



COMMONWEALTH OF THE BAHAMAS

Enhancing Accountability and Transparency in Public Financial Administration

A Discussion Paper

**Ministry of Finance
May 2009**

Enhancing Accountability and Transparency in Public Financial Administration

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Enhancing Accountability and Transparency in Public Financial Administration

PREFACE

In the 2008/09 Budget Communication, it was stated that:

- **“A review of the Financial Administration and Audit Act is now appropriate to determine the full extent of the legal provisions which should govern the accountability and transparency of Government expenditure and revenues.”**
- **“Furthermore, the review is intended to maximize the efficiency and the integrity with which public funds are disbursed. The review aims at fixing responsibility more firmly on those senior officials charged with that responsibility, and to separate policy and management.”**
- **“The Ministry of Finance is preparing a Discussion Paper which will set out proposals for changes in the structure of the public financial management so as to clarify the role and responsibilities of Ministers and senior officials in relation to the care and management of the revenue collection process, and the management and disbursement of public expenditures.”**

The Budget Communication stated that a Paper on these issues would be prepared and circulated widely, both in hardcopy form and electronically, for the purposes of facilitating a broad and comprehensive consultation process. This Discussion Paper fulfills that commitment.

The primary sources for public financial administration and audit in the Commonwealth of The Bahamas are Chapter IX: Finance of the Constitution of the Commonwealth of The Bahamas and the Financial Administration and Audit Act, 1973. For ease of reference, the relevant provisions of these two documents may be found in the Appendix.

The purpose of this Discussion Paper is to set out proposals in the above-captioned context to amend and update the Financial Administration and Audit Act (the Act). Comments are invited from all sources on the proposals, and any other relevant proposals put forward in this context will be considered.

It is appreciated that the subject matter of this Discussion Paper is a technical one. However, the fundamental purpose of the Discussion Paper is to ensure enhanced accountability and transparency in the management of Government expenditures and revenues such that the general public as well as Ministers of Government and Members of Parliament have the fullest information available on these matters at all times.

The word “accountable” is defined in the Oxford English Dictionary as “required or expected to justify actions or decisions” and the word ‘transparent’ is defined as “open to public scrutiny”. Clearly, these are crucial requirements in relation to Government actions and decisions in a modern parliamentary democracy such as The Bahamas.

The present system of Public Financial Administration is appropriate in many respects. However, the efflux of time, the growth of Government expenditure and revenue, and the opportunities offered by information technology to provide data readily, offer the way towards even greater accountability and transparency in Public Financial Administration.

The proposals are intended to take account of issues which have emerged in Public Financial Administration and Audit in The Bahamas in recent years, including the necessity to modernize this process in the context of moving to e-government. As far as possible the proposals also take account of relevant recommendations in the “Code of Good Practices on Fiscal Transparency (2007)” published by the International Monetary Fund and of relevant provisions in some other countries with a broadly similar system of government financial administration. At the same time, most of the existing Financial Administration and Audit Act is still relevant and will be retained.

In keeping with the modernization of the legislation, it is also intended to proceed with the urgent implementation of modern information technology in the public financial system, capable of readily and efficiently meeting user needs. A careful assessment will be made of user needs (Parliament, Cabinet, Judiciary, Principal Accounting Officers, Principal Receivers of Revenue, the Ministry of Finance, the Treasury Department and the Auditor General) from which the decision will follow on which information technology and computer system best meets needs.

The proposals are intended to be such as to enable broad consensus across the political spectrum and among senior officials and managers affected by the proposals, and to be capable of implementation given available administrative capacity in the Public Sector in The Bahamas and information technology available worldwide. It is envisaged that the proposals will meet the following requirements:

- Recognize the growth in Government Expenditure and Revenue since the Act came into force in 1973, so as to present new measures to ensure efficient decision-making and management in relation to this growth.**

- **Take account of developments in information technology so as to address measures which facilitate management and decision-making and accounting and audit, as compared with the situation in 1973.**
- **Embrace the challenge of greater transparency and accountability at all levels of Government so as to address measures to make those responsible for decisions on Government Expenditure and Revenue, and those who manage those funds in implementing Government decisions, clearly and personally accountable for their actions.**

When this process of consultation is completed, the agreed proposals will be given legal structure. The legislation will either amend the existing Act, or repeal that Act and place a new Act, incorporating relevant provisions of the existing Act and the agreed proposals, on the Statute Book.

In order to allow sufficient time for review and analysis of the proposals in the Discussion Paper, it is envisaged that the consultation process will extend over several months. Accordingly, comments and suggestions will be entertained until 1st October, 2009. The new legislation or amendments to the existing legislation will then be laid before the House of Assembly with the intention that the new Act would come into force on 1st January, 2010. The

new computerized system will be introduced as soon as possible thereafter. Implementation of those provisions in the legislation which require the new computer system will be deferred until the new system is operational.

Comments on the proposals in this Discussion Paper should be in writing and be addressed to:

**Financial Secretary
Ministry of Finance
Wallace Whitfield Centre
Cable Beach
NASSAU P.O. Box 3017**

I look forward to a fruitful and expert consultation process resulting in proposals to significantly strengthen accountability and transparency in public financial administration.

**Minister of Finance
27th May, 2009**

Enhancing Accountability and Transparency In Public Financial Administration

Introduction

The system of Government in the Commonwealth of The Bahamas is based on the Westminster model, a model that is implemented in 53 independent countries around the world. While each of these countries follows this general model there are variations on many points and these variations developed or were developed to take account of local circumstances and needs.

Thus, the process of managing and controlling Government Expenditure and Revenue, while following the Westminster model, varies considerably in detail from one country to another. Some of these variations may arise because of the different requirements of a federal system of Government as compared to a unitary system, others from the particular historical or administrative background, and others because of improvements made post-independence. However, common features would include provisions in the Constitution setting out the process of parliamentary approval of expenditure and revenue, the placing of constitutional responsibility for public finance on a Minister who must be a member of the lower house, the enactment of legislation (e. g. the Financial

Administration and Audit Act) to clarify the role of the Minister of Finance, other ministers and Public Officers in relation to public financial management, and the placing of constitutional responsibility for audit of Government expenditure and revenue on the Auditor General.

In the case of The Bahamas, the starting points are the Financial Provisions in the Constitution and the existing Financial Administration and Audit Act, 1973 (FAAA). The efflux of time, the growth of Government expenditure and revenue, and the opportunities offered by information technology to provide data readily, offer the way towards even greater accountability and transparency in Public Financial Administration. We have witnessed significant changes since the current FAAA was enacted some 36 years ago. Specifically, government expenditure and revenue have grown, both in absolute terms and relative to the size of the economy; the role of Government has evolved on both the economic and social fronts; and new information technologies have revolutionized our lives and the ways in which we interact and do business.

In light of these factors, the Government is of the view that the FAAA is in need of modernization. The focus of the reform proposals is on enhancing accountability and transparency in public financial administration.

In all modern societies, good governance is critical, not only for the sake of a vibrant democracy, but also to achieve and secure strong and sustained economic growth as well as high and rising standards of living. A country's reputation and standing in the world community and its ready access to international capital markets on favourable terms depend on it.

The Government of The Bahamas has steadfastly championed the pursuit of strengthened governance and it seeks to further bolster those efforts through the proposals in this Paper. Sound financial management is a critical ingredient of good governance. In turn, accountability and transparency are key pillars of sound financial management.

Avenues of Reform of Financial Administration

The modernization proposals in this Discussion Paper, in relation to enhanced accountability and transparency, are inspired by a number of vital aspects of sound financial management. These are drawn from international experience and from the IMF Code of Good Practices on Fiscal Transparency (2007). That Code is based on four general principles:

- **Clarity of roles and responsibilities**
- **Open budget process**
- **Public availability of information**
- **Assurances of integrity**

The core features of sound financial management, in the areas of accountability and transparency, on which the Government proposes to focus its reform initiatives are set out below.

Core Features of Accountability

- **No public funds shall be spent without the approval of Parliament and any requests for additional funding during the course of the fiscal year shall be presented to Parliament for review and approval in the form of Supplementary Estimates**
- **Audited Treasury Accounts are the Government's key accountability document; they should be audited externally by an independent Auditor General and be released within six months of the end of the fiscal year.**
- **Audit reports prepared by the Auditor General should be scrutinized by Parliament**
- **Mechanisms should be in place to monitor follow-up actions in response to recommendations in audit reports**
- **The basis of fiscal accounting should be clearly established and enunciated publicly and it should be used for all fiscal reports**
- **Parliament should have the opportunity and the resources to effectively examine fiscal reports**

- **All fiscal reports should be made publicly available, including their availability free of charge on the Internet**
- **A system of internal financial controls, including internal audit, should be in place to assure the integrity of information in the reports**

Core Features of Transparency

- **The Government's draft Budget should be submitted to Parliament and sufficient time should be available for a thorough review of the Budget by Parliament**
- **Budget preparation and laying before the House of Assembly should follow an established timetable**
- **The Budget should include a medium-term perspective showing how revenues and expenditures are expected to evolve during, at least, the two years after the next fiscal year.**
- **Comparative information on actual revenue and expenditure during the past year should be presented such that they may be viewed in relation to the forecast for that year (i.e. as variances from forecast)**
- **Information comparable to that in the Budget should be provided for the outturns for, at least, the two preceding fiscal years**

- **The economic assumptions underlying the Budget should be disclosed explicitly**
- **The Budget should state the Government's long term fiscal policy objectives**
- **Government should publish periodic fiscal reports**
- **Government should present a mid-year Budget Statement in a timely fashion that provides an update on implementation of the Budget**

Implications in Terms of Requirements

On the basis of the principles and core features of sound financial management presented above, it is possible to identify the areas in which accountability and transparency require strengthening in The Bahamas.

- 1. There is the need to include in the budgetary documentation relevant information on all aspects of the operations of the Public Sector. This requires definition of the Public Sector to include not simply Ministries, Departments and other agencies included in the Appropriation Accounts, but also relevant information on any institutions or funds operated or managed by Public Sector entities such as corporations sole.**
- 2. There is the desirability for a designated Parliamentary Committee to be enabled to question designated Public Officers on the management of**

expenditure and on the collection of revenues at the time of the annual Budget presentation to Parliament. It would have to be clear that Ministers are responsible for policy, but that the designated Public Officers are personally responsible for the safeguarding of public funds and property, and for the prompt and complete collection of public revenues. The designated Public Officers are those Permanent Secretaries, Heads of Departments and Finance Officers, who are deemed to be Principal Accounting Officers by the Minister of Finance. In this context, the responsibilities of the Principal Accounting Officers would have to be clearly stated and understood.

- 3. There is the desirability of including in the new FAAA a requirement in relation to the Mid-Year Budget Statement. This was initiated in 2007/08 in order to provide Parliament with a mid-year progress report on the fiscal position and on the economy**
- 4. There is the desirability of including in the new FAAA the requirement for Government to provide, as part of the annual budget documentation, multi-annual budget projections (that is, data in summary form setting out the emerging fiscal position for the 2 years following the current budget year). This procedure was initiated in the 2005/06 Budget and continues to date. The purpose is to provide an**

assessment of budgetary trends in the context of strategic targets such as limiting the ratio of Government Debt to Gross Domestic Product (GDP).

- 5. There is the need to include in the new FAAA the requirement that when Supplementary Estimates are presented to Parliament in the current fiscal year, details of the funding of these Supplementary Estimates (whether by way of additional taxation, reductions in other areas of expenditure, or additional borrowing) is also provided to Parliament so that the budgetary implications are clear and transparent.**
- 6. There is the need to include in the new FAAA the requirement for Government to present (as it does currently) the macroeconomic environment for the Budget.**
- 7. There is the need to set out in more detail the responsibilities of Principal Accounting Officers to ensure that they understand that they are personally responsible for the good management of the financial and other resources entrusted to them.**
- 8. There is the requirement to clarify the functions of the Treasury Department in monitoring the progress of expenditure and revenue during the course of the financial year, and in producing timely and**

complete accounts at required intervals, and to be capable of producing final accounts promptly following the closure of the financial year.

9. There is the need to set out the responsibilities of Principal Accounting Officers in relation to queries raised by the Auditor General so as to require them to make prompt and complete responses to those queries.

Proposals for Enhancing Accountability and Transparency

The requirements identified above translate into a number of proposals to enhance accountability and transparency in public financial administration in The Bahamas. These may be characterized as measures to:

- Improve administration
- Enhance accountability and reporting
- Strengthen control

The following additions and modifications to the FAAA are proposed.

Administrative Improvements

1. References in the FAAA and Regulations to “hardcopy” should also include data held in electronic form. It should be specified that ledgers and cash books may be held electronically in a database file.
2. In relation to advances made to officers, where such advances are in the public interest and are made in accordance with the powers of the Minister to make regulations, it should be specified that any

accountable advance or overpayment or portion thereof that are not repaid, accounted for or recovered in accordance with the regulations may be recovered out of any moneys, including salaries, payable by the Government to the person to whom the advance was made or, where the person is deceased, out of any moneys, including salaries, payable by the Government to the estate of that person.

3. In respect of the power of the Minister to designate Principal Accounting Officers, it should be clarified that this would be after consultation with the Financial Secretary and that the power extends to both the designation of appointments or, where necessary, the revocation of appointments.

4. In the section dealing with the powers of the Minister to make regulations, a sub-section should be added to allow for the removal of any dormant book accounts of the Government from the General Ledger of the Government and the writing off, in whole or in part of any debt or obligations due to the Government or any claim by the Government, and without restricting the generality of the foregoing, to provide the power to prescribe:

- (i) the criteria for determining whether any dormant book accounts, debt, obligation or claim be removed or written off;**

- (ii) the requirements to be met and the procedures to be followed before any dormant book accounts, debt, obligation or claim may be removed or written off;
 - (iii) the information and records to be kept in respect of dormant book accounts, debt, obligation and claims that are removed or written off.
 - (iv) the form in which any dormant book accounts, debt, obligation or claim removed, written off or forgiven during a fiscal year shall be included in the Treasury Accounts for that year.
5. The section dealing with the responsibilities of the Treasurer should be expanded to require the Treasurer to prepare directions for the improvement of financial administration for the Financial Secretary.
6. As well, there should be an obligation on the part of the Treasurer and the Director of Internal Audit to report apparent lapses in financial administration to the Minister of Finance, the Financial Secretary and the Auditor General.

Enhancing Accountability and Reporting

1. It is proposed to clarify in the “Interpretation” section of the FAAA that the Financial Secretary is the principal financial officer of the Government.
2. It is also proposed to introduce in the “Interpretation” section the new designation of “Principal Accounting Officer” to replace both “accounting officer” and “principal receiver of revenue” and clarifying

that the Principal Accounting Officer means any person designated or deemed to have been designated as such and charged with the duty of controlling expenditure and/or collecting and accounting for revenue under this Act or under any other Act.

- 3. As well, in PART III: ADMINISTRATION of the FAAA, the role and responsibilities of the Principal Accounting Officer should be clarified with the following proposed wording:**

- 1. The designation in the Forecast of Revenue and Estimates of Expenditure laid before the House of Assembly of an officer as being the Principal Accounting Officer in respect of any head or part thereof shall be deemed to be a designation of that officer as being the officer responsible for the collection of revenues and the payment thereof into the Consolidated Fund Account and/or for the control of such expenditure, as the case may be.**

- 2. The Principal Accounting Officer shall be responsible for the financial administration of the department specified in a designation and shall be accountable to the Minister for:**

- (a) The assessment and collection of, and accounting for, all moneys lawfully receivable by his department;**

- (b) Ensuring that the purpose for which an appropriation is approved by Parliament is accomplished;**
- (c) Processing any claim required to be processed in relation to such appropriation;**
- (d) The custody and proper use of all materials, equipment or other public property administered by him;**
- (e) The administration of any fund for which he has been assigned responsibility;**
- (f) The discharge of any other financial responsibility assigned to him under this or any other enactment.**

3. In order to clarify how disputes between the Principal Accounting Officer and the Minister are to be dealt with, the following wording is proposed:

- If, in relation to an area for which a Principal Accounting Officer has a responsibility, a difference of opinion arises between a Principal Accounting Officer and the Minister responsible, the Principal Accounting Officer shall inform the Minister in writing of his view and of the reason for it and suggest a consultation with the Ministry of Finance.**

- **If, notwithstanding this, the Minister gives contrary directions in writing, the Principal Accounting Officer shall comply with them after informing the Ministry of Finance in writing.**
 - **Once the directions have been carried out, copies of the correspondence set out in the two points above shall be forwarded to the Auditor General.**
- 4. To address the need to include in the budgetary documentation relevant information on all aspects of the operations of the Public Sector, it is proposed to add the following wording in the Interpretation section of the FAAA: “Public Sector Entity” includes Public Corporations (including those not financed from the Consolidated Fund), the companies which Government owns or in which Government has a majority or significant holding (more than 25%), and all other bodies for which Government is responsible.**
- 5. In PART IV: ACCOUNTS AND AUDIT of the FAAA, it would be specified that Every Public Sector Entity shall present to the Minister an annual report and audited accounts within six months of the end of the fiscal year.**

6. To clarify the timing and enhance the information provided in the Budget Communication, it should be stated that:

(1) the annual Budget Communication, together with the annual Forecast of Revenues and Estimates of Expenditure, mandated by Section 129. (1) of The Constitution, shall be laid before the House of Assembly on the last Wednesday of May;

(2) The annual Budget Communication shall include a review of macroeconomic developments (including fiscal and monetary) and the macroeconomic outlook for three years ahead.

(3) The annual Forecast of Revenue and Estimates of Expenditure shall be accompanied by a three-year economic and financial outlook and a three-year budgeting framework.

7. As well, a requirement should be added that the Government shall lay before the House of Assembly, each year in February, a Mid-year Budget Statement setting out any changes necessitated to the current Annual Budget. Provision should be made to assert that the Mid-year Statement may contain amendments to the annual Appropriation Act and annual Revenue Forecast to increase selected expenditures and/or revenues, or to reduce selected expenditures and/or revenues. As well, the amendments shall take the form of Supplementary Estimates of

Expenditure and, if resulting in a net increase in overall expenditure, the Supplementary Estimates of Expenditure shall indicate the source of financing of the net increase. If resulting in a net reduction in overall revenue, the means by which the shortfall shall be met shall be stated.

- 8. As a means of enhancing the monitoring of the Government's fiscal position, a requirement should be added for the Treasurer to prepare and submit to the Financial Secretary periodically, as determined by the Minister, statements of account containing the elements specified for the annual statements.**
- 9. To further enhance accountability and reporting, it should be specified that the annual statements of account, when examined and certified by the Auditor General, along with a report of the Financial Secretary on financial administration, shall be laid by the Minister on the table of the House of Assembly on or before December 31 next following the end of the fiscal year or, if the House of Assembly is not then sitting, on any of the first fifteen days next thereafter that the House is sitting.**
- 10. In addition, it should be stated that the above statements and report should be adopted by a resolution of Parliament.**
- 11. Finally, as a means of further clarifying the accountability of Principal Accounting Officers, it should be stated that every Principal Accounting**

Officer shall present a written report to the Financial Secretary within two months after the end of the fiscal year and the latter shall submit such reports to the Auditor General.

Strengthening Control

The proposals to strengthen oversight and control of public financial administration are as follows:

1. In PART IV: ACCOUNTS AND AUDIT of the FAAA, provision should be made for the establishment of an Internal Audit Section in the Ministry of Finance to enhance efficiency, accountability and transparency in the management of Government resources which shall:

- provide assurance to Permanent Secretaries/Heads of Departments in Government Ministries and Departments on the adequacy of various systems and procedures employed for sound financial management and to achieve economic, efficient and effective utilization of Government resources;**
- provide Permanent Secretaries/Heads of Departments with professional and impartial opinions on systems of risk management, control and governance and furnish them with**

analyses, practical advice, recommendations and pertinent and timely comments concerning activities reviewed;

- have full, free and unrestricted access to records, property and personnel necessary for the performance of their duties;**
- be headed by a Director who shall report administratively and functionally to the Financial Secretary;**
- send audit reports to the Financial Secretary as well as to Permanent Secretaries/Heads of Departments so audited.**

2. As well, provision should be made for Internal Audit Units to be established in Ministries and Departments, as determined by the Financial Secretary, and that they shall submit reports on the internal audits conducted to the Principal Accounting Officer and the Director of Internal Audit. These reports shall be compiled in the format provided by the Director of Internal Audit.

3. A number of proposals are being put forth to strengthen the powers of the Auditor General, as follows:

- The power to raise any audit query addressed to the appropriate Principal Accounting Officer and copied to the Financial Secretary and Treasurer, and the Principal Accounting Officer shall respond in writing within seven**

working days of receipt of the communication;

- **The power to audit all accounts on a current basis in order to expedite the finalization of his audit at the end of the fiscal year;**
- **The power to initiate, at his discretion, audits without prior notification.**

4. Finally, it is proposed to empower the Minister to call for independent external auditors to undertake audits of any public body, as directed by the Minister.

**THE CONSTITUTION OF THE COMMONWEALTH OF
THE COMMONWEALTH OF THE BAHAMAS**

CHAPTER IX

FINANCE

128. There shall be in and for the Bahamas a Consolidated Fund, into which, subject to the provision of any law for the time being in force in The Bahamas, shall be paid all revenues of The Bahamas.

**Consolidated Fund.
Estimates.**

129. (1) The Minister of Finance shall, before the end of each financial year, cause to be prepared annual estimates of revenue and expenditure for public services during the succeeding financial year, which shall be laid before the House of Assembly.

(2) The estimates of expenditure shall show separately the sums required to meet statutory expenditure (as defined in Article 130(7) of this Constitution) and the sums required to meet other expenditure proposed to be paid out of the Consolidated Fund.

**Authority for Public
Expenditure.**

130. (1) The Minister of Finance shall, in respect of each financial year, at the earliest convenient moment before the commencement of that financial year, introduce in the House of Assembly an Appropriation Bill containing, under appropriate heads for the several services required, the estimated aggregated sums which are proposed to be expended (otherwise than by way of statutory expenditure) during that financial year.

(2) Subject to paragraphs (4) and (6) of this Article, the sums set out in the Appropriation Act in respect of a financial year shall represent the limit and extent of the public expenditure for that financial year.

(3) Where any sum is set out in the Appropriation Act in respect of a financial year and at the end of that year there is an unexpended balance of that sum, the unexpended balance shall lapse.

(4) The Minister of Finance may, in case of necessity, from time to time cause to be prepared supplementary estimates of expenditure which shall be laid before and voted on by the House of Assembly.

(5) In respect of all supplementary expenditure voted on by the House of Assembly in pursuance of paragraph (4) of this Article, the Minister of Finance may, at any time before the end of the financial year, introduce into the House of Assembly a Supplementary Appropriation Bill containing, under appropriate heads, the aggregate sums so voted and shall, as soon as possible after the end of each financial year, introduce into the House of Assembly a final Appropriation Bill containing any such

sums which have not yet been included in any Appropriation Bill.

(6) That part of any estimate of expenditure laid before the House of Assembly which shows statutory expenditure shall not be voted on by the House, and such expenditure shall, without further authority of Parliament, be paid out of the Consolidated Fund.

(7) For the purposes of this Article and Article 129 of this Constitution-

(a) "financial year" means any period of twelve months beginning of 1st January in any year or such other date as Parliament may prescribe; and

Withdrawal of money from the Consolidated Fund.

(b) "statutory expenditure" means expenditure charged on the Consolidated Fund or on the General revenues and assents of the Bahamas by any provisions of this Constitution or of any other law for the time being in force in The Bahamas.

Withdrawal of money in advance of Appropriation Act.

131. No sum shall be paid out of the Consolidated Fund except upon the authority of a warrant under the hand of the Minister of Finance or under the hand of some person authorized by him in writing; and sums so issued shall be disposed of for meeting public expenditure authorized under Article 130 of this Constitution or, in the case of statutory expenditure, for the purposed appointed by law.

Contingencies Fund.

132. Where at any time for any justifiable reason, the Appropriation Bill in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of Finance may, to such an extent and subject to such conditions as may be prescribed, or if no conditions have been prescribed on a resolution to that effect passed by the House of Assembly, issue a warrant for the payment out of the Consolidated Fund or other public funds of The Bahamas of such sums as he may consider necessary for the continuance of the public service, but a statement of the sums so authorized shall, as soon as practicable, be laid before and voted on by the House of Assembly and the aggregate sums so voted shall be included, under the appropriate heads, in the next Appropriation Bill immediately following.

Public Debt.

Remuneration of Governor-General and certain other officers.

133. (1) Parliament may by law provide for the establishment of a Contingencies Fund and may authorize the Minister of Finance to make advances from that Fund if he is satisfied that there is an unforeseen need for expenditure for which no provision or no sufficient provisions has been made by an Appropriation Act.

(2) Where any advances are made by virtue of an authorization conferred under paragraph (1) of this Article, a supplementary estimate of the sums required to replace the

amount so advanced shall, as soon as practicable, be laid before and voted on by the House of Assembly and the sums so voted shall be included in a Supplementary Appropriation Bill or a Final Appropriation Bill.

134. The Public Debt of the Bahamas, including the interest on the debt, sinking fund payments and redemption monies in respect of that debt and the costs, charges and expenses incidental to the management of that debt, is hereby charged on the Consolidated Fund.

**Establishment of office
and functions of
Auditor-General.**

135. (1) There shall be paid to the holders of the offices to which this Article applies such salaries and allowances as may be prescribed by or under any law.

(2) The salaries payable to the holders of the offices to which this Article applies are hereby charged on the Consolidated Fund.

(3) The salary and allowance payable to the holder of any office to which this Article applies and his other terms of service shall not be altered to his disadvantage after his appointment, and, for the purposes of this paragraph, in so far as the terms of service of any person depend upon the option of that person, the terms for which he opts shall be taken to be more advantageous to him than any other terms for which he might have opted.

(4) This Article applies to the office of Governor-General, Justice of the Supreme Court, Justice of Appeal, Auditor-General and member of any Commission established by Chapter VIII of this Constitution or of the Public Service Board of Appeal.

136. (1) There shall be an Auditor-General whose office shall be a public office.

(2) The Auditor-General shall be appointed by the Governor-General, by instrument under the Public Seal, acting on the recommendation of the Public Service Commission made after the Commission has consulted the Prime Minister.

(3) The accounts of the Supreme Court, the Senate, the House of Assembly, all departments and offices of the Government (but excluding the Department of the Auditor-General), the Public Service Commission, the Judicial and Legal Service Commission, the Police Service Commission and all Magistrates' Courts shall, at least once in every year, be audited and reported on by the Auditor-General who, with his subordinate staff, shall at all times be entitled to have access to all books, records, returns and reports relating to such accounts.

(4) The Auditor-General shall submit his reports made under paragraph (3) of this Article without undue delay to the Speaker (or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker) who shall cause them to be laid before the House

of Assembly without undue delay.

(5) In the exercise of this functions under the provisions of paragraphs (3) and(4) of this Article, the Auditor-general shall not be subject to the direction or control of any other person or authority.

(6) The accounts of the department of the Auditor-General shall be audited and reported on by the Minister of Finance and the provisions of paragraphs (3) and (4) of this Article shall apply in relation to the exercise by that Minister of those function as they apply in relation to audits and reports made by the Auditor-General.

(7) Nothing in this Article shall prevent the performance by the Auditor-General of-

(a) such other functions in relation to the accounts of the Government
and that accounts of other public authorities and other bodies administering
public funds in The Bahamas as may be prescribed by or under any law for
the time being in force in The Bahamas; or

(b) such other functions in relation to the supervision and control of
expenditure form public funds in The Bahamas as may be so prescribed.

(8) The Auditor-General may be removed from office only for inability to discharge the functions thereof (whether arising form infirmity of mind or body or any other cause) or for misbehavior, and shall not be so removed except in accordance with the provisions of paragraph (9) of this Article.

(9) The Auditor-General shall be removed from office by the Governor-General if the question of his removal from office has been referred to a tribunal appointed under paragraph (10) of this Article and the tribunal has recommended to the Governor-General that he ought to be removed from office for inability as aforesaid or for misbehavior.

(10) If the Prime Minister represents to the Governor-General that the question of removing the Auditor-General from office for inability as aforesaid or for misbehavior ought to be investigated, then-

(a) the Governor-General shall appoint a tribunal, which shall
consist of a chairman and not less than two other members, selected
by the Governor-General, acting in accordance with the advice of the

Judicial and Legal Service Commission, from among persons who hold or have held or are eligible to hold high judicial office; and

(b) the tribunal shall inquire into the matter and report on the facts thereof to the Governor-General and recommend to the Governor-General whether the Auditor-General ought to be removed from office for inability as aforesaid or for misbehavior.

(11) If the question of removing the Auditor-general from office has been referred to a tribunal under paragraph (9) of this Article, the Governor-General, acting in accordance with the advice of the Public Service Commission, may suspend the Auditor-general from performing the functions of this office and any such suspension may at any time be revoked by the Governor-General, and shall in any case cease to have effect if the tribunal recommends to the Governor-General that the Auditor-General should not be removed from office.

CHAPTER 359**FINANCIAL ADMINISTRATION AND AUDIT**

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CHAPTER 359

FINANCIAL ADMINISTRATION AND AUDIT

An Act to make provision for the administration, control and audit of the public finances and to provide for other matters connected therewith or incidental thereto.

21 of 1973

3 of 1974

7 of 1983

9 of 1988

2 of 1991

41 of 1992

[Assent 6th July, 1973]

[Commencement 10th July, 1973]

PART I PRELIMINARY

1. This Act may be cited as the Financial Administration and Audit Act. Short title.

2. (1) In this Act, unless the context otherwise requires — Interpretation.

“accounting officer” means any person designated or deemed to have been designated as such under section 18, and charged with the duty of controlling expenditure under this Act or under any other Act;

“Appropriation Act” means any Act appropriating revenue in relation to a financial year for such services as are specified in such Act;

“Consolidated Fund” means the Consolidated Fund established by Article 128 of the Constitution;

“Government” means the Government of The Bahamas;

“Minister” means the Minister of Finance;

“officer” means any person employed in the service of the Government;

“principal receiver of revenue” means any officer designated or deemed to have been designated as such under section 18 and charged with the duty of collecting and accounting for revenue;

“public moneys includes —

- (a) revenue;
- (b) any trust or other moneys held, whether temporarily or otherwise, by an officer in his official capacity either alone or jointly with any other person whether an officer or not;

“public stores” means property of any description, other than money, belonging to or in possession or under the control of the Government;

“revenue” means all tolls, taxes, imposts, rates, duties, fees, penalties, forfeitures, rents and dues, proceeds of sale and all other receipts of the Government from whatever sources arising, over which Parliament has the power of appropriation, including the proceeds of all loans raised.

(2) References in this Act to a department include references to a Ministry.

PART II CONSOLIDATED FUND

Functions of the
Minister.

3. The Minister shall, subject to the Constitution and this Act, have the management of the Consolidated Fund and the supervision, control and direction of matters relating to the financial affairs of The Bahamas which are not assigned to any other Ministry by any other law.

Consolidated
Fund Account.

4. (1) Money at the credit of the Consolidated Fund shall be kept in an account styled the “Treasurer for the Consolidated Fund” (hereafter in this Act referred to as “the Consolidated Fund Account”) with such bank or banks as the Minister may from time to time direct.

(2) The Minister may authorise the temporary investment of sums at the credit of the Consolidated Fund at call or subject to notice not exceeding twelve months.

Consolidated
Fund to be kept
in two accounts.

5. There shall be kept by the Treasurer, in respect of the Consolidated Fund, two separate accounts —

- (a) an account to be called “the Consolidated Fund Current Account” in which shall be recorded all deposits into and withdrawals from the Consolidated Fund for application towards defraying current expenditure; and

- (b) an account to be called “the Consolidated Fund Capital Account” in which shall be recorded all deposits into and withdrawals from the Consolidated Fund for application towards defraying capital expenditure.

6. The Minister may establish a Reserve Fund by issues from the Consolidated Fund of such sums as the House of Assembly may by resolution approve for the purpose, and the said sums may be invested in such securities as the Minister may approve.

Reserve Fund.

7. Principal receivers of revenue shall cause the gross revenue collected by their departments to be paid into the Consolidated Fund Account at such times and in such manner as the Minister may direct and in accordance with the regulations prescribed:

Revenues to be paid into Consolidated Fund Account.

Provided that, where the Minister so directs —

- (a) principal receivers of revenue may deduct such sums as may be required for drawbacks, repayments or discounts before paying the gross revenues of their departments into the Consolidated Fund Account;
- (b) principal receivers of revenue in any place where no banking facilities exist may defray out of revenues collected by them, payments authorised by the Treasurer.

8. (1) All moneys received in error into the Consolidated Fund shall, where possible, be refunded by the Treasurer before the end of the financial year in which they were received and shall not be accounted as revenue.

Money received in error.

(2) The repayment of sums received in error in previous years or of any moneys refundable under any law shall be a charge on the Consolidated Fund.

9. (1) Pursuant to Article 133 of the Constitution, there is hereby established a Contingency Fund which shall consist of issues from the Consolidated Fund not exceeding in the aggregate twenty million dollars or such greater sum as the House of Assembly may by resolution approve to defray unforeseen expenditure.

Contingency Fund.

9 of 1988, s. 2.

(2) If the Minister is satisfied that —

- (a) certain expenditure is likely to be incurred in a financial year upon a service —

- (i) thereby causing an excess on the sum provided for that service by the Appropriation Act for that year; or
 - (ii) which being in respect of a new service, was not provided for by the Appropriation Act relating to that year; and
- (b) the circumstances are such that the expenditure cannot without injury to the public interest be postponed until adequate provision is made by Parliament,

the Minister may authorise such expenditure to be met by an advance from the Contingency Fund.

(3) Supplementary estimates of such expenditure shall be submitted for the approval of the House of Assembly as soon as possible. When the supplementary estimates have been approved, and pending the provision for such services under appropriate heads by an Appropriation Act, issues from the Consolidated Fund may be made accordingly and the sums advanced from the Contingency Fund repaid out of the said issues.

(4) Unless the Minister otherwise determines the balance of the said Fund shall not be paid into the Consolidated Fund at the close of each financial year.

10. (1) When issues from the Consolidated Fund have been authorised, the Financial Secretary shall from time to time on the requisition of the Treasurer authenticate orders issued by the Treasurer for the withdrawal of funds from the Consolidated Fund Account, so long as the sums requisitioned for the various services do not in the aggregate exceed the respective sums authorised for those services.

(2) Every order so authenticated by the Financial Secretary shall be in such form as the Minister may direct and shall be the necessary authority to the bank designated therein to issue from the Consolidated Fund Account the amount specified to be paid to such other bank account as the said order may direct, and a copy of each such order shall be forwarded to the Auditor-General.

11. All moneys withdrawn from the Consolidated Fund Account shall be paid into such other bank account or accounts as the Minister may direct.

Authorising of withdrawals from Consolidated Fund.

Issues from Consolidated Fund Account to be paid into bank account.

12. Statements showing payments into and issues from the Consolidated Fund Account shall be rendered by every bank at which such an account is maintained, to the Treasurer and to the Auditor-General at such intervals and in such form as the Minister may direct.

Bank returns.

13. (1) It shall be lawful for the Minister to issue warrants for the withdrawal of such sums from the Consolidated Fund as the House of Assembly may by resolution approve for the carrying on of the Government for any period not exceeding four months between the end of a financial year and the coming into force of the Act authorising the appropriation for the ensuing financial year.

Issue of moneys before promulgation of Appropriation Act.

(2) It shall be lawful for the Minister, where the Governor-General dissolves Parliament before provision has been made for carrying on the Government, to authorise by warrant the withdrawal from the Consolidated Fund of such sums as he may consider necessary for the public services until the expiry of a period of three months from the date of which the House of Assembly first meets after that dissolution.

(3) Subject to the provisions of Article 132 of the Constitution, all sums withdrawn in pursuance of warrants issued under subsections (1) and (2) shall be deemed to have been issued in anticipation of grants of Parliament in an Appropriation Act for the financial year in which the sums were issued and upon the commencement of such Act the said warrants shall cease to have effect and issues thereunder shall be deemed to have been made for the purposes of such Act and shall be accounted for in accordance with the provisions thereof.

14. (1) There shall be a Deposits Fund into which shall be paid pending repayment or application to the purposes for which they were deposited —

Treasury deposits.

- (a) the balances held on deposit in respect of any funds established by law or otherwise or any other deposits (other than trust funds or the balances of the Consolidated Fund);
- (b) notwithstanding the provisions of the preceding paragraph such amounts, not exceeding the sums not required for early withdrawal, as the Minister authorises to be issued from the Consolidated Fund.

(2) The Minister may authorise the making of advances from the Deposits Fund not exceeding in the aggregate five million dollars, or such greater sum as the House of Assembly may by resolution direct —

- (a) on behalf of, and recoverable from, other Governments;
- (b) to officers, where such advances are in the public interest and are made in accordance with the regulations made under section 21;
- (c) to any Ministry for the purpose of facilitating the purchase of public stores:

Provided that such advances to a Ministry shall not exceed in the aggregate sum of five hundred thousand dollars, or such greater sum as the House of Assembly may by resolution direct;

- (d) to or on account of trusts or other funds administered by the Government, or to, or on behalf of, statutory corporations, institutions or individuals where such advances are in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances are made.

Deposits Fund
Account.

15. Money at the credit of the Deposits Fund shall be kept in an account styled “the Deposits Fund Account” with such bank or banks as the Minister may from time to time direct.

Advances to the
Government.
7 of 1983.

16. (1) For the purpose of meeting the current requirements of the Consolidated Fund the Minister may borrow by means of advances from any bank, insurance company or money lending institution money to an amount not exceeding fifteen per centum of the average ordinary revenue of the Government or fifteen per centum of the estimated ordinary revenue of the Government, whichever is the less.

2 of 1991, s. 2.

(2) The principal and interest of all such advances shall be charged on and shall be payable out of the Consolidated Fund.

(3) For the purposes of this section —

“ordinary revenue” means all income or contributions to the revenue of the Government as are classified for the Financial year —

- (a) in respect of estimated ordinary revenue, in the annual Estimates of Revenue; or
- (b) in respect of average ordinary revenue in the respective audited accounts laid before Parliament,

as the case may be under the Headings Tax and Non-Tax Revenue and not being loans, capital grants or other receipts of a capital nature;

“average ordinary revenue” means the annual average of the ordinary revenue over the last three years (for which audited accounts of revenue and expenditure of the Government have been laid before Parliament) preceding the year for whose current requirements of the Consolidated Fund the advance is required;

“estimated ordinary revenue” means the ordinary revenue as estimated in the annual Estimates of Revenue laid before Parliament for the year for whose current requirements of the Consolidated Fund the advance is required.

17. Subject to the provisions of the Public Treasury Bills Act and to section 16, no loans shall be raised by the Government and no guarantees involving a financial liability shall be binding upon the Government, unless entered into with the prior approval of the House of Assembly signified by resolution thereof.

Loans and guarantees.
Ch. 361.

PART III ADMINISTRATION

18. (1) The Minister shall from time to time designate in writing the officers who shall be principal receivers of revenue or accounting officers.

Designation of accounting officers and principal receivers of revenue.

(2) The designation in the estimates of revenue and expenditure laid before the House of Assembly of an officer as being the principal receiver of revenue or the accounting officer, as the case may be, in respect of any head or part thereof shall be deemed to be a designation of that officer as being the officer responsible for the collection of revenues and the payment thereof into the Consolidated Fund Account or for the control of such expenditure, as the case may be.

Control of
expenditure and
revenue.

19. (1) Save as may otherwise be provided by this or any other Act, no expenditure involving a charge on the Consolidated Fund shall be incurred, and no sums due to the Consolidated Fund shall be remitted without the general or specific authority of the Minister.

(2) It shall be within the discretion of the Minister to limit or suspend any expenditure charged under any Appropriation Act or authorised by any resolution of the House of Assembly or by virtue of the provisions of section 9, if in his opinion the exigencies of the financial situation render such limitation or suspension necessary.

Banking
accounts.

20. No person shall open an account in respect of public moneys with any bank without the written approval of the Minister and no bank shall permit an overdraft on any such account, unless such overdraft has been authorised in writing by the Minister.

Power of
Minister to make
regulations.

21. The Minister may make regulations providing for —

- (a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all public moneys and public stores;
- (b) the keeping of records, the examination, inspection and checking of all receipts and payments and the keeping of all necessary books and accounts;
- (c) the forms of accounts, books, records and other documents required pursuant to this Act;
- (d) the purchase, safe custody, issue, sale or other disposal or writing off of public stores and the proper accounting for, and stock-taking of, such public stores;
- (e) the procedure to be followed in the procurement of all supplies, works or services required by Government and for the establishment of a Board to be responsible for the awarding of contracts for such supplies, works or services;
- (f) the making of advances to officers and the rates and limits of such advances and the rates of interest thereon;
- (g) the preparation of estimates;
- (h) for any other purpose necessary for the efficient administration of the financial business of the Government.

22. (1) If it appears to the Financial Secretary upon a report by the Treasurer that any person who is or was an officer —

Surcharge by
Financial
Secretary.

- (a) has failed to collect any moneys owing to the Government for the collection of which such person is or was at the time of such employment responsible;
- (b) is or was responsible for any improper payment of public moneys or for any payment of such moneys which is not duly vouched; or
- (c) is or was responsible for any deficiency in, or for the loss or destruction of, any public money, public stores or other Government property,

and if, within a period specified by the Financial Secretary, an explanation satisfactory to him is not furnished with regard to such failure to collect, improper payment, payment not duly vouched, deficiency, loss or destruction, as the case may be, the Financial Secretary may surcharge against the said person the amount not collected or such improper payment, payment not duly vouched, deficiency, loss or the value of the property destroyed, as the case may be, or such lesser amount as the Financial Secretary may determine.

(2) No such surcharge shall be made after the expiration of a period of three years from the date of such failure to collect, improper payment, payment not duly vouched, deficiency, loss or destruction, as the case may be.

23. (1) The Financial Secretary shall cause the Auditor-General and the accounting officer of the department concerned to be notified of any surcharge made under section 22.

Notification of
surcharge.

(2) The accounting officer on being notified as aforesaid shall notify the person surcharged and shall, subject to the provisions of sections 24 and 25, recover the amount surcharged from such person.

24. The Financial Secretary may at any time withdraw any surcharge in respect of which a satisfactory explanation has been received or if it otherwise appears that no surcharge should have been made, and in any such event the Financial Secretary shall notify the Auditor-General and the accounting officer of the department concerned of the withdrawal of any such surcharge.

Withdrawal of
surcharge.

Remedy of
person aggrieved
by surcharge.

25. (1) Any person who is dissatisfied with any surcharge made against him under section 22 is entitled to appeal in writing to the appropriate authority within a period of twenty-eight days after the receipt of the notice of the surcharge.

(2) After such further investigation, if any, as it may consider desirable, the appropriate authority may make such order confirming the surcharge or directing that the appellant be released wholly or in part from the surcharge as may appear just and reasonable.

(3) The Financial Secretary shall act in accordance with the order of the appropriate authority.

(4) For the purposes of this section, “the appropriate authority” means —

- (a) the Judicial and Legal Service Commission, where the appellant was appointed under Article 117 of the Constitution;
- (b) the Police Service Commission, where the appellant was appointed under Article 119 of the Constitution; and
- (c) the Public Service Commission, in every other case.

Recovery of
surcharge.

26. (1) The amount of any surcharge made under section 22 may, subject to sections 24 and 25, be sued for and recovered as a debt due to the Government by action at the suit of the Attorney-General in the Supreme Court or in a magistrate’s court, as may be appropriate having regard to the amount of the surcharge.

(2) Notwithstanding subsection (1), the Financial Secretary may direct that the amount of any such surcharge which may be due from an officer shall be recovered by monthly deductions from the salary of such officer in such amounts, not exceeding one-sixth of the amount payable monthly to such officer in respect of salary, as the Financial Secretary shall authorise.

PART IV
ACCOUNTS AND AUDIT

27. (1) The Treasurer shall, in respect of each financial year and within a period of six months after the close of such financial year, prepare, sign and transmit to the Financial Secretary the statements of account specified in subsection (3).

Statements of account to be sent to Auditor-General.

(2) The Financial Secretary shall transmit the said statements together with his report thereon to the Auditor-General.

- (3) The statements referred to in subsection (1) are —
- (a) an abstract account of receipts and payments on the Consolidated Fund, showing separately the Consolidated Fund Current Account and the Consolidated Fund Capital Account, including the balance at the beginning and end of the financial year.
 - (b) an abstract of receipts and payments on the Deposits Fund, including the balance at the beginning and end of the financial year;
 - (c) detailed statements of revenue and expenditure arranged according to sub-heads on the Consolidated Fund Account showing the excess or saving on each sub-head and the net excess or saving on each head;
 - (d) a statement of the current assets and liabilities of the Government at the end of the financial year;
 - (e) a statement of the public debt showing the several amounts of the loans issued and of their respective sinking funds;
 - (f) a statement of investments of the Government at the end of the financial year showing the market value at that date;
 - (g) a summary of advances and deposits at the end of the financial year;
 - (h) a statement of all loans made by the Government outstanding at the end of the financial year;
 - (i) a statement of contingent liabilities of the Government in respect of guarantees given for moneys borrowed by statutory corporations or any other person.

Statements to be laid before House of Assembly.

Public departments, etc. 2 of 1991, s. 3.

28. The statements of account specified in section 27 when examined and certified by the Auditor-General under section 37, shall be laid by the Minister on the table of the House of Assembly.

29. (1) The Auditor-General shall carry out examinations into the economy, efficiency and effectiveness with which any department, authority or other body to which this section applies has used its resources in discharging its functions.

(2) Subsection (1) shall not be construed as entitling the Auditor-General to question the merits of the policy objectives of any department, authority or body in respect of which an examination is carried out.

(3) Subject to subsections (4) and (5), this section applies to —

- (a) any department in respect of which appropriation accounts are required to be prepared under paragraph (1) of Article 130 of the Constitution;
- (b) any company, the majority of whose issued shares are held by or on behalf of the Government, any public corporation or unincorporated body established for a public purpose by, or in accordance with the provisions of a written law; and
- (c) any authority or body which does not fall within section 30 below and whose accounts are required to be examined and certified by, or are open to the inspection of, the Auditor-General by virtue of any agreement made, whether before or after the coming into operation of this section between that authority or body and a Minister of the Crown.

(4) Where the functions of the Auditor-General in relation to any authority or body falling within subsection (3)(b) or (c) are by the enactment or agreement in question restricted to particular activities of the authority or body, any examination under this section in respect of that authority or body shall be correspondingly restricted.

(5) No examination shall be carried out under this section by the Auditor-General in respect of an authority or body falling within subsection (3)(c) unless the carrying

out of such an examination is included (expressly or by implication) in the functions exercisable by him under the agreement in question; but where —

- (a) the agreement was made by a Minister before the coming into force of this section and is not such as to allow any such examination; or
- (b) a Minister makes an agreement after the coming into force of this section for the exercise by the Auditor-General in respect of any authority or body of any such functions as are mentioned in subsection (3)(c),

the Minister shall, subject to subsection (6) below, use his best endeavours to secure from the authority or body in question such rights as will enable examinations under this section to be carried out in respect of that authority or body.

(6) Subsection (5) above shall not oblige a Minister to seek to obtain any rights except at the request of the Auditor-General, and the obligations of a Minister under that subsection do not apply to any organisation which is the subject of an Order under section 3 of the International Organisations (Immunities and Privileges) Act.

Ch. 14.

(7) In this section —

“authority” includes any person holding a public office;

“Minister” or “Minister of the Crown” includes any department falling within subsection (3)(a) above and includes any Ministry;

“policy”, in relation to any such department, includes any policy of the government so far as relating to the functions of that department;

and references to an agreement made by a Minister include references to conditions imposed by him in pursuance of any statutory power in that behalf, whether in connection with the provision of financial assistance or otherwise.

30. (1) If the Auditor-General has reasonable cause to believe that any authority or body to which this section applies has in any of its financial years received more than half its income from public funds he may carry out an examination into the economy, efficiency and effectiveness with which it has in that year used its resources in discharging its functions.

Other bodies
mainly supported
by public fund.
2 of 1991, s. 3.

(2) Subsection (1) shall not be construed as entitling the Auditor-General to question the merits of the policy objectives of any authority or body in respect of which an examination is carried out.

(3) In determining for the purposes of subsection (1) whether the income of an authority or body is such as to bring it within that subsection the Auditor-General shall consult that authority or body and the Treasurer.

(4) This section applies to any authority or body appointed, or whose members are required to be appointed, by or on behalf of the Government.

(5) For the purposes of this section money is received from public funds if it is paid —

- (a) by a Ministry or Department of Government out of moneys provided by Parliament; or
- (b) by an authority or body which itself falls within subsection (1), including an authority or body falling within that subsection by virtue of this paragraph;

but, in either case, there shall be disregarded any money paid as consideration for the acquisition of property or the supply of goods or services or as remuneration, expenses, pensions, allowances or similar benefits for or in respect of a person as the holder of an office.

(6) In this section “income” includes capital receipts and “authority” has the same meaning as in section 29.

Further duties of Auditor-General.

- 31.** The Auditor-General shall satisfy himself —
- (a) that all reasonable precautions have been taken to safeguard the collection of public moneys, and that the laws, directions and instructions relating thereto have been duly observed;
 - (b) that all issues and payments are made in accordance with proper authority, that all payments are properly chargeable and are supported by sufficient vouchers or proof of payment;
 - (c) that all public moneys expended or charged to an appropriation account are applied to the purpose or purposes for which the grants made by the House of Assembly are intended to provide and that the expenditure conforms to the authority which governs it.

32. Notwithstanding section 31, the Auditor-General —

Powers of Auditor-General.

- (a) may, in his discretion, make a test audit in any particular case:

Provided that he shall state in his annual report the cases in which he has made test audits;

- (b) after satisfying himself that the vouchers relating to any sum have been examined and certified as correct by the accounting department, may in his discretion, after having had regard to the character of the departmental examination, admit and allow the sum to which the vouchers so certified relate without further examination;
- (c) may, in the examination of any account, admit and allow in cases where it appears to him to be reasonable and expedient vouchers for any moneys expressed therein although such vouchers are not stamped according to law.

33. Where a voucher has been lost or destroyed or where an existing voucher is defective in any respect, the Auditor-General, if satisfied with the explanation given by the officer responsible and with any other evidence of the transaction, may dispense with the production of a voucher or in the case of a defective voucher accept such voucher.

Auditor-General may dispense with vouchers.

34. (1) For the purpose of the examination of any accounts the Auditor-General or any person authorised by him shall be entitled at all reasonable times to —

Auditor-General to have access to books, etc.

- (a) have access to all books, records, vouchers, documents, returns, cash, stamps, securities, stores or other Government property in the custody of any officer;
- (b) require production to him of any books, accounts, vouchers or papers under the control of any officer relating to or in any way concerning the public accounts and to keep such books, accounts, vouchers and papers for such time as he may require them;
- (c) call upon any officer for any explanation and information he may require in order to enable him to discharge his duty;

- (d) require any department concerned to furnish him from time to time or at regular periods with accounts of the transactions of such department up to such date as he may specify;
- (e) without payment of any fee cause a search to be made in, and extracts to be taken from, any book, document or record in any department;
- (f) summon and examine upon oath, declaration or affirmation (which oath, declaration or affirmation the Auditor-General is hereby empowered to administer) all persons whom he shall think fit to examine respecting the receipt or expenditure of money or the receipt or issue of any stores to which this Act applies and respecting all other matters and things, whenever necessary for the due performance and exercise of powers vested in him; and if any person summoned as aforesaid is not an officer he shall be entitled to payment for his attendance as if he were a witness attending a legal proceeding in obedience to a summons issued by the Supreme Court;
- (g) to lay before the Attorney-General a case in writing as to any question regarding the interpretation of any Act or regulation concerning the powers of the Auditor-General or the discharge of his duties, and the Attorney-General shall give a written opinion on such case.

(2) Any person summoned under the provisions of paragraph (f) of subsection (1) who without reasonable excuse makes default in obeying such summons, shall be guilty of an offence and liable on summary conviction to a fine not exceeding one hundred dollars or to a term of imprisonment not exceeding three months.

Additional power
of Auditor-
General.

35. The Auditor-General may, in his discretion, at any time consult with the auditors of any statutory corporation regarding its financial affairs and if he is not satisfied with the result of such consultation may report to the Minister the nature of his dissatisfaction.

Auditor-General
to report to
Minister.

36. If at any time it appears to the Auditor-General that —

- (a) any irregularity has occurred in the collection, custody or expenditure of public moneys or in accounting for the same;

-
- (b) any irregularity has occurred in the receipt, custody, issue, sale, transfer or delivery of any public stores or in accounting for the same; or
 - (c) any loss of or damage to Government property has occurred,

and the same irregularity, loss or damage does not appear to the Auditor-General to have been reported to the Minister, the Auditor-General shall forthwith bring the matter to the notice of the Minister.

37. The Auditor-General shall examine and certify in accordance with the outcome of his examinations the several statements and accounts which are required to be submitted to him in accordance with this Act, and shall submit his reports thereon to the Speaker of the House of Assembly without undue delay (or, if the office of Speaker is vacant or the Speaker is for any reason unable to perform the functions of his office, to the Deputy Speaker) who shall cause them to be laid before the House of Assembly without undue delay.

Auditor-General to certify statements and accounts.

38. For the purpose of paragraph (7) of Article 130 of the Constitution “financial year” means any period of twelve months beginning on 1st July in any year.

Meaning of financial year. 41 of 1992, s. 2.