsection (3).

42 Fiduciary duties of accounting authorities

- (1) The accounting authority for a public entity shall—
- (a) exercise the utmost care to ensure reasonable protection of the assets and records of the public entity;
 - (b) act with fidelity, honesty, integrity and in the best interests of the public entity in managing the affairs of the public entity;
 - (c) on request, disclose to the appropriate Minister all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the appropriate Minister in relation to that public entity;
 - (d) seek, to the extent that it is competent for the accounting authority to do so, to prevent any prejudice to the financial interests of the State.

(2) An accounting authority or (if the accounting authority is a board or other body) every member of the accounting authority may not—

- (a) act in a way that is inconsistent with the responsibilities of an accounting authority under this Act; or
- (b) use the position of such an authority, or any confidential information obtained as such an authority, for personal gain or to improperly benefit another person.

(3) If an accounting authority is a board or other body, a member thereof shall—

- (a) disclose to the other members of the accounting authority any direct or indirect personal or private business interest that that member or any spouse, partner or close family relation of that member may have in any matter before the accounting authority;
- (b) withdraw from the proceedings of the accounting authority when the matter is considered, unless the other members of the accounting authority decide that the member's direct or indirect interest in the matter is trivial or irrelevant.

43 Assignment of powers and duties of accounting authorities

- (1) The accounting authority for a public entity may—
 - (a) in writing delegate any of the powers entrusted or delegated to the accounting authority under this Act to an employee of that public entity; or
 - (b) instruct an employee of that public entity to perform any of the duties assigned to the accounting authority under this Act.
- (2) A delegation or instruction in terms of subsection (1)—
 - (a) is subject to any limitations and conditions the accounting authority may impose; and
 - (b) shall not divest the accounting authority of the responsibility for the exercise of the delegated power or the performance of the assigned duty.

44 General responsibilities of accounting authorities

- (1) An accounting authority for a public entity—
 - (a) shall ensure that that public entity establishes and maintains—
 - (i) effective, efficient and transparent systems of financial and risk management and internal controls;
 - (ii) system of internal audit under the control and direction of an audit committee operating in accordance with sections 80 (which shall apply to public entities subject to such changes as may be necessary, including the substitution of the “Public Service Commission” by the accounting 35
 - (iii) an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
 - (iv) a system for properly evaluating all major capital projects prior to a final decision on the project;
 - (b) shall take effective and appropriate steps to—
 - (i) collect all revenue due to the public entity concerned; and
 - (ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and
 - (iii) manage available working capital efficiently and economically;
 - (c) is responsible for the management, including the safeguarding of the assets and revenue and expenditure and liabilities of the public entity;
 - (d) shall comply with any tax, levy, duty, pension and audit commitments imposed by any enactment;

- (e) shall take effective and appropriate disciplinary steps against any employee of the public entity who—
 - (i) contravenes or fails to comply with a provision of this Act applicable to such entity;
 - (ii) commits an act which undermines the financial management and internal control system of the public entity; or
 - (iii) incurs or permits irregular expenditure or fruitless and wasteful expenditure;
- (f) is responsible for the submission by the public entity of all financial statements, reports, returns, notices and other information to the National Assembly, the appropriate Minister or the Treasury, as may be required by this Act or the enactment relating to the public entity;
- (g) shall comply, and ensure compliance by the public entity, with the provisions of this Act and any other enactment applicable to the public entity.

(2) If an accounting authority is unable to comply with any of the responsibilities of an accounting authority under this Part, the accounting authority shall promptly report the inability, together with the reasons therefor, to the appropriate Minister and the Treasury.

45 Responsibilities of employees of public entities

An employee of a public entity shall to the extent that it is competent for the employee to do so—

- (a) ensure that the system of financial management and internal control established for that public entity is implemented;
- (b) be responsible for the effective, efficient, economical and transparent use of the financial and other resources of the public entity;
- (c) take effective and appropriate steps to prevent any irregular expenditure and fruitless and wasteful expenditure and any under-collection of revenue due;
- (d) comply with those provisions of this Act applicable to the public entity;
- (e) be responsible for the management, including the safeguarding, of the assets of the public entity and the management of its liabilities.

46 Plans and projections by public entities¹⁹

The accounting authority for every public entity shall submit to the accounting officer of the appropriate Ministry and to the Accountant-General, at least sixty days (or such greater period agreed by the appropriate Ministry with the Accountant-General) before the start of its financial year—

- (a) a projection of revenue, expenditure and borrowings for that financial year in the prescribed format; and
- (b) an annual corporate plan in the prescribed format covering the affairs of that designated corporate body, including its subsidiaries, for the following three financial years, and such plan shall include targets, outputs and outcomes.

¹⁹ Section 46 as substituted by Act 6/2016 with effect from 28th October 2016.

47 Annual budgets of specified public entities

(1) The accounting authority for a public entity shall submit to the appropriate Minister, not less than three months before the start of the financial year of the Ministry (or other period agreed to between the Minister and the public entity), a budget of estimated revenue and expenditure for that financial year and an annual plan relating to that public entity, prepared in line with the government's economic development plan for approval by the appropriate Minister.²⁰

(2) The budget shall be submitted to the appropriate Minister through the accounting officer, who may make recommendations to the Minister with regard to the approval or amendment of the budget:

Provided that the supervising Ministry shall check before approval whether the annual corporate plans and budgets of public entities are consistent with the projections and plans referred to in section 46 and otherwise comply with financial policies set by Government.²¹

(3) A public entity which is required to submit a budget in terms of subsection (1), may not budget for a deficit, and may not accumulate surpluses, unless it obtains the prior written approval of the Treasury.

(4) The accounting authority for such public entity shall be responsible for ensuring that the expenditure of the public entity is in accordance with the approved budget.

48 Information to be submitted by accounting authorities

(1) In this section "significant" means—

- (a) in relation to a shareholding in a company, shares equivalent to ten per centum or more of the total shares of the company; or
- (b) in relation to a partnership, trust, unincorporated joint venture or similar arrangement, an ownership interest equivalent to ten per centum or more in any such arrangement; or
- (c) in relation to any of the matters specified in subsection (3)(d), (e) or (f), of a magnitude or nature specified by the Treasury in an instruction prescribed under section 78.

(2) The accounting authority for a public entity shall submit to the Treasury or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as the Treasury or the Auditor-General may require.

(3) The accounting authority for a public entity shall, before it engages in any of the following transactions, promptly notify and seek the approval of the Treasury and appropriate Minister in writing, namely—

- (a) the establishment or participation in the establishment of a company or subsidiary by the public entity;
- (b) participation to a significant extent by the public entity in a partnership, trust, unincorporated joint venture or similar arrangement;
- (c) the acquisition or disposal of a significant shareholding in a company;
- (d) the acquisition or disposal of a significant asset;
- (e) the commencement or cessation of a significant business activity; or

²⁰ Subsection (1) as substituted by Act 6/2016 with effect from 28th October 2016.

²¹ Proviso to subsection (2) added by Act 6/2016 with effect from 28th October 2016.

- (f) any other transaction which involves a significant change in the nature or extent of its interest in a partnership, trust, unincorporated joint venture or similar arrangement:

Provided that if the appropriate Minister lodges no objections in writing to any such transaction within thirty days of being notified thereof, the transaction concerned shall be deemed to have been approved by the appropriate Minister.

- (4) The Minister may exempt in writing any public entity from complying with subsection (3).

49 Annual reports and financial statements

- (1) The accounting authority for a public entity shall—
- (a) keep full records of the financial affairs of the public entity;
 - (b) prepare financial statements for each quarter of each financial year in accordance with generally accepted accounting practice;²²
 - (c) submit the financial statements referred to in paragraph (b) within two months after the end of the financial year—
 - (i) to the auditors of the public entity for auditing; and
 - (ii) to the Accountant-General within 21 days after the end of each quarter²³; and
 - (iii) if it is a designated corporate body or specified public entity, to the Treasury;
 - (d) submit within five months of the end of a financial year to the Treasury, to the appropriate Minister and, if the Auditor-General did not perform the audit of the financial statements, to the Auditor-General—
 - (i) an annual report on the activities of that public entity during that financial year;
 - (ii) the financial statements for that financial year after the statements have been audited; and
 - (iii) the report of the auditors on those statements.
- (2) The annual report and financial statements referred to in subsection (1)(d) shall—
- (a) fairly present the state of affairs of the public entity, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned;
 - (b) include particulars of—
 - (i) any material losses through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year;
 - (ii) any criminal prosecution or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure;
 - (iii) any losses recovered or written off;
 - (iv) any financial assistance received from the State and commitments made by the State on its behalf; and

²² Paragraph as substituted by Act 6/2016 with effect from 28th October 2016 (the difference being the addition of the words “each quarter of”).

²³ Paragraph as amended by Act 6/2016 with effect from 28th October 2016. (insertion of words “within 21 days after the end of each quarter”).

(v) any other matters that may be prescribed;

(c) include the financial statements of any subsidiaries of the public entity.

(3) An accounting authority shall submit the report and statements referred to in subsection (1)(d), to the appropriate Minister for him or her to table in the National Assembly.

(4) The Treasury may direct that, instead of a separate report, the audited financial statements of a specified public entity be incorporated in those of a Ministry designated by the Treasury.

50 Corporate governance

Every public entity shall adhere to and implement the principles of sound corporate governance policies, procedures and practices.

51 Reconstruction of designated corporate bodies in certain circumstances

(1) If in relation to the accounts of any designated corporate body the Auditor-General certifies in writing to the Minister responsible for that body that the designated corporate body in question has—

- (a) failed to keep proper financial records with the result that the Auditor-General can form no opinion as to the true state of affairs of the designated corporate body for the relevant financial year; or
- (b) engaged in fruitless and wasteful expenditure for the relevant financial year with the result that it has incurred a deficit requiring the expenditure of public money which, in the opinion of the Auditor-General, is excessive;

the Minister responsible for that designated corporate body may, after affording the responsible authority of the body in question a reasonable opportunity to make representations in the matter, request the Minister responsible for the Reconstruction of State-Indebted Insolvent Companies Act [Chapter 24:27] (No. 27 of 2004) to appoint an administrator for that designated corporate body in terms of this section.

(2) If in the financial year following that in which the Auditor-General made a certificate in relation to a designated corporate body in terms of subsection (1) no administrator was appointed for that designated corporate body and, in relation to the accounts of that body the Auditor-General again certifies in writing, this time to the Minister, that the designated corporate body in question has—

- (a) failed to keep proper financial records with the result that the Auditor-General can form no opinion as to the true state of affairs of the designated corporate body for the relevant financial year; or
- (b) engaged in fruitless and wasteful expenditure for the relevant financial year with the result that it has incurred a deficit requiring the expenditure of public moneys which, in the opinion of the Auditor-General, is excessive;

the Minister shall request the appropriate Minister in writing to show cause why the designated corporate body should not be reconstructed in accordance with this section.

(3) If no written response is made to the written request referred to in subsection (2), or if the response is not in the Minister's opinion satisfactory, the Minister may, after consultation with the President, request the Minister responsible for the Reconstruction of State-Indebted Insolvent Companies Act [Chapter 24:27] (No. 27 of 2004) to appoint an administrator for that designated corporate body.

(4) The Reconstruction of State-Indebted Insolvent Companies Act [Chapter 24:27] (No. 27 of 2004) shall apply to a designated corporate body referred to in subsection (1) or (2)—

- (a) to the extent specified in the Schedule; and
- (b) notwithstanding anything contained in the enactment or memorandum and articles of association constituting that body.

51A Separation of roles of appropriate Ministries and public entities²⁴

(1) The accounting authority and every member or employee of a public entity, and the accounting officer and every member of the Civil Service employed in an appropriate Ministry responsible for that entity, shall not do or suffer anything that compromises the supervisory or regulatory role of the Ministry in relation to the public entity.

(2) In particular, no accounting authority or member or employee of a public entity, and no accounting officer or member of the Civil Service employed in an appropriate Ministry responsible for that entity shall (except to the extent permitted by this Act or the enactment constituting the public entity)—

- (a) act in any manner or receive any monetary or other benefit that compromises the supervisory or regulatory role of the appropriate Ministry or infringes on the autonomy of the public entity ;
- (b) being the accounting officer or a member of the Civil Service employed in an appropriate Ministry responsible for the entity in question—
 - (i) partakes in the management of the entity or dispossesses it of any of its management functions, whether or not at the invitation of the entity; or
 - (ii) colludes with the public entity (whether actively, or by incitement, or through acquiescence) in condoning or concealing any non-compliance with this Act or the enactment constituting the public entity; or
 - (iii) fails to ensure, to the extent lie or she is competent or capable of doing so, the strict separation and accounting for those public resources for which the appropriate Ministry is responsible, and those funds and resources for which the public entity is, under the enactment constituting the public entity, responsible; or
 - (iv) accepts or receives any monetary or other benefit inconsistent with the discharge of the appropriate Ministry's supervisory or regulatory role, including (but not limited to) any payment or benefit in the way of or in the guise of—
 - A. management committee allowances; or
 - B. trustee or trustee representative allowances; or
 - C. travel allowances, fuel coupons or holiday allowances;
- (c) being the accounting authority or a member or employee of the entity in question —
 - (i) fails to make timely disclosures to the appropriate Ministry of all facts, matters, transactions or commitments concerning the public entity that are likely to have an impact on the public resources or financial interest of the State; or

²⁴ Section 51A added by Act 6/2016 with effect from 28th October 2016.

- (ii) colludes with the appropriate Ministry (whether actively, or by incitement, or through acquiescence) in condoning or concealing any non-compliance with this Act or the enactment constituting the public entity; or
- (iii) offers to any person referred to in paragraph (b) any monetary or other benefit inconsistent with the discharge of the appropriate Ministry's supervisory or regulatory role including (but not limited to) those payments or benefits referred to in that paragraph.

(3) Despite anything to the contrary contained in this Act, or in the enactment constituting the public entity or in any other law, no accounting officer or member of the Civil Service employed in an appropriate Ministry responsible for approving the remuneration and allowances of any member or employee of a public entity, shall approve such remuneration or allowances without first obtaining written clearance from Treasury:

Provided that if Treasury does not respond within thirty days to a written request for clearance from the accounting officer or other member of the Civil Service concerned, Treasury- shall be deemed to have given its clearance.

(4) Any person who wilfully or with gross negligence contravenes subsection (2) or (3) shall be guilty of an offence and liable upon conviction to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

(5) Every head of an appropriate Ministry shall, in consultation with the Treasury, formulate and implement protocols, guidelines and best practice directives to ensure the separation of roles between the Ministry and the public entity for which it is responsible in accordance with this section and good corporate governance principles.

(6) No secrecy or confidentiality provision in any contract or law shall prevent an accounting authority or a member or employee of a public entity from furnishing to the appropriate Ministry (through the accounting officer or otherwise) any information concerning a breach or suspected breach of subsection (1), (2) or (3), and no public entity shall dismiss or in any other way penalise the accounting authority, member or employee of the public entity for furnishing such information.

[PART VI

LOANS, GUARANTEES AND OTHER COMMITMENTS

The whole of this Part, consisting of sections 52 to 77, was repealed by the Public Debt Management Act, 2015 with effect from 4th September 2015.]

PART VII

GENERAL TREASURY MATTERS

78 Treasury instructions or directions

(1) The Treasury may prescribe or issue instructions or directions to Ministries, whether individually or collectively, concerning—

- (a) any matter that shall be prescribed for Ministries in terms of this Act;
- (b) the recovery of losses and damages of public resources;
- (c) the handling of, and control over, trust money and property entrusted to the State or any employee of the State in his or her capacity as such;

- (d) the rendering of free services by or on behalf of the State;
- (e) the writing off of losses of public resources or amounts owed to the State;
- (f) liability for losses and damages of public resources and procedures for the recovery thereof;
- (g) the cancellation or variation of contracts to the detriment of the State;
- (h) the settlement of claims by or against the State;
- (i) the waiver of claims by the State;
- (j) the remission of money due to the Consolidated Revenue Fund, refunds of revenue and payments from the Consolidated Revenue Fund, as an act of grace;
- (k) the alienation, letting or other disposal of State property;
 - (l) gifts or donations by or to the State;
- (m) the charging of expenditure against particular votes;
 - (n) the variation of approved budgets by way of virements;
- (o) the establishment of and control over public entities;
- (p) the improvement and maintenance of immovable State property; q) the avoidance of fruitless and wasteful, unauthorised and irregular expenditure;
- (r) the determination of any scales of fees, other charges or rates relating to revenue accruing to, or expenditure from, the Consolidated Revenue Fund;
- (s) the treatment of any specific expenditure;
- (t) vouchers or other proofs of receipts or payments, which are defective or have been lost or damaged;
- (u) assets which accrue to the State by operation of any law;
- (v) any other matter that may facilitate the application of this Act;
- (w) any matter that may be prescribed for all Ministries, public entities, constitutional entities and statutory funds to which this Act applies by virtue of section 4 (1);
- (x) financial management and internal control;
- (y) the determination of a framework for an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
- (z) audit committees, their composition, appointment and functioning;
- (aa) internal audit units and their functioning;
- (bb) the duties and responsibilities of accounting officers, receivers of revenue and other persons;
- (cc) the issue of receipts;
- (dd) the reporting of any loss or destruction of or deficiency in public resources;
- (ee) the remission or writing off of public money; and
- (ff) any other matter that may facilitate the administration of this Act.

(2) A Treasury instruction or direction in terms of this section may be limited in its application to different classes of—

- (a) a Ministry, public entity, constitutional entity and statutory fund to which this Act applies by virtue of section 4(1);
- (b) accounting officers;
- (c) accounting authorities.

(3) Treasury instructions or directions referred to in subsection (1) shall not come into force until they are approved by the Minister and published as a statutory instrument or general notice in the *Gazette*.

(4) The Treasury may on good grounds approve a departure from a Treasury instruction or direction referred to in subsection (1) on any condition it deems fit and shall promptly inform the Auditor-General in writing when it does so.

79 Determination of interest rates for debts owing to State

(1) Subject to any other enactment the Minister, by notice in the *Gazette*, shall determine—

- (a) a uniform interest rate applicable to loans granted out of the Consolidated Revenue Fund;
- (b) a uniform interest rate applicable to all other debts which must be paid into the Consolidated Revenue Fund.

(2) An interest rate determined in terms of subsection (1) (b) may differentiate between different categories of debt.

(3) Where any other enactment empowers the Minister or any other Minister to fix an interest rate for moneys payable to the State, the notice referred to in subsection (1) shall not, unless the notice expressly provides otherwise, affect the exercise of such power under that enactment.

PART VIII

AUDIT

80 Internal auditors

(1) To assist the Treasury in carrying out the duties referred to in section 6, the Public Service Commission may appoint an officer of the Public Service as an internal auditor to any Ministry or any reporting unit of a Ministry. (2) The functions of an internal auditor appointed in terms of subsection (1) shall be—

- (a) to monitor the financial administration and procedures of the Ministry or reporting unit concerned to ensure that—
 - (i) proper accounting and bookkeeping transactions and procedures are carried out; and
 - (ii) proper accounting records are maintained; and
 - (iii) adequate internal checks and controls are observed; and
 - (iv) assets under the control of the Ministry or reporting unit are properly accounted for; and
 - (v) instructions and directions issued in terms of section 6 are complied with; and
 - (vi) generally, that requirements of this Act are being observed; and
- (b) to assess the cost-effectiveness of any projects undertaken by the Ministry or reporting unit concerned; and

- (c) to perform any other function that may be assigned to him or her by the accounting officer of the Ministry or reporting unit concerned.
- (3) In the performance of his or her functions in terms of subsection (2), an internal auditor—
 - (a) shall have free access at all reasonable times to any records, books, vouchers, documents and public resources under the control of the Ministry or reporting unit concerned;
 - (b) shall have direct access to the accounting officer of the Ministry or reporting unit concerned;
 - (c) may, without payment of any fee, cause search to be made in and extracts to be taken from any record, book, voucher or document under the control of the Ministry or reporting unit concerned;
 - (d) may call upon any officer in the Ministry or reporting unit concerned to give, and shall be entitled to receive without undue delay from that officer, any explanations and information he or she may require to enable him or her to perform his or her functions.

(4) If at any time it appears to an internal auditor that any offence has been committed in relation to—

- (a) the collection, receipt, custody, control or payment of public money; or
- (b) the receipt, custody, control, issue, sale, transfer or delivery of any State property;

he or she shall immediately bring the matter to the notice of the Treasury, the appropriate accounting officer or receiver of revenue, as the case may be, and the Auditor-General.

(5) Whenever an internal auditor has completed any internal audit programme, he or she shall prepare a report on the financial administration and accounting system in the Ministry or reporting unit to which he or she has been appointed, and may include in such report any instances of hindrance or obstruction he or she has encountered in the discharge of his or her duties, and shall transmit copies of such report to the accounting officer, the Treasury and the Auditor-General.

81 External auditors

(1) The Auditor-General shall audit or cause to be audited the financial statements of all accounting officers, receivers of revenue, statutory funds, designated or specified public entities and constitutional entities.

(2) The Auditor-General shall satisfy himself or herself that—

- (a) all reasonable precautions have been taken to safeguard the collection of public money and that the provisions of this Act and any other enactment relating to the accounting for public resources and of any direction or instruction issued in terms of section 78 or departmental instruction referred to in section 6(3) which relate thereto have been duly observed;
- (b) all payments of public money—
 - (i) have been made in accordance with proper authority; and
 - (ii) have been properly charged; and
 - (iii) are supported by sufficient vouchers or proof of payment;
- (c) all moneys expended and charged to an appropriation account—
 - (i) have been applied to the purposes for which the grants made by Parliament were intended; and

- (ii) were expended in conformity with the appropriate authority;
 - (d) all reasonable precautions have been taken to safeguard and control State property and all issues of State property were made in accordance with proper authority.
- (3) If at any time it appears to the Auditor-General that any irregularity has occurred in—
- (a) the collection, receipt, custody, control or payment of public money; or
 - (b) the receipt, custody, control, issue, sale, transfer or delivery of any State property;
- he or she shall immediately bring the matter to the notice of the Treasury, the appropriate accounting officer or receiver of revenue, as the case may be, and
- (c) the Public Service Commission, where in his or her opinion the irregularity constitutes misconduct on the part of any member of the Public Service; and
 - (d) the Commander of the branch of the Defence Forces concerned, where in his or her opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Defence Forces; and
 - (e) the Commissioner-General of Police, where in his or her opinion the irregularity constitutes misconduct or breach of discipline on the part of any member of the Police Force; and
 - (f) the Commissioner-General of Prisons and Correction Service²⁵, where in his or her opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Prison Service; and
 - (g) the Prosecutor-General²⁶, where in his or her opinion the irregularity constitutes a criminal offence.
- (4) In the performance of his or her functions in terms of this section, an external auditor shall have the same powers as an internal auditor under section 80(3).

82 Auditor's report on public entities

(1) In this section, “group accounts” means, in the case of a public entity that is a holding company, the balance sheets and profit and loss accounts of the holding company and all its subsidiaries.

(2) An auditor shall make a report on the accounts of every public entity examined by him or her including every balance sheet, and statement of comprehensive income and all group accounts, where appropriate, of a public entity presented to him or her for audit, and the report shall contain statements as to the following matters—

- (a) whether in his or her opinion, the balance sheet and statement of comprehensive income or group accounts of the public entity are properly drawn up to give a true and fair view of the state of the public entity's affairs at the date of its balance sheet and of its profit or loss for its financial year ended on that date;
- (b) in the case of a public entity registered as a banking institution in terms of the Banking Act [Chapter 24:24], whether in his or her opinion, the balance sheet and statement of comprehensive income or group accounts of that public entity are properly drawn up so

²⁵ As amended by Act 3/2016 with effect from 1st July 2016.

²⁶ “Prosecutor-General” substituted for “Attorney-General” by Act 5/2014 with effect from 2nd January 2015.

as to disclose its state of affairs at the date of its balance sheet and its profit or loss for its financial year ended on that date;

(3) An auditor shall include in his or her report statements which, in his or her opinion, are necessary if—

- (a) he or she has not obtained all the information and explanations which to the best of his or her knowledge and belief were necessary for the purposes of the audit;
- (b) so far as appears from his or her examination, proper books of account have not been kept by the public entity;
- (c) proper returns adequate for the purpose of his or her audit have not been received from branches not visited by him or her;
- (d) the public entity's balance sheet and statement of comprehensive income are not in agreement with the books and returns from the branches of a public entity.

(3a) Where recommendations have been made by an auditor in terms of this Act, the public entity concerned (except upon good cause shown to the Treasury for deferring implementation of any recommendation or not implementing any recommendation) shall ensure that all recommendations are complied with within time frames agreed with the Auditor-General.²⁷

(4) In the event of the auditor being unable to make a report in terms of subsection (2) or to make it without further qualification he or she shall inscribe upon or attach to the balance sheet a statement of that fact or of the nature of the qualification, as the case may be, and he or she shall set forth therein the facts or circumstances which prevent him or her from making the report or from making it without qualification.

83 Annual reports and audited financial statements

The annual report and audited financial statements of a Ministry, public entity, constitutional entity or statutory fund shall—

- (a) contain a report on the activities, outputs and outcomes of the Ministry;
- (b) fairly present the state of affairs of the Ministry, public entity or constitutional entity, as the case may be;
- (c) include, where appropriate—
 - (i) particulars relating to losses arising through criminal activities;
 - (ii) instances of unauthorised expenditure;
 - (iii) instances of irregular expenditure;
 - (iv) instances of fruitless and wasteful expenditure;
 - (v) criminal and disciplinary action taken in connection with any of the foregoing;
 - (vi) recoveries and write-offs;
 - (vii) any other matters as may be prescribed.

84 Audit committees

(1) Every Ministry, statutory fund, constitutional entity and public entity shall establish an audit committee.

²⁷ Subsection (3a) inserted by Act 6/2016 with effect from 28th October 2016..

- (2) The responsibilities of an audit committee shall include the following—
- (a) to review internal controls, including the scope of the internal audit programme, and the internal audit findings, and to recommend appropriate action to be taken by the responsible authorities;
 - (b) to ensure that accounts, are prepared in a timely and accurate manner and to ensure the prompt publication of the annual accounts;
 - (c) to review with the Auditor-General or other external auditors, as may be appropriate, the scope of their audit plan, the system of internal audit reports and assistance given by officers or staff to the auditors and any findings and action to be taken in connection therewith.

(3) An audit committee—

- (a) shall consist of at least three persons, of whom, in the case of a Ministry—
 - (i) one person shall not be a member of the Public Service;
 - (ii) the majority shall not be persons employed in that Ministry, except with the approval of the appropriate Minister; and
 - (iii) the chairperson shall not be a member of the Public Service employed in the Ministry;
- (b) shall meet at least twice a year; and
- (c) may be established for two or more Ministries, or public or constitutional entities if the Treasury considers it to be more economical.

(4) The Auditor-General, and external and internal auditors, shall have the right to attend and participate in the deliberations of the audit committee.

(5) Upon the request of any auditors, the chairperson of an audit committee shall convene a meeting to consider any matter that the auditors believe should be brought to the attention of the responsible authorities.

(6) The chairperson of the audit committee shall send or cause to be sent—

- (a) all notices of audit committee meetings; and
- (b) all minutes of audit committee meetings;

to the Accountant-General, Auditor-General, internal auditors and external auditors where appropriate.

PART IX

FINANCIAL MISCONDUCT

85 Financial misconduct by accounting officers, etc.

(1) An accounting officer for a Ministry, reporting unit, public entity, constitutional entity or statutory fund commits an act of financial misconduct if that accounting officer wilfully or negligently—

- (a) fails to comply with section 10 or a requirement of Part IV; or
- (b) makes or permits any unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure.

(2) An employee of a reporting unit or a constitutional entity to whom a power or duty is assigned in terms of this Act commits an act of financial misconduct if that employee wilfully or negligently fails to exercise that power or perform that duty.

(3) A person employed in the Treasury to whom a power or duty is assigned in terms of section 6 or Part IV commits an act of financial misconduct if that person wilfully or negligently fails to exercise that power or perform that duty.

86 Financial misconduct by accounting authorities and employees of public entities

(1) An accounting authority for a public entity commits an act of financial misconduct if that accounting authority wilfully or negligently—

- (a) fails to comply with a requirement of Part IV or V; or
- (b) makes or permits any irregular expenditure or fruitless and wasteful expenditure.

(2) If the accounting authority is a board or other body every member thereof is individually liable for any financial misconduct of the accounting authority.

(3) An employee of a public entity to whom a power or duty is delegated or assigned in terms of section 43 commits an act of financial misconduct if that employee wilfully or negligently fails to exercise that power or perform that duty.

(4) Financial misconduct is a ground for the dismissal of, or other disciplinary sanction prescribed under section 87 against, a member or person referred to in subsection (2) or (3), notwithstanding any other enactment.

87 Disciplinary proceedings

A charge of financial misconduct against an accounting officer or person referred to in section 85, or an accounting authority or member of an accounting authority or an employee referred to in section 86, shall be investigated, heard and disposed of in terms of the statutory or other conditions of appointment or employment applicable to that accounting officer, authority, person or employee, and any regulations prescribed by the Minister in terms of section 88.

88 Regulations on financial misconduct procedures

(1) The Minister may make regulations prescribing—

- (a) the manner, form and circumstances in which complaints, disciplinary measures and criminal charges of financial misconduct must be processed or undertaken and a report thereon made to the Treasury and the Auditor-General, including a report on—
 - (i) the particulars of the alleged financial misconduct; and
 - (ii) the steps taken in connection with such financial misconduct;
- (b) matters relating to the investigation of allegations of, and disciplinary sanctions for, financial misconduct;
- (c) the circumstances in which the Treasury may direct that disciplinary steps be taken or criminal charges laid against a person for financial misconduct;
- (d) the circumstances in which a disciplinary board which hears a charge of financial misconduct shall include a person whose name appears on a list of persons with expertise in State finances or public accounting compiled by the Treasury;

- (e) the circumstances in which the findings of a disciplinary board and any sanctions imposed by the board shall be reported to the Treasury and the Auditor-General;
 - (f) any other matters to the extent necessary to facilitate the objects of this Part.
- (2) In relation to members of the Public Service who perform functions in terms of this Act—
- (a) no disciplinary proceedings may be commenced against any such member under regulations made in terms of subsection (1) if such proceedings have been commenced in terms of the Public Service Act [Chapter 16:04];
 - (b) if disciplinary measures are commenced against any such member under regulations made in terms of subsection (1), the outcome for such proceedings shall be confirmed by the Public Service Commission.

PART X
GENERAL

89 Abandonment of claims and write-off of public resources

(1) The National Assembly may, by resolution, authorise 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 public resources.

(2) The Minister may in writing delegate to any officer any powers which he or she is authorised to exercise by resolution of the National Assembly under this section.

90 Unclaimed money

(1) Unless otherwise provided for in any other enactment, at the end of each financial year any money in any bank account of a Ministry, constitutional entity, public entity or statutory fund that has remained unclaimed for a period of six years from the date it was payable to any person entitled thereto, shall be deposited with the Treasury.

(2) Any money deposited with the Treasury in terms of subsection (1) shall be accompanied by such statement setting out such particulars relating to that money as the Treasury may require.

(3) A notice of a deposit of unclaimed money in terms of subsection (1) that is of or above a prescribed limit shall be made in the *Gazette* to enable any person with any claim to the money to lodge such claim in writing no later than thirty days after publication of such notice.

(4) Where any money is paid to a claimant in terms of subsection (3) and subsequently such money is claimed by another person, neither the Treasury nor the State shall be under any liability to the second claimant by reason of having paid the money to the first claimant.

(5) Where in relation to money notified in terms of subsection (3) no claim is made or a claim is dismissed, any such money shall become public money and be paid into the Consolidated Revenue Fund, and no person shall have any right of action against the Treasury or the State in relation to the money.

91 Offences and penalties

(1) An accounting officer shall be guilty of an offence and liable upon conviction to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment, if that accounting officer wilfully or in a grossly negligent way fails to comply with section 10 or a requirement of Part IV.

(2) An accounting authority shall be guilty of an offence and liable upon conviction to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and imprisonment, if that accounting authority wilfully or in a grossly negligent way fails to comply with section 42, 44 or 48.

(3) Any person, other than a person mentioned in section 65(2) or (3), who purports to borrow money or to issue a guarantee, indemnity or security for or on behalf of a Ministry, reporting unit, public entity or constitutional entity, or who enters into any other contract which purports to bind a Ministry, reporting unit, public entity or constitutional entity to any future financial commitment, shall be guilty of an offence and liable upon conviction to a fine not exceeding level ten or to imprisonment for a period not exceeding five years, or to both such fine and imprisonment.

(4) Any person who—

(a) hinders or obstructs—

(i) the Auditor-General; or

(ii) the Treasury; or

(iii) an internal auditor appointed in terms of section 80;

(b) refuses or fails to produce any information that is in that person's possession or under that person's control in relation to the financial management, financial performance or banking activities of a Ministry or in relation to the management or control of any State property or liability when required to do so in terms of this Act;

(c) resists or obstructs any person acting in the discharge of his or her functions in terms of this Act;

(d) without reasonable excuse, refuses or neglects to pay any public money into a bank account of the State or a Ministry;

(e) without reasonable excuse, refuses or neglects to pay any trust money into a trust bank account;

(f) makes any statement or declaration, or gives any information required to be given in terms of this Act, knowing it to be false or misleading or not believing it to be true;

(g) does any act for the purpose of procuring for another person—

(i) the improper payment of any public money or trust money;

(ii) the improper use of any public resources;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(5) Any person who, under examination by an internal or external auditor in terms of Part VIII, makes any statement which he or she knows to be false or does not have reasonable grounds to believe to be true, shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

92 Powers of Minister to make regulations

(1) The Minister may make regulations providing for all matters which by this Act are required or are permitted to be prescribed or which, in his or her opinion, are necessary or convenient to be prescribed in order to carry out or give effect to this Act.

(2) Without derogating from subsection (1), the Minister may make regulations on the borrowing of money by or on behalf of public entities referred to in section 65(3)(b) and (c) and providing for the registration, issue, transfer and payment of interest on bonds and stocks.

93 Repeals and savings

(1) The Audit and Exchequer Act [Chapter 22:03] and the State Loans and Guarantees Act [Chapter 22:13] are repealed.

(2) For the avoidance of doubt it is declared that no loan, indemnity, bond, security or other obligation contracted in terms of the State Loans and Guarantees Act [Chapter 22:13] shall be affected by the repeal of that Act under section (1).

(3) Notwithstanding subsection (1)—

- (a) all statutory instruments made under the repealed Acts that were in force immediately before the date of commencement of this Act shall continue to be in force thereafter until repealed or replaced under section 92;
- (b) all funds established in terms of section 30 of the Audit and Exchequer Act [Chapter 22:03], and all constitutions relating to those funds, that were in force immediately before the date of commencement of this Act, shall continue in force thereafter until repealed or replaced under section 18.

SCHEDULE (SECTION 51)

APPLICATION OF RECONSTRUCTION OF STATE-INDEBTED INSOLVENT COMPANIES ACT [CHAPTER 24:27] TO DESIGNATED CORPORATE BODIES

PART I

DESIGNATED CORPORATE BODIES THAT ARE STATUTORY BODIES

All the provisions of the Act shall, with such incidental changes as may be necessary, apply, except sections 4; 8; 12; 18(1)(d), (f), (g), (i) and (m); 19; 21; 22; Part V and sections 29; 30(1) and (3); 31; 32; 33 and 34.

PART II

COMPANIES IN WHICH THE STATE HAS A CONTROLLING INTEREST

All the provisions of the Act shall, with such incidental changes as may be necessary, apply, except sections 4; 8; 12; 30 (1) and (3); 33; and 34(1).