

Zimbabwe

## Audit and Exchequer Act

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# Zimbabwe

## Audit and Exchequer Act

### Chapter 22:03

Commenced on 1 July 1967

[Up to date as at 31 December 2016]

[Note: This version of the Act was revised and consolidated by the Law Development Commission of Zimbabwe]

**AN ACT to provide for the appointment, powers and duties of the Comptroller and Auditor-General and of his staff; to provide for the examination and audit of public accounts and the raising of surcharges; to make provision for the management and control of public moneys and State property and the protection and recovery thereof; to regulate and control the expenditures of certain statutory bodies and statutory funds and to permit the making of loans thereto; and for matters incidental to the foregoing.**

### Part I – Preliminary

#### 1. Short title

This Act may be cited as the Audit and Exchequer Act [Chapter 22:03].

#### 2. Interpretation

In this Act—

“**accounting officer**” means a person who is prescribed to be an accounting officer;

“**appropriate Minister**”, in relation to—

- (a) a statutory body, means the Vice-President or Minister, as the case may be, responsible for administering the Act by or in terms of which the statutory body was established;
- (b) a company or organization other than a statutory body, means the Vice-President or Minister, as the case may be, responsible for the sector of the economy in which the company or organization carries on its main activities;

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

“**capital expenditure**” means expenditure on any project involving the acquisition of capital assets such as land, buildings, plant, machinery, fixtures and fittings, whether such acquisition is additional to, an improvement of or in replacement of capital assets already held and includes, in relation to a statutory body, such other expenditure as the appropriate Minister and the Minister may designate prior to the approval or alteration of a capital budget as being capital expenditure;

“**Comptroller and Auditor-General**” means the person appointed as such in terms of section 105 of the Constitution;

“**Consolidated Revenue Fund**” means the Consolidated Revenue Fund referred to in section 101 of the Constitution;

“**discounts**” means any reduction allowed on an amount of revenue due to the Consolidated Revenue Fund which is authorized by any enactment;

“**Exchequer Account**” means any account established with the Reserve Bank in terms of subsection (1) of

section twenty-two;

**“financial institution”** means—

- (a) the Reserve Bank; or
- (b) a building society registered under the Building Societies Act [Chapter 24:02]; or
- (c) an accepting house, commercial bank, discount house or financial institution registered under the Banking Act [Chapter 24:20]; or
- (d) the Post Office Savings Bank established by the Post Office Savings Bank Act [Chapter 24:10];

**“financial year”**, in relation to—

- (a) the State or the finances of Zimbabwe, means the period of twelve months ending on the 30th June in any year;
- (b) a statutory body or statutory fund, means the period specified in or under the Act by or in terms of which that statutory body or statutory fund was established;
- (c) a fund established by or in terms of this Act, means the period of twelve months ending on the 30th June in any year or such other period as may be fixed by the Treasury;

**“local authority”** means—

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

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

**“officer”** means any person—

- (a) in the employment of the State or of a statutory body—
  - (i) which is not a statutory body to which Part VI applies; and
  - (ii) whose accounts are audited by the Comptroller and Auditor-General in terms of paragraph (b) of subsection (1) of section seven; or
- (b) whose salary is paid from a fund, other than the Consolidated Revenue Fund or the funds of a statutory body to which Part VI applies, which is audited or required to be audited by the Comptroller and Auditor-General;

**“Paymaster-General’s Account”** means the account established in terms of subsection (2) of section twenty-two;

**“public moneys”** means—

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

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

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

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

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

State is responsible;

“**statutory body**” means any corporate body established by or in terms of any Act for special purposes and includes any company which is a subsidiary, as determined in accordance with section 143 of the Companies Act [Chapter 24:03], of such a body;

“**statutory fund**” means any fund established by or in terms of any Act, other than this Act, but does not include a fund established by or for the purposes of a statutory body;

“**Treasury**” means the Minister or any officer in the Treasury authorized by the Minister to act on behalf of the Treasury.

## **Part II – Salary, powers and duties of Comptroller and Auditor-General and staff**

### **3. Salary of Comptroller and Auditor-General**

The salary of the Comptroller and Auditor-General shall be a charge on the Consolidated Revenue Fund, which is hereby appropriated to the purpose.

### **4. Tenure of office of Comptroller and Auditor-General**

- (1) When Parliament is not sitting the President may suspend the Comptroller and Auditor-General from office on the grounds of incompetence or misbehaviour.
- (2) Any suspension in terms of subsection (1) shall terminate, and the Comptroller and Auditor-General shall resume his duties, on the twenty-eighth day on which Parliament next sits after such suspension, unless Parliament has earlier resolved in terms of subsection (5) of section 105 of the Constitution that the Comptroller and Auditor-General should be removed from office.
- (3) If the Comptroller and Auditor-General wishes to resign from office, he shall submit his resignation in writing to the President, giving the reasons for his resignation.
- (4) Where the Comptroller and Auditor-General—
  - (a) resigns from office—
    - (i) he may, with his consent, be appointed to any post in the Public Service;
    - (ii) if he is not appointed to any other post in the Public Service, he shall be regarded as though he had resigned from the Public Service;
  - (b) retires from office, he shall be regarded as having retired from the Public Service;

and any period of service as Comptroller and Auditor-General shall be regarded, for the purposes of the State Service (Pensions) Act [Chapter 16:06] and any regulations made thereunder which are applicable, as forming part of and not having interrupted the continuity of his pensionable service.

### **5. Staff of Comptroller and Auditor-General**

- (1) The staff required to assist the Comptroller and Auditor-General in the performance of his duties shall comprise such officers as the Minister, on the recommendation of the Public Service Commission, may appoint.
- (2) Any thing which under this Act or any other enactment is directed to be done by the Comptroller and Auditor-General, other than the certifying and reporting on accounts for Parliament or the administering of an oath, may be done by an officer of his staff so authorized by him.

### **6. Duties of Comptroller and Auditor-General**

Subject to section 106 of the Constitution, the duties of the Comptroller and Auditor-General shall be—

- (a) to examine, inquire into and audit accounts in terms of section seven;
- (b) to satisfy himself in terms of section eight as to the safeguarding of public moneys and State property;
- (c) to prepare and submit reports in terms of Part IV;
- (d) to grant credits on the Exchequer Account in terms of section twenty-eight;
- (e) to do any other thing required of him by or under this Act or any other enactment.

## 7. Examination and audit of accounts

- (1) In addition to auditing the accounts referred to in subsection (1) of section 106 of the Constitution, the Comptroller and Auditor-General—

- (a) shall, on behalf of Parliament, audit the accounts of any statutory body or statutory fund where required to do so by or under this Act or any other enactment; and
- (b) may carry out examinations into the economy, efficiency and effectiveness with which any Ministry, statutory body, statutory fund or other body whose accounts he is required to audit has used its resources in discharging its functions:

Provided that the Comptroller and Auditor-General shall not be entitled to question the merits or the terms of the policies of any such Ministry, statutory body, statutory fund or other body.

- (2) Notwithstanding subsection (1), neither the determination by the Commissioner of Taxes of any amount upon which any tax leviable under the Income Tax Act [*Chapter 23:06*] or any Act repealed by that Act is chargeable nor any return or document submitted to the Commissioner of Taxes in terms of any such Act shall be subject to examination, inquiry or audit by the Comptroller and Auditor-General.
- (3) Where, by virtue of the proviso to subsection (1) of section 106 of the Constitution, the Comptroller and Auditor-General does not examine or audit any particular account or fund, moneys held in that account or fund shall be regarded as not being public moneys for the purposes of this Act.

## 8. Comptroller and Auditor-General to satisfy himself that public moneys and State property are safeguarded

- (1) The Comptroller and Auditor-General shall satisfy himself that—
- (a) all reasonable precautions have been taken to safeguard the collection of public moneys and that the provisions of this Act and any other enactment and of any direction or instruction issued in terms of subsection (2) of section eighteen or departmental instruction referred to in subsection (3) of that section which relate thereto have been duly observed;
  - (b) all payments of public moneys—
    - (i) have been made in accordance with proper authority; and
    - (ii) have been properly charged; and
    - (iii) are supported by sufficient vouchers or proof of payment;
  - (c) all moneys expended and charged to an appropriation account—
    - (i) have been applied to the purposes for which the grants made by Parliament were intended; and
    - (ii) were expended in conformity with the appropriate authority;
  - (d) all reasonable precautions have been taken to safeguard and control State property and all issues of State property were made in accordance with proper authority.
- (2) If at any time it appears to the Comptroller and Auditor-General that any irregularity has occurred in—

- (a) the collection, receipt, custody, control or payment of public moneys; or
  - (b) the receipt, custody, control, issue, sale, transfer or delivery of any State property;
- he shall immediately bring the matter to the notice of the Treasury, the appropriate accounting officer or receiver of revenue, as the case may be, and—
- (i) the Public Service Commission, where in his opinion the irregularity constitutes misconduct on the part of any member of the Public Service; and
  - (ii) the Commander of the branch of the Defence Forces concerned, where in his opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Defence Forces; and
  - (iii) the Commissioner of Police, where in his opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Police Force; and
  - (iv) the Director of Prisons, where in his opinion the irregularity constitutes misconduct or a breach of discipline on the part of any member of the Prison Service; and
  - (v) the Attorney-General, where in his opinion the irregularity constitutes a criminal offence.

## 9. Powers of Comptroller and Auditor-General

- (1) In the exercise of his duties in terms of section six the Comptroller and Auditor-General or any person authorized by him—
  - (a) may call upon an officer for, and shall be entitled to receive without undue delay from that officer, any explanations and information he may require in order to enable him to discharge his duties;
  - (b) may authorize any person to conduct on his behalf any examination, inquiry, inspection or audit of any books and accounts which he may be required by or under this Act to examine and audit and such person shall report thereon to the Comptroller and Auditor-General in such manner as he may direct:  

Provided that any such authority given to an officer shall be subject to the concurrence of the head of the Ministry or statutory body in which the officer is employed;
  - (c) may, without payment of any fee, cause search to be made in and extracts to be taken from any book, document or record in the custody or possession of an officer;
  - (d) may examine upon oath all persons whom he thinks fit to examine respecting the receipt or expenditure of public moneys or the receipt or issue of any State property affected by the provisions of this Act and respecting all other matters and things whatever necessary for the due performance and exercise of the duties and powers vested in him.
- (2) Notwithstanding anything in this Act or any other law contained, the Comptroller and Auditor-General may, if he thinks fit—
  - (a) make a test audit in any particular case;
  - (b) accept as correct, upon a certificate of any person, the accounts of any other person entrusted with—
    - (i) the collection, receipt, custody, control or payment of public moneys; or
    - (ii) the receipt, custody, control, issue, sale, transfer or delivery of any State property;
  - (c) admit without further examination accounts, vouchers and receipts which bear evidence of having been checked, examined and certified as correct in every respect and have been allowed and passed by the appropriate officer;
  - (d) admit and allow any payment against a voucher which is defective in any respect or which has been

lost or destroyed, if satisfied with the explanation given to him by the appropriate officer.

- (3) Where the Comptroller and Auditor-General is not satisfied with the explanation given to him by the appropriate officer in connection with any payment against a voucher which is defective in any respect or which has been lost or destroyed—
- (a) he shall refer the matter to the Treasury; and
  - (b) if the Treasury makes an order dispensing with the production of a voucher or, in the case of a defective voucher, declaring that such voucher shall be accepted, he shall admit and allow the payments covered by such order.
- (4) If, in the opinion of the Comptroller and Auditor-General, it is necessary or desirable that he should have access to the accounts or other records of—
- (a) a statutory body or statutory fund not referred to in subsection (1) of section seven; or
  - (b) a company in which the State holds more than fifty *per centum* in nominal value of the equity share capital;

he may exercise any of the powers conferred by subsection (1) in relation to such statutory body, statutory fund or company, as the case may be, and subsection (1) shall apply, *mutatis mutandis*, in relation to the moneys, property and employees of the statutory body, statutory fund or company concerned as they apply in relation to public moneys, State property and officers, respectively.

- (5) The Comptroller and Auditor-General may lay before the Attorney-General a case in writing as to any question regarding which the Comptroller and Auditor-General requires a legal opinion and the Attorney-General shall furnish the Comptroller and Auditor-General with such legal opinion.
- (6) Where the Comptroller and Auditor-General exercises any of his duties in relation to a statutory body or statutory fund, subsections (1), (2) and (3) shall apply, *mutatis mutandis*, in relation to the moneys, property and employees of the statutory body or statutory fund concerned as they apply in relation to public moneys, State property and officers, respectively:

Provided that in the application of subsection (3) to a statutory body, the references in that subsection to the Treasury shall be read and construed as though they were references to the appropriate Minister.

### Part III – Surcharges

#### 10. Application of Part III

- (1) This Part shall apply to persons who are in the employment of the State or who were in the employment of the State at the time of any deficiency in or improper payment of, or any payment not duly vouched or loss or destruction of, public moneys for which they were responsible.
- (2) In this Part any reference to moneys shall be construed as including a reference to tokens, stamps or other such instruments which have a face value or are to be sold for an amount shown on the face thereof and, in the case of any deficiency in such instruments, a surcharge in terms of this Part may be calculated in relation to the face value of such instruments.

#### 11. Power of surcharge

- (1) If—
- (a) it appears to the Comptroller and Auditor-General that any person to whom the provisions of this Part apply was responsible for—
    - (i) any deficiency in the collection of or accounting for public moneys; or
    - (ii) any improper payment of public moneys; or
    - (iii) any payment of public moneys which is not duly vouched and the Comptroller and Auditor-

General is satisfied that such payment has resulted in a loss of public moneys or a further payment of public moneys in respect of the same matter; or

- (iv) any deficiency in or destruction of public moneys; and
- (b) an explanation satisfactory to the Comptroller and Auditor-General is not, within a period specified by him, furnished to him with regard to such irregularity as is referred to in paragraph (a);

the Comptroller and Auditor-General may surcharge against the said person the amount of any sums not collected or accounted for or the amount of any deficiency in or improper payment, payment not duly vouched or loss or destruction of public moneys, as the case may be.

- (2) The Comptroller and Auditor-General may at any time withdraw a surcharge—
  - (a) in respect of which a satisfactory explanation has been received; or
  - (b) if it otherwise appears to him that no surcharge should have been made.
- (3) Whenever the Comptroller and Auditor-General raises a surcharge in terms of subsection (1) or withdraws a surcharge in terms of subsection (2), he shall immediately notify the appropriate accounting officer.

## 12. Appeals against surcharge

- (1) Any person who is dissatisfied with a surcharge raised against him by the Comptroller and Auditor-General may, within a period of one month after he has been notified thereof or such further period as the appropriate Minister in special circumstances may allow, appeal in writing to the Minister against such surcharge, giving his reasons as to why he feels that he should not have been surcharged.
- (2) An appeal in terms of subsection (1) shall be lodged with the appropriate Minister who, before forwarding it to the Minister, shall submit it to the Comptroller and Auditor-General for any comments he may wish to make thereon.
- (3) After considering an appeal in terms of subsection (1) the Minister shall—
  - (a) reject the appeal; or
  - (b) make an order directing that the person concerned be released wholly or in part from the surcharge; as may appear to him to be just and reasonable.

## 13. Recovery of surcharge

- (1) A surcharge raised by the Comptroller and Auditor-General which has not been withdrawn or from which the person concerned has not been released in terms of section twelve shall be a debt due to the State.
- (2) The amount of any surcharge which has been recovered shall be paid to the Consolidated Revenue Fund or the account in respect of which the surcharge was raised.

## Part IV – Reports by Comptroller and Auditor-General

### 14. Annual report of Comptroller and Auditor-General

- (1) The Comptroller and Auditor-General, after examining the accounts transmitted to him in terms of section thirty-one and signing a certificate recording the result of his examination, shall prepare and submit to the Minister, not later than the 31st March in each year, a report on his examination and audit of the accounts referred to in paragraph (a) of subsection (1) of section seven.
- (2) Subject to subsection (3), the Comptroller and Auditor-General shall embody in his annual report the accounts submitted in terms of section thirty-one and shall set out therein if, in his opinion, any payment out of public moneys which has been made to any Minister as defined in subsection (3) of section forty-six, Deputy Minister or other member of Parliament is one on which he should report to Parliament, a statement showing the name of the member receiving such payment, the total amount received and the

service in respect of which the payment was made.

- (3) The Comptroller and Auditor-General shall not embody in his annual report any account which is endorsed in terms of subsection (5) of section thirty-one as being an account which, in the public interest, should not be published, but shall specify in his annual report the name of any account not published in terms of this subsection.

## 15. Special reports

- (1) If at any time it appears to the Comptroller and Auditor-General desirable that any matter relating to public moneys or State property should be drawn to the attention of Parliament without undue delay, he shall prepare a special report in relation to such matter and transmit—
  - (a) that report to the Minister; and
  - (b) if it relates to a statutory body, a copy of that report to the appropriate Minister.
- (2) A special report in terms of subsection (1) may be made in relation to any matter incidental to the powers and duties of the Comptroller and Auditor-General under this Act or any other enactment.

## 16. Reports on accounts of statutory bodies

The Comptroller and Auditor-General, after examining the accounts of any statutory body referred to in paragraph (b) subsection (1) of section seven and signing a certificate recording the result of his examination, shall transmit to the appropriate Minister his certificate upon his examination and audit of such accounts, together with any report which he may consider necessary.

## 17. Reports to be laid before Parliament

- (1) Any report transmitted—
  - (a) to the Minister in terms of section fourteen or fifteen; or
  - (b) to the appropriate Minister in terms of section sixteen;shall be laid by the Minister or appropriate Minister, as the case may be, before Parliament on one of the seven days on which Parliament sits next after he has received such report.
- (2) Where the Minister or appropriate Minister fails to lay any report before Parliament in terms of subsection (1) within the period specified therein, the Comptroller and Auditor-General shall transmit a copy of such report to the Speaker of Parliament to be laid before Parliament by the Speaker.

## Part V – Management and control of public moneys and State property

### 18. Treasury to manage and control public moneys and State property

- (1) The Treasury shall, subject to this Act and any other enactment—
  - (a) manage the Consolidated Revenue Fund;
  - (b) determine the manner in which public moneys and State property shall be accounted for;
  - (c) exercise a general direction and control over public moneys and State property.
- (2) The Treasury may by notice to officers concerned issue instructions or directions not inconsistent with this Act in relation to matters involving—
  - (a) the collection, receipt, custody, control, issue or expenditure of public moneys;
  - (b) the acquisition, receipt, custody, control, issue, sale, delivery, transfer or disposal of any State property;

- (c) expenditure on any service involving a charge on the Consolidated Revenue Fund;
- (d) the operation of any fund or account which contains public moneys and is established by or in terms of this Act or any other enactment;
- (e) the acceptance, on behalf of the State, of any gift, donation, bequest or other grant of moneys or other property which is made subject to a condition or is likely to involve a charge on the Consolidated Revenue Fund;

and the accounting therefor.

- (3) Instructions issued in terms of subsection (2) may require an accounting officer or receiver of revenue to issue written departmental instructions to the officers in his Ministry or department relating to any matter referred to in subsection (2).
- (4) Section 21 of the Interpretation Act [*Chapter 1:01*] shall apply, *mutatis mutandis*, in relation to the power conferred on the Treasury by subsection (2) to issue instructions or directions.

## 19. Appointment and functions of internal auditors

- (1) To assist the Treasury in carrying out the duties referred to in section eighteen, the Public Service Commission may appoint an officer of the Public Service as an internal auditor to any Ministry or any department of a Ministry.
- (2) The functions of an internal auditor appointed in terms of subsection (1) shall be—
  - (a) to monitor the financial administration and procedures of the Ministry or department concerned to ensure that—
    - (i) proper accounting and bookkeeping transactions and procedures are carried out; and
    - (ii) proper accounting records are maintained; and
    - (iii) adequate internal checks and controls are observed; and
    - (iv) assets under the control of the Ministry or department are properly accounted for; and
    - (v) instructions and directions issued in terms of section eighteen are complied with; and
    - (vi) generally, that requirements of this Act are being observed; and
  - (b) to assess the cost-effectiveness of any projects undertaken by the Ministry or department concerned; and
  - (c) to perform any other function that may be assigned to him by the accounting officer of the Ministry or department concerned.
- (3) In the performance of his functions in terms of subsection (2), an internal auditor—
  - (a) shall have free access at all reasonable times to any records, books, vouchers, documents, public moneys or State property under the control of the Ministry or department concerned;
  - (b) shall have direct access to the accounting officer of the Ministry or department concerned;
  - (c) may, without payment of any fee, cause search to be made in and extracts to be taken from any record, book, voucher or document under the control of the Ministry or department concerned;
  - (d) may call upon any officer in the Ministry or department concerned to give, and shall be entitled to receive without undue delay from that officer, any explanations and information he may require to enable him to perform his functions.
- (4) If at any time it appears to an internal auditor that any offence has been committed in relation to—
  - (a) the collection, receipt, custody, control or payment of public moneys; or

(b) the receipt, custody, control, issue, sale, transfer or delivery of any State property;

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

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

## 20. Powers of Treasury in relation to public moneys and State property

- (1) Notwithstanding anything to the contrary contained in any other enactment, the Treasury may—
- (a) write off any losses or deficiencies of public moneys or the value of any lost, deficient, condemned, unserviceable or obsolete State property;
  - (b) write off any moneys payable to the State or to an officer for the benefit of a fund established in terms of section thirty which in the opinion of the Treasury are irrecoverable;
  - (c) write off any moneys payable to the State or to an officer for the benefit of a fund established in terms of section thirty the difficulties, disadvantages or costs of collection of which, in the opinion of the Treasury, outweigh the value thereof;
  - (d) waive or remit any claim by the State against any person or another government or agency of another government;
  - (e) on such terms and conditions as the Treasury may determine, invest or authorize the investment of any public moneys held in an account or fund;
  - (f) notwithstanding subsection (2) of section twenty-three, make a refund of any revenues or moneys erroneously brought to account as revenues.
- (2) Where any moneys have been written off in terms of paragraph (b) or (c) of subsection (1) during any financial year, the Minister shall lay before Parliament, before the 31st October following the end of that financial year, a statement of the moneys so written off.
- (3) Any investment made in terms of paragraph (e) of subsection (1) shall, when it is realized, be repaid to the fund or account from which the moneys were withdrawn for the purpose of making such investment.
- (4) Any refund made in terms of paragraph (f) of subsection (1) shall be paid out of the Consolidated Revenue Fund which is hereby appropriated to the purpose.

## 21. Loss or destruction of, or damage to, State property

- (1) When it comes to the notice of an accounting officer that there is any deficiency in, or has been any destruction of or damage to, State property he shall cause an investigation to be held into the circumstances of such deficiency, destruction or damage, as the case may be.
- (2) If after an investigation in terms of subsection (1) the accounting officer considers that—
- (a) any person who is or was, at the time the deficiency, destruction or damage occurred, in the employment of the State was responsible for the deficiency, destruction or damage, as the case may be; and
  - (b) a satisfactory explanation in respect of the matter has not been furnished;

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

- (3) On receipt of a report in terms of subsection (2) and after considering the recommendation of the accounting officer and consulting such other bodies or persons as he considers should be consulted, the Secretary of the Ministry for which the Minister is responsible may make an order against the person responsible for the deficiency, destruction or damage, as the case may be, referred to in subsection (1) requiring him to pay to the State an amount equal to the cost of the replacement of the property concerned, if it has been lost or destroyed, or the cost of the repairs thereto, if it has been damaged, as the case may be, or such portion of that cost as the Secretary of the Ministry for which the Minister is responsible considers to be equitable in the circumstances:

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

- (4) The Secretary of the Ministry for which the Minister is responsible shall withdraw an order made in terms of subsection (3) if it appears to him that the order should not have been made.
- (5) The provisions of sections twelve and thirteen shall apply, *mutatis mutandis*, in relation to an order made in terms of subsection (3) as they apply in relation to a surcharge, with any reference therein to the Comptroller and Auditor-General being read and construed as a reference to the Secretary of the Ministry for which the Minister is responsible.
- (6) The Secretary of the Ministry for which the Minister is responsible may, by notice in a statutory instrument, delegate the powers conferred on him by subsections (3) and (4) to an accounting officer by reference to the cost of replacement or the cost of repairs of any property, and where the Secretary of the Ministry for which the Minister is responsible has so delegated his powers—
- (a) it shall not be necessary for a report to be made in terms of subsection (2) and the powers conferred by subsection (3) may be exercised after the investigation in terms of subsection (1);
- (b) the references in subsections (3), (4) and (5) to the Secretary of the Ministry for which the Minister is responsible shall be read and construed as references to the accounting officer concerned.
- (7) For the purposes of this section, property shall be deemed to have been destroyed where the cost of repairing the damage to the property is estimated to be in excess of the cost of replacing the property.

## 22. Establishment of banking accounts

- (1) The Treasury shall establish with the Reserve Bank an account, to be known as the Exchequer Account, for the deposit of moneys forming the Consolidated Revenue Fund and may, within the Exchequer Account, establish separate accounts for the investment of surplus funds, which accounts shall be part of the Exchequer Account.
- (2) The Treasury shall establish an account with the Reserve Bank, to be known as the Paymaster-General's Account.
- (3) The Treasury may establish with a financial institution or any similar body outside Zimbabwe or authorize the establishment therewith of such other accounts as it may deem necessary or desirable for the purposes of controlling or administering public moneys.
- (4) No account shall be opened with a financial institution or other such body, whether within or outside Zimbabwe, for the deposit of public moneys otherwise than in terms of this Act unless the written authority of the Treasury has been obtained therefor.
- (5) Where an account has been opened with a financial institution or other body in terms of this section, the officer responsible for the administration of that account shall not incur any overdraft on that account otherwise than in accordance with the written authority of the Treasury.

## 23. Moneys to be paid to Exchequer Account

- (1) Subject to this section and subsection (9) of section thirty, all revenues shall be paid into the Exchequer

Account.

- (2) A receiver of revenue may, if authorized by the Treasury and subject to such conditions as may be fixed by the Treasury, withhold from the Exchequer Account revenues which have been collected and shall retain revenues so withheld in a deposit account for the purpose of making refunds of revenues or moneys erroneously brought to account as revenues.
- (3) Public moneys, other than revenues, shall, if so prescribed, be paid into the Exchequer Account with effect from such date as may be prescribed.
- (4) Revenues received from the lease of a business or residential site in small-scale commercial land shall be paid to the local authority in whose area that business or residential site is situated.
- (5) In subsection (4)—  
“small-scale commercial land” has the meaning given to it by subsection (1) of section 2 of the Rural District Councils Act [Chapter 29:13].

## 24. Control of expenditures and issues from Exchequer Account

- (1) Notwithstanding anything to the contrary contained in any other enactment—
  - (a) no payment involving a charge upon the Consolidated Revenue Fund shall be made without the written authority of the Treasury;
  - (b) no expenditure of public moneys shall be incurred on any service unless provision therefor has been made by or in terms of this Act or any other enactment.
- (2) The Treasury may authorize the issue from the Consolidated Revenue Fund of moneys appropriated by this Act or any other enactment to any specific purpose—
  - (a) not exceeding the amount so appropriated; or
  - (b) where the appropriation is made for a specific purpose without specifying the amount so appropriated, the amount estimated by the Treasury to be required for such purpose.
- (3) The Treasury may authorize the issue from the Exchequer Account of—
  - (a) any amount which it considers it appropriate to withdraw from the Exchequer Account for investments otherwise than through accounts established in terms of subsection (1) of section twenty-two which form part of the Exchequer Account;
  - (b) any public moneys, other than revenues, which have been or may be paid into the Exchequer Account for any purpose.
- (4) Notwithstanding any authority issued in terms of subsection (1), the Treasury may limit or suspend any expenditure authorized by such authority if, in its opinion, such action is in the public interest.
- (5) Whenever any moneys have been appropriated under a vote of Parliament for a particular purpose, the Treasury may authorize the application of an expected saving on that vote to meet an excess of expenditure on any existing subhead of that vote or expenditure on a new subhead of that vote.
- (6) Where, prior to the closing of the accounts of a financial year which relate to moneys appropriated by any enactment, it is found that an amount has been improperly charged against such appropriation, that amount shall be disallowed and the expenditure recorded against that appropriation in that financial year shall be reduced by the amount so disallowed.
- (7) Any expenditure disallowed in terms of subsection (6) shall be dealt with as an advance in terms of section twenty-nine until such time as the amount has been recovered or the charge has been otherwise adjusted.
- (8) Where provision is made in an Appropriation Act and in an authority issued in terms of this Act for the incurring of expenditure on any service, such provision shall lapse and cease to have effect at the close of the financial year to which that Appropriation Act relates and, save as is otherwise provided in this Act,

the unexpended balance of any moneys withdrawn from the Exchequer Account shall be redeposited in the Exchequer Account:

Provided that where any amount appropriated by any provision of an Appropriation Act is specified in the Estimates of Expenditure to which such appropriation relates as being required for a grant, unless the Treasury otherwise directs, the provisions of this subsection shall not apply in respect of that amount or in respect of the effect of that provision.

## **25. Issue of moneys to carry on Government at the beginning of each financial year**

- (1) Subject to this section, the President may in any financial year authorize in advance of the main Appropriation Act for that year the issue from the Consolidated Revenue Fund of such sums as may be necessary to carry on the services of the Government during the period commencing with the beginning of that financial year and expiring four months thereafter or on the date of commencement of the main Appropriation Act, whichever is the earlier.
- (2) Immediately the main annual Appropriation Act comes into operation after any issue authorized in terms of subsection (1) the issue so authorized shall be deemed to have been made for the purposes of such Act and shall be accounted for in accordance with the provisions thereof.
- (3) The aggregate of all sums authorized to be issued from the Consolidated Revenue Fund in terms of subsection (1) shall not exceed one-third of the sums included in the estimates of expenditure for the preceding financial year that have been laid before Parliament.

## **26. Special warrants for issues to meet unforeseen expenditure**

- (1) Subject to this section, the President may, by special warrant under his hand directed to the Minister, authorize the issue from the Consolidated Revenue Fund in advance of appropriation by Act of Parliament of such sums as may be required for the purpose of meeting expenditure which—
  - (a) is unforeseen or has not been provided for or has been inadequately provided for by any enactment; and
  - (b) in the opinion of the President cannot, without detriment to the public interest, be postponed.
- (2) The total amount of issues authorized under subsection (1) shall not any one time exceed one and one-half *per centum* of the total amount appropriated in the last main Appropriation Act.
- (3) An issue authorized in terms of subsection (1) shall be submitted for appropriation by Act of Parliament on one of the fourteen days on which it sits next after such issue has been authorized.

## **27. Issue of moneys to carry on Government after dissolution of Parliament**

- (1) Subject to subsection (2), if at any time Parliament has been dissolved before any provision or sufficient provision has been made in terms of Chapter XI of the Constitution or this Act for the carrying on of the government of Zimbabwe, the President may authorize the issue of moneys from the Consolidated Revenue Fund for the purpose of meeting expenditure necessary to carry on the services of the Government during the period beginning on the dissolution of Parliament and expiring three months after the day on which Parliament first meets after that dissolution.
- (2) An issue authorized in terms of subsection (1) shall be submitted for appropriation by Parliament in the first Appropriation Act after the issue was authorized and shall be accounted for in accordance with that Appropriation Act.

## **28. Grants of credit**

- (1) When an issue from the Consolidated Revenue Fund or Exchequer Account has been authorized in terms of section twenty-four, twenty-five or twenty-six, the Treasury may by requisition from time to time require the Comptroller and Auditor-General to grant a credit on the Exchequer Account not exceeding

the aggregate sum authorized in terms of the said section.

- (2) On receipt of a requisition in terms of subsection (1) the Comptroller and Auditor-General shall, if satisfied that—
  - (a) the amount authorized in terms of section twenty-four, twenty-five or twenty-six, as the case may be, has been lawfully authorized; and
  - (b) the amount so requisitioned, together with any other amounts previously requisitioned during the financial year, does not exceed the aggregate amount that may lawfully be authorized; and
  - (c) in the case of an issue authorized in terms of paragraph (b) of subsection (2) of section twenty-four, the amount so requisitioned, together with any other amounts previously requisitioned in terms of that paragraph during the financial year, does not exceed the aggregate of the amount of public moneys other than revenues which have been deposited in the Exchequer Account; grant a credit on the Exchequer Account in accordance with such requisition.
- (3) A credit granted by the Comptroller and Auditor-General in terms of subsection (2) shall constitute the necessary authority to the Reserve Bank to transfer the amount specified therein from the Exchequer Account to the Paymaster-General's Account in accordance with the directions of the Treasury.
- (4) Statements showing payments into and withdrawals from the Exchequer Account shall be rendered by the Reserve Bank to the Comptroller and Auditor-General at such intervals and in such form as the Treasury, after consultation with the Comptroller and Auditor-General, may direct.

## 29. Advances by Treasury

- (1) Subject to this section, the Treasury may make advances to or payments on account of—
  - (a) another government;
  - (b) a trust or other account or fund administered by the State, a Minister or an officer;
  - (c) a statutory body, local authority or person;
  - (d) any public service where—
    - A. the account or fund to which the cost is to be charged cannot immediately be ascertained; or
    - B. the Treasury has directed that payment in respect of that service shall be made forthwith on receipt of an account relating thereto.
- (2) The aggregate amount of the advances or payments made in terms of subsection (1) which are outstanding at any one time shall not exceed—
  - (a) twenty-seven million dollars; or
  - (b) one and one quarter *per centum* of the total amount appropriated in the last main Appropriation Act; whichever is the greater:

Provided that the aggregate amount ascertained in terms of this subsection shall not include any advances or payments which have been misappropriated.
- (3) Save as is provided in paragraph (d) of subsection (1), no advance or payment may be made in terms of subsection (1) to meet expenditure for which—
  - (a) provision is voted in an Appropriation Act; or
  - (b) a special warrant in terms of section twenty-six may or should be issued.
- (4) The Consolidated Revenue Fund is hereby appropriated for the purpose of any advance or payment in terms of subsection (1).

### 30. Establishment of funds

- (1) Whenever—
  - (a) moneys are appropriated by Act of Parliament for the establishment of a fund for a particular purpose; or
  - (b) in the opinion of the Minister, it is necessary or desirable for the purpose of facilitating the accounting for public moneys or State property that a separate fund be established;the Treasury shall establish a fund for that purpose.
- (2) On the establishment of a fund in terms of subsection (1), the Treasury shall draw up a constitution for the regulation of the affairs of that fund, which constitution—
  - (a) shall specify the objects of the fund and the moneys which shall be payable into that fund; and
  - (b) shall provide for the payments which may be made out of that fund; and
  - (c) may provide for such other matters as are considered to be necessary or desirable.
- (3) A constitution drawn up in terms of subsection (2) may be amended from time to time or replaced as the Treasury thinks fit.
- (4) Where a constitution has been drawn up in terms of subsection (2) or amended or replaced in terms of subsection (3) the Minister shall lay a copy of that constitution or the amendment to or replacement of that constitution, as the case may be, before Parliament on one of the ten days on which Parliament sits next after that constitution was drawn up or after that amendment or replacement of the constitution was drawn up, as the case may be.
- (5) Where a fund has been established before the 1st November, 1973, and is operating on that date in accordance with a constitution drawn up by or with the approval of the Treasury—
  - (a) that fund shall be deemed to have been established in terms of subsection (1); and
  - (b) that constitution shall be deemed to be a constitution drawn up in terms of subsection (2) but it shall not be necessary to lay a copy thereof before Parliament in terms of subsection (4); and
  - (c) if that constitution purported to confer on the fund powers which may only be exercised by a corporate body and the Minister has, by notice in the *Gazette*, declared that the fund concerned shall be a corporate body—
    - (i) that fund shall be regarded as a body corporate with such powers as may be conferred upon it by or in terms of its constitution, and shall be deemed to have become a body corporate with effect from the date on which the fund was established; and
    - (ii) any assets or liabilities of that fund shall not be regarded for any purposes as assets or liabilities of the State; and
    - (iii) any servant or employee of that fund shall not be regarded for any purposes as a servant or employee of the State; and
    - (iv) the provisions of subsection (3), the proviso to subsection (9) and subsection (10) shall not apply in relation to the constitution of that fund but that constitution shall not be amended without the approval of the Treasury.
- (6) Subject to subsection (1), no fund shall be established by an officer in the employment of the State for the deposit of public moneys unless the establishment of that fund is authorized by or in terms of this Act or any other enactment.
- (7) Where a fund administered by an officer in the employment of the State has been established in terms of this Act or any other enactment—
  - (a) there shall be paid into and credited to that fund any moneys which are—

- (i) appropriated by Act of Parliament for the purposes of that fund; or
  - (ii) required by any enactment or, in the case of a fund established in terms of subsection (1), by the constitution thereof to be paid into that fund;
- (b) there may, subject to the approval of the Treasury, be paid into and credited to that fund any moneys made available from other sources for the purposes of that fund.
- (8) The Minister may, on such terms and conditions as he may fix, make loans or advances for a period not exceeding three hundred and sixty days to any statutory fund or fund referred to in subsection (7) to enable the functions that should be carried out by means of the use of moneys in that fund to be carried out:
- Provided that moneys loaned or advanced in terms of this subsection shall not be used for capital expenditure unless the Minister has approved such use.
- (9) Notwithstanding anything to the contrary contained in this Act, the receipts, earnings or accruals of a statutory fund or fund referred to in subsection (7) shall be paid into and form part of that fund:
- Provided that, subject to any enactment by or in terms of which the fund was established or, in the case of a fund established in terms of subsection (1), the provisions of the constitution thereof, the Treasury may at any time direct that any moneys in such fund shall be paid into the Exchequer Account.
- (10) Subject to any enactment by or in terms of which a fund is established or, in the case of a fund established in terms of subsection (1), the provisions of the constitution thereof, the Treasury may wind up that fund and shall transfer any moneys in that fund to the Exchequer Account.
- (11) Any loan made in terms of subsection (8) shall be paid out of the Consolidated Revenue Fund which is hereby appropriated to the purpose.

### 31. Appropriation and year-end accounts

- (1) Unless the Treasury otherwise directs, all appropriation accounts shall be closed and the final returns submitted to the Treasury within one month after the end of the financial year.
- (2) Every accounting officer or receiver of revenue shall prepare and transmit to the Comptroller and Auditor-General, within two months after the end of each financial year in such form as may be required by the Treasury, after consultation with the Comptroller and Auditor-General, and with such explanatory notes as the accounting officer or receiver of revenue may consider necessary, statements showing—
- (a) public moneys expended on services for which his Ministry or department was responsible during that financial year; and
  - (b) receipts and disbursements of public moneys, not being public moneys which were paid into a separate fund.
- (3) Within four months after the end of each financial year the Treasury shall prepare and transmit to the Comptroller and Auditor-General, in such detail as the Treasury, after consultation with the Comptroller and Auditor-General, considers necessary, statements of account showing the transactions of the Consolidated Revenue Fund and the financial position of the State on the last day of that financial year.
- (4) Save as otherwise provided by this Act or any other enactment, an officer administering a trust or other separate fund or account shall, within three months after the end of each financial year, prepare and transmit to the Comptroller and Auditor-General financial accounts, statements or returns in relation to that trust, fund or account during that financial year in such form as the Treasury, after consultation with the Comptroller and Auditor-General, may direct.
- (5) If in the opinion of the responsible Minister it would not be in the public interest to publish any account, statement or return which is required to be transmitted to the Comptroller and Auditor-General in terms of subsection (4), the accounting officer shall, on the instructions of the Minister given in writing, endorse the account, statement or return accordingly for the purpose of subsection (3) of section sixteen.

## Part VI – Statutory bodies

### 32. Interpretation in Part VI

In this Part—

“designated corporate body” means—

- (a) any statutory body; or
- (b) any corporate body or company in which the State has a controlling interest, whether by virtue of holding or controlling shares therein or by virtue of a right of appointment of members to the controlling body thereof or otherwise;

and which is prescribed to be a designated corporate body for the purpose of this Part.

### 33. No payment or expenditure to be incurred without approval

Subject to this Act, no designated corporate body shall commit itself to or incur—

- (a) any capital expenditure unless provision therefor has been made in a capital budget or supplementary capital budget approved in terms of this Part or such expenditure has been approved by the appropriate Minister and the Minister;
- (b) expenditure other than capital expenditure unless provision therefor has been made in a revenue and expenditure budget approved in terms of this Part or such expenditure has been approved by the appropriate Minister.

### 34. Submission of budgets for approval

- (1) Every designated corporate body shall, by such date before the beginning of its financial year and in such form as the appropriate Minister may direct, prepare and submit to the appropriate Minister in respect of that financial year—
  - (a) a capital budget for the approval of the appropriate Minister and the Minister; and
  - (b) a revenue and expenditure budget for the approval of the appropriate Minister.
- (2) A designated corporate body shall furnish to the appropriate Minister or to the Minister such additional information in regard to any budget submitted for approval as the appropriate Minister or the Minister may require.
- (3) In approving any—
  - (a) capital budget the appropriate Minister may impose such terms and conditions as he or the Minister considers to be necessary or desirable;
  - (b) revenue and expenditure budget the appropriate Minister may impose such terms and conditions as he considers to be necessary or desirable.
- (4) On the establishment of a designated corporate body that designated statutory body shall prepare and submit the budgets referred to in subsection (1) within two months of its establishment or such later date as the appropriate Minister may permit.

### 35. Supplementary capital budgets

- (1) A designated corporate body may during a financial year submit to the appropriate Minister a supplementary budget relating to capital expenditure which—
  - (a) was not, for good reason, provided for in the annual capital budget; or
  - (b) was inadequately provided for in the annual capital budget due to unforeseen circumstances;

for the approval of the appropriate Minister and the Minister and shall furnish to the appropriate Minister or the Minister such additional information in regard to the supplementary capital budget submitted for approval as the appropriate Minister or the Minister may require.

- (2) In approving the supplementary capital budget the appropriate Minister may impose such terms and conditions as he or the Minister considers to be necessary or desirable.
- (3) A supplementary capital budget which has been approved in terms of this section shall be deemed to form part of the capital budget of the designated corporate body for the financial year to which it relates.

### **36. Designated corporate body may vary approved budgets**

- (1) Subject to subsections (2) and (3), a designated corporate body may vary a budget approved in terms of section thirty-four or thirty-five subject to any terms and conditions imposed by the appropriate Minister or the Minister when approving such budget.
- (2) In the case of a capital budget or supplementary capital budget which has been approved—
  - (a) no variation may be made which has the effect of increasing the total amount of capital expenditure provided for therein;
  - (b) where the budget as approved contemplated that any capital expenditure would be met from a particular source of finance, the designated corporate body shall not use any other source of finance to meet such capital expenditure without the approval of the appropriate Minister and the Minister.
- (3) In the case of a revenue and expenditure budget which has been approved, no variation may be made which has the effect of increasing the total amount of expenditure provided for therein unless such increase is authorized by any terms and conditions imposed in terms of paragraph (b) of subsection (3) of section thirty-four.

### **37. Appropriate Minister may vary or modify approval of budgets**

- (1) Where a budget has been approved in terms of this Part—
  - (a) in the case of a capital or supplementary capital budget, the appropriate Minister or the Minister;
  - (b) in the case of a revenue and expenditure budget, the appropriate Minister;may withdraw, vary or modify his approval of such budget or of any of the terms or conditions imposed in approving such budget.
- (2) The appropriate Minister may authorize expenditure by a designated corporate body on a service or project not provided for or inadequately provided for in the revenue and expenditure budget of that designated statutory body if, in his opinion, such expenditure cannot in the public interest be postponed until the next financial year.

### **38. Approved capital budget to be laid before Parliament**

- (1) The appropriate Minister shall lay every capital and supplementary capital budget approved in terms of section thirty-four or thirty-five before Parliament on one of the ten days on which Parliament sits next after that budget has been so approved.
- (2) Where the appropriate Minister and the Minister have, in terms of paragraph (a) of section thirty-three, approved any capital expenditure, the appropriate Minister shall lay a statement relating to such capital expenditure before Parliament on one of the seven days on which Parliament sits next after that capital expenditure has been so approved:

Provided that, if the appropriate Minister considers that on the grounds of national interest the information concerning such capital expenditure should not be disclosed to the public, he shall not lay

such statement before Parliament until such time as he considers that the national interest no longer requires the withholding of such information.

### **39. Statutory corporations not to fix or alter salaries, etc., of designated employees without consent of responsible Minister**

- (1) Notwithstanding any other Act, no statutory corporation which, in terms of any such Act, is empowered to employ persons shall, on and after the 26th October, 1973, fix or increase the salary, allowances or other remuneration of any employee designated by the responsible Minister unless that Minister approves the fixing or increasing of such salary, allowances or other remuneration.
- (2) For the purposes of subsection (1)—
  - “responsible Minister” means the Minister responsible for the statutory corporation;
  - “statutory corporation” means any body corporate established for special purposes directly by any Act.

### **40. Restrictions on borrowings or investments by designated corporate body**

Notwithstanding anything to the contrary contained in any other enactment, no designated corporate body may —

- (a) borrow money, temporarily or otherwise, without the approval of the appropriate Minister and the Minister;
- (b) invest any of its moneys otherwise than in a manner and on such terms and conditions as may be approved by the appropriate Minister and the Minister.

### **41. Loans to designated corporate bodies**

- (1) Subject to this section, the Minister may, on such terms and conditions as he may fix, make a loan for a period not exceeding three hundred and sixty days to a designated corporate body for the purpose of enabling that designated statutory body to perform the functions assigned to it:

Provided that—

- (i) moneys loaned in terms of this subsection shall not be used for capital expenditure;
  - (ii) a loan in terms of this subsection to the Tobacco Corporation established by section 4 of the Tobacco Corporation Act [*Chapter 118 of 1974*] may be made for a period exceeding three hundred and sixty days;
  - (iii) a loan in terms of this subsection to the Corporation as defined in section 2 of the Agricultural Act [*Chapter 18:02*] may be made for a period not exceeding five hundred and forty days.
- (2) The aggregate of the amount of loans made to all designated corporate bodies in terms of subsection (1) remaining unpaid at any time shall not exceed five hundred million dollars.
  - (3) A loan made in terms of subsection (1) shall be paid out of the Consolidated Revenue Fund which is hereby appropriated to the purpose.

### **42. Audit of accounts of designated corporate bodies**

- (1) Notwithstanding anything to the contrary contained in any other enactment relating to the appointment of an auditor by a designated corporate body but subject to subsection (2), the Comptroller and Auditor-General shall audit the accounts of every designated corporate body.
- (2) After consultation with the appropriate Minister and the designated corporate body concerned, the Comptroller and Auditor-General may appoint one or more persons who are registered as public accountants in terms of the Public Accountants and Auditors Act [*Chapter 27:12*] to audit the accounts of

any designated corporate body.

- (3) Any fees payable to an auditor appointed under subsection (2) shall be paid by the designated corporate body concerned.

*[section 42 substituted by Act 5 of 1993]*

#### **43. Duties of auditors**

- (1) Every auditor appointed in terms of any enactment to audit the accounts of a designated corporate body shall, in auditing the accounts of the designated corporate body, satisfy himself that—
- (a) the accounts of the designated corporate body comply with any statutory requirements applicable to the accounts concerned; and
  - (b) proper accounting practices and procedures have been observed.
- (2) An annual report of an auditor submitted in terms of paragraph (c) of subsection (2) of section forty-four shall include therein a report on—
- (a) the matters referred to in subsection (1); and
  - (b) any fraud, corruption or financial indiscipline which he has ascertained or which he suspects has occurred in relation to the designated corporate body concerned; and
  - (c) any inefficiency in the use of any resources or any waste of resources of the designated corporate body concerned; and
  - (d) any act which has contributed to any loss of moneys or assets of the designated corporate body; and
  - (e) any other matter which, in the opinion of the auditor, requires rectification or attention; and
  - (f) any recommendations for the improvement of the financial administration or accounting of the designated corporate body concerned.
- (3) For the purpose of ensuring compliance with subsection (2), the Comptroller and Auditor-General may issue instructions or directions to auditors as a guide in their auditing.

#### **44. Annual reports of designated corporate bodies**

- (1) Every designated corporate body shall, as soon as possible and in any case not later than six months after the end of its financial year, submit to the appropriate Minister an annual report in such form as the appropriate Minister may determine.
- (2) An annual report submitted in terms of subsection (1) shall include a copy of—
- (a) the balance sheet;
  - (b) an income and expenditure account;
  - (c) the annual report of the auditor; of that designated corporate body.
- (3) An annual report submitted in terms of subsection (1) shall be laid before Parliament by the appropriate Minister on one of the ten days on which Parliament sits next after he has received it.
- (4) A designated corporate body shall submit to the appropriate Minister with the annual report submitted in terms of subsection (1) a statement of capital expenditure reported upon by the auditor—
- (a) showing the general heads of such expenditure as compared with the figures provided therefor in the capital budget or supplementary capital budget approved in terms of section thirty-four or thirty-five for that financial year; and
  - (b) explaining any difference between such figures.

- (5) Notwithstanding anything to the contrary contained in any other enactment, a copy of any report made to a designated corporate body by the auditor of that designated corporate body on the audit of its accounts shall be sent by such auditor at the time he makes that report to the appropriate Minister and the Comptroller and Auditor-General.
- (6) The appropriate Minister or the Comptroller and Auditor-General may call upon a designated corporate body or the auditor thereof to provide such information as he may require in relation to any annual report or any report by the auditor to that designated corporate body:

Provided that the powers conferred by this section on the Comptroller and Auditor-General shall not apply in relation to a report which is not on the accounts of the designated corporate body.

#### **45. Exemptions from Part VI**

Regulations made in terms of section forty-nine may prescribe that all or such of the provisions of this Part as may be specified, other than subsection (6) of section forty-four, shall not apply in relation to any designated corporate body, subject to such modifications as may be specified in the regulations.

### **Part VII – General**

#### **46. Accounting officer or receiver of revenue may require written instructions**

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

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

- (2) If, after receiving any objections and reasons therefor in terms of subsection (1), the Minister or Deputy Minister instructs the accounting officer or receiver of revenue, as the case may be in writing to do any thing referred to in paragraph (a) or (b), as the case may be, of subsection (1), the accounting officer or receiver of revenue shall comply with such instructions and shall immediately submit a written report thereon to the Minister, the Comptroller and Auditor-General and the Secretary to the Cabinet.
- (3) If an officer is directed by a superior officer or by a Minister or Deputy Minister—
- (a) to order or commit a payment which the officer believes he is not authorized to make in terms of any enactment; or
  - (b) not to collect any public moneys which the officer believes he should collect; or
  - (c) to deal with public moneys in a manner in which the officer believes he is not authorized to deal in terms of any enactment;

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

- (4) If, after receiving any objections and reasons therefor in terms of subsection (3), the accounting officer instructs the officer in writing to do anything referred to in paragraph (a), (b) or (c) of subsection (3), the officer shall comply with such instructions and shall immediately submit a written report thereon to—
- (a) the Treasury; and

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

and shall submit with the report a copy of the accounting officer's instructions.

#### **47. Retention moneys**

Any money payable by the State under a contract which is withheld to ensure due performance of that contract may, if the Treasury so authorizes, be charged to the appropriation account relating to that contract and the money so charged shall be credited to a suspense account and may thereafter be paid out in accordance with the contract or as directed by the Treasury.

#### **48. Recovery of debts due to State**

- (1) A debt due to the State may be—
  - (a) sued for and recovered by action in any court of competent jurisdiction at the suit of the responsible Minister;
  - (b) subject to subsection (2), set off against any amount due by the State to the person by whom that debt is due.
- (2) In the case of a set-off in terms of paragraph (b) of subsection (1) against a salary payable to a person who remains in the employment of the State or a pension, the debt may be recovered in full or in monthly instalments at a rate fixed by the Treasury.

#### **49. Regulations**

- (1) The Minister may by regulation provide for all matters which by this Act are required or are permitted to be prescribed or which, in his opinion, are necessary or convenient to be provided for in order to carry out or give effect to this Act.
- (2) Regulations in terms of subsection (1) may provide for—
  - (a) the duties and responsibilities of accounting officers, receivers of revenue and other persons;
  - (b) the issue of receipts;
  - (c) the reporting of any loss or destruction of or deficiency in public moneys or State property;
  - (d) the remission or writing off of public moneys.

#### **50. Officers and other persons to obey instructions or directions**

Any officer or other person to whom—

- (a) an instruction issued in terms of subsection (2) of section eighteen or any departmental instruction referred to in subsection (3) of that section applies; or
- (b) any direction has been issued by the Treasury in terms of this Act;

shall comply with such instruction or direction, as the case may be.

#### **51. Inspection of offices**

Any officer authorized by the Treasury shall be entitled at all reasonable times to inspect any office of the State and call for the production of or to have access to any books, documents, records or information in the possession of an officer as may be necessary for the Treasury to exercise its powers and duties under this Act.

**52. Offences and penalties**

- (1) Any person who hinders or obstructs -
- (a) the Comptroller and Auditor-General; or
  - (b) the Treasury; or
  - (c) an internal auditor appointed in terms of section nineteen;
  - (b) under examination in terms of paragraph (e) of subsection (1) of section nine, makes any statement knowing it to be false or not knowing or believing it to be true;

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

- (2) Any person who, under examination in terms of paragraph (e) of section nine, makes any statement which he knows to be false or does not have reasonable grounds to believe to be true shall be guilty of an offence and liable to a fine not exceeding level seven or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

*[please note: numbering as in source]*