

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER F27

FINANCIAL ADMINISTRATION AND AUDIT ACT

Showing the Law as at 15 December 2010

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

This Edition revises and consolidates—

Act 8/2003, in force 14 November 2003
Act 3/2004, in force 25 June 2004
Act 8/2006, in force 22 May 2006
Act 12/2007, in force 26 October 2007
Act 3/2010, in force 30 April 2010
Act 7/2010, in force 1 November 2010

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FINANCIAL ADMINISTRATION AND AUDIT ACT

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FINANCIAL ADMINISTRATION AND AUDIT ACT

PART 1

PRELIMINARY

Interpretation

1. In this Act—

"Accountant General" means the Accountant General appointed in accordance with section 7(1);

"accounting officer" means an accounting officer appointed under section 8(1);

"appropriation" means an appropriation voted in an appropriation or supplementary appropriation Act;

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

"charged on the Consolidated Fund" includes charged on the revenues of Anguilla;

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

"Consolidated Fund" means the Consolidated Fund referred to in section 11(1);

"deposit" means a deposit referred to in section 44(1);

"enactment" means an Act or a regulation or any portion of an Act or regulation;

(Act 7/2010, s.1(a))

"expenditure vote" means the total amount appropriated out of the Consolidated Fund and applied to a purpose by an appropriation or supplementary appropriation Act;

(Act 8/2006, s.2)

"financial instructions" means the financial instructions issued by the Permanent Secretary under section 7(1)(e);

(Act 7/2010, s.1(b))

"financial year" means the 12 months ending on the 31st day of December in any year or such other financial year as may be prescribed by regulation;

(Act 8/2006, s.2)

"fiscal stabilization fund" means the fiscal stabilization fund established by regulation;

"Government" means the Government of Anguilla;

"government agency" means any corporation—

(a) all of the members of which, or all of the members of the board of management, board of directors or governing board of which, are appointed by—

(i) an Act of the Legislature,

(ii) the Governor,

(iii) the Governor in Council,

(iv) a minister, or

(v) any combination of subparagraphs (i) to (iv); or

(b) prescribed by regulation as a government agency for the purpose of this definition;

(Act 7/2010, s.1)

"law" means—

(a) any Act of the United Kingdom that is applied to Anguilla by statutory instrument or otherwise;

(b) the Constitution of Anguilla or any other statutory instrument made under an Act or power of the United Kingdom that applies to Anguilla; or

(c) this or any other Act of the Legislature;

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

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

"money" includes negotiable instruments and any electronic equivalent of money;

(Act 8/2006, s.2)

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

"Permanent Secretary" means the Permanent Secretary of the Ministry of Finance;

"public accounts" means the public accounts referred to in section 49;

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

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

(a) the revenue of the Government;

(b) money raised or received for the public purposes of the Government; and

(c) money or funds held in his or her official capacity, whether temporarily or otherwise, by a public officer, either alone or jointly with any other person, whether a public officer or not;

"regulation", except in sections 16(1) or (4), 45(3) and 45(2), means a regulation made under section 66;

(Act 7/2010 s.1(d), as am. in L.R. 2010)

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

"sinking fund" means a fund which is established by regulation under section 66;

(Act 8/2006, s.2 and as am.in L.R. 15/12/2010)

"special fund" means a special fund referred to in section 45(1);

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

"supplementary estimate" means a supplementary estimate approved by the Legislature.

Interpretation of power to delegate, appoint or authorise

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

Application of Act

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

PART 2

RESPONSIBILITIES AND POWERS OF THE MINISTER, PERMANENT SECRETARY, ACCOUNTANT GENERAL AND ACCOUNTING OFFICERS

Interpretation of this Part

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

(Act 7/2010, s.3)

Responsibilities and powers of Minister of Finance

5. (1) The Minister of Finance is responsible for—

(a) the overall direction of the Ministry of Finance;

(b) Government fiscal management and control, including management and control of revenue and expenditures;

(c) management of the public debt, of the investment of public money held by the Government and of loans and advances made and guarantees given by the Government;

(d) preparation of the main and supplementary estimates;

(e) ensuring that a full account of the finances of the Government is given to the House of Assembly in the public accounts; and

(f) any government agency for which he or she is responsible by virtue of being Minister of Finance.

(Act 7/2010, s.5)

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

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

(a) in relation to borrowing referred to in section 38;

(b) in relation to raising money referred to in section 40;

(c) in relation to guarantee financial liabilities referred to in section 42; and

(d) for the payment by instalments of money owing to the Government.

Responsibilities and powers of Permanent Secretary

6. (1) Subject to the directions of the Minister of Finance, the Permanent Secretary is responsible for—

(a) the day-to-day management and administration of the Ministry of Finance;

(b) advising the Minister of Finance;

(c) assisting the Minister of Finance in the discharge of his or her responsibilities generally and particularly in relation to the government agencies for which he or she is responsible by virtue of being Minister of Finance;

(d) overseeing the preparation of the main and supplementary estimates on behalf of the Minister of Finance;

(e) issuing financial instructions to accounting officers and their delegates; and

(f) performing such other functions as are delegated to him or her by the Minister of Finance.

(Act 7/2010, s.6(1))

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

(3) A Permanent Secretary is accountable for discharging his or her responsibilities under this Act, the regulations and any other enactment in relation to Financial Administration with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

(Act 8/2006, s.3 and Act 7/2010, s.6(2))

(4) Subsection (3) applies, with appropriate changes as the circumstances require, to delegates of the Permanent Secretary.

(Act 8/2006, s.3)

Appointment, responsibilities and powers of Accountant General

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

(2) Subject to the directions of the Permanent Secretary, the Accountant General is responsible for—

(a) management and administration of the Treasury Department;

(b) receiving and banking, or overseeing the receiving and banking of, public money;

(c) making, or overseeing the making of, deposits into and payments out of the Consolidated Fund;

(d) ensuring that a proper system of accounts is established in every ministry, department and public service, and that all money received and paid by the Government is brought promptly and properly to account;

(e) maintaining a system for the examination of payments to reasonably ensure that they are made in accordance with this Act and the regulations;

(f) refusing payment when it comes to the attention of the Accountant General that the information or documentation in support—

(i) is wrong or insufficient in content,

(ii) contravenes this Act, the regulations, any other enactment or the financial instructions, or

(iii) is in any way unacceptable in support of the payment out of public money;

(g) maintaining the central accounts of the Government so as to show the current state of the Consolidated Fund and the financial condition of the Government;

(h) preparing the main accounts of the Government and any other financial statements or reports required by the Minister of Finance or Permanent Secretary;

(i) reporting to the Permanent Secretary, in writing, any apparent defect in the control of revenue, expenditures, cash, stamps, and other property of the Government or any breach or non-observance of this Act, the regulations or the financial instructions by a ministry, department or public service that may come or be brought to his or her notice;

(j) evaluating accounting and the financial management systems throughout Government, and

(k) exercising supervision over revenue after it is collected by the Comptroller of Customs, the Comptroller of Inland Revenue or accounting officers or any of their delegates.

(Act 7/2010, s.7(1))

(3) The Accountant General—

(a) shall at all times have access to all ministries, departments or places where accounting for public services takes place and accounting records are kept or where money, stamps, securities, stores or other government property are or are believed to be located;

(b) may require from any public officer the information necessary for the performance of the Accountant General's responsibilities;

(c) may examine, and report to the Permanent Secretary on, the financial and accounting operations of a ministry, department or public service;

(d) may examine any person under oath with respect to any matter within the responsibilities of the Accountant General and may for that purpose administer oaths;

(e) may provide accounting and other services in connection with the financial management of a ministry, department or public service; and

(f) may station a person employed in the Treasury Department in any ministry, department or place where accounting for a public service takes place when the Accountant General considers it necessary to discharge his or her responsibilities.

(Act 7/2010, s.7(2))

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

(Act 7/2010, s.7(3))

(5) The Accountant General is accountable for discharging his or her responsibilities and exercising his or her powers under this Act, the regulations and any other enactment in relation to

financial administration with diligence and honesty and is subject to discipline under the applicable law for failing to do so.

(Act 8/2006, s.4 and Act 7/2010, s.7(4))

(6) Subsection (5) applies, with appropriate changes as the circumstances require, to delegates of the Accountant General.

(Act 8/2006, s.4)

Appointment and responsibilities of accounting officers

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

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

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

(Act 8/2006, s.5)

(c) each head of revenue or part of a head of revenue in the main estimates.

(2) An accounting officer is responsible for establishing and maintaining an effective system of internal financial control in his or her areas of responsibility and for—

(a) the prompt collection and receipt of revenue under a head of revenue or part of a head of revenue in respect of which he or she is appointed accounting officer with responsibility for its collection and receipt;

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

(i) the expenditure vote or part of a vote,

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

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

in respect of which he or she is appointed accounting officer;

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

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

in accordance with this Act and the regulations, any other enactment and the financial instructions.

(Act 7/2010, s.8(1))

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

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

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

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

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

(Act 7/2010, s. 8(2))

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

Delegation by accounting officer; responsibility of delegate

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

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

(3) When an accounting officer delegates his or her authority to a public officer, the delegate is not permitted to further delegate the authority, unless the accounting officer so permits, in which event the delegate may further delegate the authority in accordance with the permission.

(Act 7/2010, s. 9(1))

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

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

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

(Act 7/2010, s. 9(2))

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

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

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

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

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

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

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

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

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

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

PART 3

CONSOLIDATED FUND

(Act 8/2006 s.6)

Consolidated Fund

11. (1) There shall be a Consolidated Fund.

(2) All public money shall be paid into the Consolidated Fund, other than public money—

(a) that is retained as a fee or commission under section 15;

(b) that has not been paid and is subsequently remitted under section 16 or under section 76(d) of the Constitution of Anguilla;

(c) that is written off under section 17(1);

(d) that is written off and extinguished under section 18(2);

(e) that is to be held as a deposit;

(f) that is to be paid by or under this or any other Act into a special fund or any other fund; and

(g) that is not required to be paid into the Consolidated Fund under any other Act.

(Act 8/2006, s.7)

PART 4

BANKING

Banking arrangements

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

Payment and deposit of public money

13. All public money received by or on behalf of the Government—

(a) is payable to the Accountant General;

(b) shall be so payable without delay; and

(c) shall be deposited by the Accountant General or as directed by the Accountant General in a bank account referred to in section 12.

(Act 8/2006, s.9)

PART 5

PAYMENT OF MONEY INTO CONSOLIDATED FUND

(Act 8/2006, s.10)

Payment to credit of Consolidated Fund

14. All public money, other than deposits or money payable into a special fund, shall be paid to the credit of the Consolidated Fund.

(Act 8/2006, s.11)

Fees and commissions deducted at source

15. The Minister of Finance may, by agreement or directive, authorise a person in possession of public money payable to the Consolidated Fund to retain a fee or commission out of the public money before paying it into the Consolidated Fund.

(Act 8/2006, s.12)

Remission of money paid or payable

16. (1) When the Governor in Council is satisfied that it is in the public interest to do so or that hardship or injustice has resulted or is likely to result, the Governor in Council may, by regulation

applicable to a class or classes of persons or by certificate in a specific case and subject to subsection (4), remit all or part of any tax, fee or other amount (other than the amount of a penalty or forfeiture due to a conviction within the meaning of section 76(d) of the Constitution of Anguilla) that is imposed, or authorised to be imposed, under this or any other Act.

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

(a) before, after or during the course of, any proceeding for the recovery of the money;

(b) before or after the payment has been made or enforced by process or execution; or

(c) in the case of a tax, fee or other amount, before the liability arises.

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

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

(Act 7/2010, s.10)

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

Write off of debts and obligations

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

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

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

(Act 7/2010, s.11)

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

Settlement of claims by Government

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

(2) The difference between the amount of the claim and the amount of the settlement is written off and extinguished.

(3) In subsection (1), "designated authority" means the Minister of Finance except to the extent that the Minister of Finance has, by directive, delegated his or her authority to a public officer, in which case the delegate, to the extent of the delegation, is a designated authority in addition to the Minister of Finance.

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

(5) No claim shall be settled under subsection (1) except with the advice of the Attorney General if the amount claimed exceeds or may exceed $10,000 or such other amount as may be prescribed by regulation.

(Act 8/2006, s.13)

Report and register of remissions and write offs

19. (1) A statement of the remissions under section 16 and write offs under sections 17 and 18 shall be included in the public accounts.

(Act 7/2010, s.12(1))

(2) A statement referred to in subsection (1) is sufficient if it specifies—

(a) the name or names of the persons whose tax, fee or other amount is remitted or whose debt or other obligation is written off;

(b) the amount of the remission or write off;

(c) in the case of a remission, whether a tax, fee or other amount was remitted; and

(d) in the case of a write off, the nature of the debt or obligation that is written off.

(Act 7/2010, s.12(2))

(3) The Accountant General shall ensure that a statement in respect of each remission and each write off referred to in subsection (1) that meets the requirements of subsection (2)—

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

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

(Act 7/2010, s.12(3))

(4) This section applies in relation to a waiver (howsoever called) by the Executive Council, a minister or other person of all or part of a tax, fee or other amount, other than the amount of a penalty or forfeiture due to a conviction within the meaning of section 76(d) of the Constitution of Anguilla.

(Act 7/2010, s.12(4))

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

(Act 8/2006, s.14)

Repayment of expenditure charged to an appropriation

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

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

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

Interest on overdue accounts

21. (1) The Accountant General may require persons who owe money to the Government or are liable to pay money to the Government to pay simple interest on that money at the rate of 12% per annum or such other rate as may be prescribed by regulation from the date the money becomes due to the Government.

(Act 7/2010, s.13(1))

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

(3) Subsection (1) does not apply where another Act requires or authorises the imposition of interest on money owed or liable to be paid to the Government.

(Am. in L.R. 15/12/2010)

PART 6

PAYING MONEY OUT OF CONSOLIDATED FUND

(Act 8/2006, s.15)

Payment out of Consolidated Fund

22. No money shall be paid out of the Consolidated Fund except—

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

(b) to make a payment that is a lawful charge against an appropriation;

(c) to be deposited in a sinking fund or a fiscal stabilization fund; or

(d) to make a payment or advance authorised by this or any other Act or by a regulation made under section 68.

(Act 8/2006, s.16)

Authorisation of expenditure: main estimates and appropriation bills

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

(2) The main estimates shall be in the form that the Minister of Finance directs, and—

(a) shall provide for the expenditures that are to be incurred by the Government for public services during the financial year and that are required to be voted on by the Legislature, and, in relation to each expenditure vote shall—

(i) describe the ambit of the vote,

(ii) show the amount required to be supplied for the vote by appropriation, and

(iii) contain a reference to the accounting officer appointed by the Minister of Finance under section 9(1) in respect of the expenditure vote or any part of the expenditure vote or head or any part of the head of revenue; and

(b) shall—

(i) include the estimated amount of the expenditure to be incurred on each public service, the expense of which is charged on the Consolidated Fund by law,

(ii) include a reference to the provision of the law that authorises the expenditure to be charged on the Consolidated Fund, and

(iii) contain a reference to the accounting officer appointed by the Minister of Finance under section 9(1) in respect of each head of expenditure or part of a head of expenditure for each public service charged on the Consolidated Fund by law.

(Act 7/2010, s.14)

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

(Act 8/2006, s.17)

Authorisation of expenditure: supplementary estimates and supplementary appropriation bills

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

supplementary appropriation bill introduced in the House of Assembly to provide for the appropriation of those amounts.

General warrants

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

(Act 8/2006, s.18)

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

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

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

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

(a) in accordance with the general warrant or notice; or

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

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

Limitation on payment of appropriated money and amounts charged by law

26. (1) No appropriation shall be charged with an amount that—

(a) is not a lawful charge against the appropriation; or

(b) would result in an expenditure in excess of the amount available in that appropriation.

(Act 8/2006, s.19)

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

Expenditures before appropriation Act comes into force

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

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

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

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

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

(Act 8/2006, s.20)

(2) If the appropriation Act for a financial year has not come into force at the expiry of the 4 month period referred to in subsection (1), the Governor in Council may authorise the Minister of Finance to issue an additional provisional warrant authorising the payment from the Consolidated Fund of such amounts as may be necessary to carry on the public services of the Government for a further period not exceeding 2 months.

(Act 3/2010, s.1(a))

(3) Where the Governor in Council authorises the Minister of Finance to issue an additional provisional warrant under subsection (2), paragraphs (1)(a) and (b) and subsections (4) and (5) apply with such modifications as the circumstances require.

(Act 3/2010, s.1(a))

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

(Act 3/2010, s.1(b))

(5) Sections 25(2) to (6) apply with such modifications as the circumstances require to a warrant under subsection (1) or (2).

(Act 3/2010, s.1(c))

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

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

(Act 8/2006, s.20)

Contingency warrants

28. (1) When in a financial year—

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

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

the Minister of Finance may, in anticipation of approval of the expenditure in a supplementary appropriation Act, issue a contingency warrant under his or her hand authorising the expenditure to be made out of the Consolidated Fund, but the aggregate of the amounts authorised by contingency warrants issued under this section in the financial year and not approved in a supplementary appropriation Act shall not exceed 5% of the main estimates of expenditures, both recurrent and capital, in that financial year.

(Act 3/2004, s.2, Act 8/2006, s.21 and Act 12/2007, s. 1)

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

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

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

Virement warrants

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

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

(b) to make provisions for any new purpose within that vote;

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

(c) the amount of the appropriation is not thereby exceeded; and

(d) the new purpose to which any sum is assigned is within the ambit of the vote.

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

Reallocation

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

(2) No reallocation shall occur between recurrent and capital expenditures.

(3) Notwithstanding subsection (1), the Minister of Finance may, in anticipation of the approval by the House of Assembly, by reallocation warrant under his or her hand, direct that any surplus arising from underexpenditure on any item in an expenditure vote contained in the main or supplementary estimates be applied in aid of any item in any other expenditure vote in the estimates or in aid of any new item of expenditure but—

(a) in the case of reallocations between recurrent expenditure votes, the aggregate of the amounts of the reallocation warrants issued under this section in the financial year and not approved by resolution of the House of Assembly, shall not exceed 2½% of the main estimates of recurrent expenditure in that financial year; and

(b) in the case of reallocations between capital expenditure votes, the aggregate of the amounts of the reallocation warrants issued under this section in the financial year and not approved by resolution of the House of Assembly shall not exceed $5,000,000.

(Act 8/2006, s.22)

Refund of money

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

(a) that is erroneously paid or collected; or

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

may be paid out of the Consolidated Fund upon presentation of proof satisfactory to the Accountant General of the application of this section.

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

(Act 8/2006, s.23)

Payment of orders and awards for money and settlement of claims against Government

32. (1) In this section—

"arbitrator" means one or more persons on whom a power to make an award requiring the payment of money is conferred by an Act;

"designated authority" means the Minister of Finance except to the extent that he or she has, by directive, delegated his or her authority to a public officer, in which case the delegate, to the extent of the delegation, is a designated authority in addition to the Minister of Finance;

"order" of a court includes a judgment, decree or rule of the court;

"order" of a tribunal means an order, award, decision or determination of the tribunal;

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

(2) A delegation by the Minister of Finance under the definition of "designated authority" may be general or may relate to a class or classes of claims and may be made subject to conditions.

(3) Subject to this section, when a claim is made against the Government, whether or not proceedings have been commenced, and the designated authority is satisfied that—

(a) the claim, if pursued in a court of competent jurisdiction or before a tribunal or an arbitrator, could reasonably be expected to result in an order or award, as the case may be, requiring the Government to pay money; and

(b) it is in the public interest to settle the claim for a specified amount of money;

the designated authority may settle the claim and may, in writing, direct the Accountant General to pay the amount in settlement of the claim out of the Consolidated Fund.

(4) No claim shall be settled or paid under subsection (3) except with the advice of the Attorney General if the amount claimed exceeds or may exceed $10,000 or such other amount as may be prescribed by regulation.

(5) Subject to this section, on the direction of the Minister of Finance acting on the advice of the Attorney General, the Accountant General may pay the following claims out of the Consolidated Fund—

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

(b) money required to be paid by the Government by order of a tribunal;

(c) an award by an arbitrator against the Government.

(Act 8/2006, s.24)

Right of set off by Government on its own behalf or on behalf of a government agency

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

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

(Act 7/2010, s.15)

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

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

(Act 8/2006, s.25)

Right of set off by government agency on behalf of Government

34. (1) Subject to this section and the regulations, when a person owes money to the Government in a specific amount (in this section referred to as the "indebtedness") and that person is owed money by a government agency in a specific amount, the government agency may exercise a right of set off in relation to the indebtedness on behalf of the Government.

(2) When a government agency exercises the right of set off under subsection (1) against the indebtedness of a person, the government agency shall give notice in writing to the person as prescribed by regulation.

(Act 7/2010, s.16)

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

(4) When the right of set off is exercised in favour of the Government, the government agency shall without delay remit the amount of the set off to the Government in accordance with the Accountant General's instructions.

(Act 8/2006, s.26)

Lapse of appropriations and warrants

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

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

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

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

PART 7

PUBLIC DEBT, GUARANTEES AND ADVANCES

Authorisation of debt

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

Short-term borrowing

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

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

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

39. Money required to—

(a) repay the principal amount of loans and interest and other amounts due on loans;

(b) pay guarantees for which the Government is liable;

(c) redeem or repay the principal amount of government securities and to pay any interest, premium or other amount payable on them;

(d) satisfy a discount on government securities;

(e) make investments under section 48;

(f) provide for losses on investments described in section 48;

(g) pay sinking fund charges; or

(h) pay costs, expenses and charges incurred in relation to—

(i) negotiating and raising loans by the Government or the issue, redemption, repayment, servicing or management of loans by the Government,

(ii) giving guarantees for which the Government is liable, or

(iii) making investments under section 48;

is charged on the Consolidated Fund.

Refinancing public debt

40. When money is raised on the credit of the Government under the authority of an Act of the Legislature or a resolution of the House of Assembly and the debt is refinanced without increasing the aggregate of the amount of principal and interest that would have been due over the life of the debt as that amount stood immediately before it was refinanced, the Government may, with the consent of the

creditor holding the public debt where that is necessary, refinance the debt without a further Act of the Legislature or resolution of the House of Assembly.

(Act 7/2010, s.18)

Government guarantees

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

(a) given in accordance with the provisions of an Act; or

(b) authorised by resolution of the House of Assembly.

Refinancing loan guaranteed by Government

42. When a guarantee for a debt is given by the Government in accordance with section 41, and the debt is refinanced without increasing the aggregate of the amount of the principal and interest that would have been due over the life of the debt as that amount stood immediately before it was refinanced, the Government may guarantee the debt as refinanced without complying again with section 41.

(Act 7/2010, s.19)

Advances

43. (1) Subject to this section, the Minister of Finance may, by advance warrant under his or her hand, authorise the Accountant General to make advances from the Consolidated Fund or from a deposit specified in section 44—

(a) on behalf of, and recoverable from, a government or agency of a government or a regional or international organisation;

(b) to or on account of a special fund;

(c) to or on behalf of any person where the advance is required in the public interest;

(d) to a public officer for the purposes and under the conditions specified in the regulations or General Orders; or

(e) for the purpose of expenditure authorised by any law that regulates the raising of loans by or on behalf of the Government in anticipation of the raising of all or part of the loan.

(Act 8/2006, s.30)

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

(Act 8/2006, s.30)

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

(Act 7/2010, s.20)

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

PART 8

DEPOSITS AND SPECIAL FUNDS

Deposits

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

(Act 8/2006, s.31)

(2) Every deposit—

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

(b) may—

(i) with the approval of the Minister of Finance, be invested in the manner specified in section 48(1)(a), or

(ii) be used to finance advances in the manner specified in section 43.

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

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

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

Special funds

45. (1) For the purposes of this Act—

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

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

(c) a trust fund held by the Government;

is a special fund.

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

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

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

(Act 7/2010, s.21)

Administration of special funds

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

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

(Act 7/2010, s.22)

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

(Act 7/2010, s.22)

(4) Except as provided in subsection (5), a special fund shall be kept in a separate account by the Accountant General or, where by virtue of any law some other public officer is responsible for the administration of the fund, by that other public officer, but it shall be lawful for the Accountant General to keep the accounts on behalf of the other public officer.

(Act 8/2006, s.32)

(5) The Accountant General may deposit a number of special funds in a single account if he or she keeps a record of each special fund in the account.

(Act 8/2006, s.32)

(6) Money held in trust in a special fund may, while held in an account referred to in subsection (5), be intermingled with money from other special funds, whether that other money is trust money or otherwise.

(Act 8/2006, s.32)

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

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

(9) The statements required under subsection (8) shall include—

(a) a statement of assets and liabilities;

(b) a detailed statement of receipts and payment of the fund; and

(c) a statement of any investments.

(10) If—

(a) the money in a special fund referred to in section 45(1)(a) or (b) is exhausted and no legal provision exists whereby further money may be paid into that special fund; or

(b) the objects for which a special fund referred to in section 45(1)(a) or (b) was established have been fulfilled or cease to exist and, in the opinion of the Minister of Finance, there is no likelihood that any objects for which that special fund could lawfully be used will arise in the future;

the Minister of Finance may dissolve the special fund—

(c) by publishing a notice in the *Gazette* in the case of a special fund referred to in section 45(1)(a); or

(d) by repealing the regulation establishing the special fund in the case of a special fund established under section 45(2).

(11) Any money remaining in any special fund dissolved under subsection (10) shall be paid into the Consolidated Fund.

Trusts

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

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

PART 9

INVESTMENTS

Investment of Consolidated Fund, deposits, special and other funds

48. (1) The Minister of Finance may authorise the investment of money standing to the credit of the Consolidated Fund or held as a deposit, special or other fund—

(a) with a bank either at call or subject to notice;

(b) in deposits with the Eastern Caribbean Central Bank;

(c) in securities of, or guaranteed by, the government of any state or territory within a state that the Minister of Finance may approve; or

(d) in such investments as are prescribed by regulation.

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

(Act 8/2006, s.33)

PART 10

PUBLIC ACCOUNTS

Public accounts

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

(2) Subject to subsection (3), the Accountant General shall within six months after the end of every financial year—

(a) prepare the public accounts for that financial year in accordance with generally accepted accounting principles as determined in writing by the Minister of Finance, accounting for all public money and showing fully the financial position of Anguilla at the end of that financial year;

(b) certify the public accounts; and

(c) submit to the Chief Auditor as many copies of the public accounts as the Chief Auditor may require.

(Act 8/2006, s.34)

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

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

(a) such other statements as the House of Assembly may from time to time require; and

(b) any other information required under this or any other Act to be reported in the public accounts.

(Act 8/2006, s.34)

PART 11

CHIEF AUDITOR

Chief Auditor

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

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

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

Powers of audit staff and authorised persons

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

(a) by an officer of his or her staff;

(b) by any qualified accountant authorised by the Chief Auditor to do so; or

(c) with the concurrence of the head of any ministry or department or the person in charge of a public service—

(i) by an officer of that ministry or department, or

(ii) by a person in charge of that public service,

authorised by the Chief Auditor to do so.

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

Scope of audit

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

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

(a) the accounts accurately reflect the underlying transaction and are an accurate reflection of the financial affairs of Anguilla at the end of the financial year;

(b) all reasonable precautions have been and are taken to safeguard the collection of public money;

(c) all laws, directions or instructions relating to public money have been and are duly observed;

(d) all money appropriated or otherwise disbursed is applied to the purpose for which the House of Assembly intended to provide, and that the expenditure conforms to the authority that governs it; and

(e) adequate directions or instructions exist for the guidance of public officers entrusted with responsibilities and powers connected with finance or storekeeping, and that such directions or instructions have been and are duly observed.

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

(Act 3/2004, s.3)

Powers of Chief Auditor

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

(a) shall not be subject to the direction or control of any person or authority;

(b) shall not be required to undertake any responsibilities outside those pertaining to his or her office, if, in his or her opinion, such responsibilities are incompatible with the responsibilities of that office;

(c) shall not be required to undertake any examination of accounts partaking of the nature of a pre-audit and involving acceptance by him or her of responsibility that would preclude him or her from full criticism of any accounting transactions after those transactions have been duly recorded;

(d) shall have access, without payment of any fee, to all records, books, vouchers, documents, irrespective of form, and to all money, stamps, securities, stores or other Government property in the possession or control of any public officer;

(e) may call upon any public officer for any explanation or information that he or she may require in order to enable him or her to discharge his or her responsibilities;

(f) may examine any person under oath with respect to any matter within his or her responsibilities and may for that purpose administer oaths;

(g) may lay before the Attorney General a case in writing as to any question regarding the interpretation of any law concerning the powers of the Chief Auditor or the discharge of his or her responsibilities, and the Attorney General shall give a written opinion on the case; and

(h) may at any time, if it appears to him or her to be desirable, send a special report on any matter incidental to his or her responsibilities or powers under this Act to the Speaker and shall concurrently send a copy of the report to the Minister of Finance.

Reporting irregularities

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

(a) in the receipt, custody or expenditure of public money;

(b) in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property; or

(c) in accounting for a matter referred to in paragraph (a) or (b);

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

Admittance of certified accounts without further examination

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

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

Unvouched charges

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

Audit report and certificate

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

Laying audit documents before House of Assembly

58. Following 14 days after the date on which the documents were received by him or her, the Speaker shall cause a copy of every document transmitted to him or her by the Chief Auditor under section 53(h) or 57 to be laid before the House of Assembly if it is then sitting and, if it is not then sitting, then without delay after it next sits.

Audit of government agencies and recipients of public money

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

(2) The Chief Auditor may accept the audit of the accounts and financial statements of a government agency by an independent auditor of the government agency if the appointment of the

auditor has been approved by the Chief Auditor and the audit of the government agency has been performed in accordance with the directions of the Chief Auditor.

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

(a) is or was a member of the board of management, board of directors or other governing body of the government agency;

(b) has or had a direct or indirect interest in a contract with the government agency, other than the contract respecting the audit; and

(c) is or was an officer or other employee of the government agency.

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

(5) Sections 51, 52 and 53 apply with appropriate modifications as the circumstances require to the discharge of the responsibilities imposed on the Chief Auditor under subsection (1) and to the exercise of powers by him or her under subsection (4).

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

(a) on the examination and audit of the accounts and annual financial statements of the government agency or corporation or association; or

(b) that evidences the acceptance of the audit of an independent auditor of the government agency.

(7) The certificate of audit and report shall—

(a) in the case of a government agency, be sent to the government agency, to the minister responsible for the government agency and to the Minister of Finance; and

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

(8) The minister responsible for the expenditure vote from which the appropriated money was paid to a corporation or association audited by the Chief Auditor shall, following 14 days after the date on which the certificate and report are received, lay it before the House of Assembly if it is sitting and, if it is not sitting, without delay after it next sits.

Audit fees

60. A government agency and any corporation or association, the accounts of which are audited by the Chief Auditor under section 61 shall, in respect of the audit, pay the fee determined by the Chief Auditor, but the Minister of Finance may, with the concurrence of the Chief Auditor, in any case in

which it is in the public interest that some lesser fee be paid or that no fee be charged, reduce or waive the fee, as the case may be.

PART 12

GOVERNMENT AGENCIES

Interpretation

61. In this Part, "appropriate minister", in relation to a government agency, means the Minister under whose portfolio the government agency falls.

Accounting standards for government agencies

62. A government agency shall prepare its accounts for a financial year in accordance with generally accepted accounting principles as determined in writing by the Minister of Finance.

(Act 8/2006, s.34A)

Application of sections 64 and 65

63. Sections 64 and 65 apply to a government agency except where other provisions are made in respect of those matters in an Act establishing the government agency.

Estimates of expenditures by government agencies

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

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

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

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

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

Annual report of government agencies

65. (1) A government agency shall, as soon as reasonably possible after it receives the certificate and report of the Chief Auditor mentioned in section 59(6), submit an annual report to the appropriate minister, the Permanent Secretary and the Minister of Finance.

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

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

PART 13

REGULATIONS AND MISCELLANEOUS

Regulations

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

(a) prescribing anything that by this Act may be prescribed by regulation;

(b) exempting a government agency from the definition of government agency for the purpose of this Act or any provision of this Act;

(c) providing for the payment of interest on late payments by the Government, including permitting a specified person to determine when interest is payable and the rate of that interest;

(d) respecting the administration of the Consolidated Fund, deposit funds and special funds and the functions of the Accountant General, the Comptroller of Customs, the Comptroller of Inland Revenue and other accounting officers and their delegates in relation to the financial administration of the Government, including, without limitation—

(i) the receipt, banking and payment out of, due accounting for, and records relating to, public money,

(ii) the custody, handling and sale of, and record-keeping and other matters relating to stamps, and

(iii) the accounts of the Government when they are kept electronically or otherwise;

(e) regulating government property;

(f) respecting the hours of business of the Treasury Department, the hours of attendance of officers and the signing of cheques;

(g) prescribing fees for dishonoured cheques;

(h) establishing a sinking fund for the orderly payment of debt, providing that it does not lapse under section 35 and providing for its management, operation and termination;

(i) establishing a fiscal stabilization fund, providing that it does not lapse under section 35 and providing for its management, operation and termination;

(j) providing for transitional arrangements when a regulation is made under this Act, including, in the case of a regulation prescribing another financial year, that the first financial year may be less or more than 12 months.

(Act 8/2006, s.35 and Act 7/2010, s.23)

Gifts

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

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

Voting of shares held by Government

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

PART 14

CITATION

Citation

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