

THE PUBLIC FINANCE BILL, 2004

MEMORANDUM

The object of this Bill is to revise the law relating to the control and management of public finances of the Republic of Zambia; to repeal and replace the Finance (Control and Management) Act, 1969; and to provide for matters connected with or incidental to the foregoing.

G. KUNDA,
Attorney-General

N.A.B. 15, 2004

28th September, 2004

THE PUBLIC FINANCE ACT, 2004

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GOVERNMENT OF ZAMBIA

ACT

No. 15 of 2004

Date of Assent: 12th December, 2004

An Act to revise the law relating to the control and management of public finances of the Republic of Zambia; to repeal and replace the Finance (Control and Management) Act, 1969; and to provide for matters connected with or incidental to the foregoing.

[17th December, 2004]

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Public Finance Act, 2004, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commen-
cement

2. In this Act, unless the context otherwise requires—

Interpretation

“accounting officer” means a person appointed as accounting officer under section *nine*;

“Accountant-General” means a person appointed as Accountant-General under section *eight*;

“advance” means any recoverable sum of money issued pursuant to section *twenty-seven*;

“aided project” means any project which is partially financed through a loan, grant, donation or technical assistance and partially financed from public funds pursuant to section *twenty-eight*;

“Appropriation Act” means an Act passed by Parliament authorising the Republic to incur expenditure of public moneys for specific purposes;

“appropriations-in-aid” means revenues assigned to and collected by Ministries and departments which they are permitted by the Treasury to appropriate against expenditure voted by Parliament;

- “appropriate Minister” in relation to a ministry, Government institution, department, agency or statutory corporation means the Minister to whom responsibility for the ministry, Government institution, department, agency or statutory corporation, as the case may be, is assigned;
- Cap. 1 “Auditor-General” means the Auditor-General appointed pursuant to the Constitution;
- “Audit Committee” means a committee established under section *twelve*;
- “bank account” means an account opened by Government at a bank into which public moneys are deposited and drawn;
- “Consolidated Fund” means the Consolidated Fund established under section *thirteen*;
- “Contingency Fund” means the Contingency Fund established under section *twenty-four* ;
- “controlling officer” means an officer designated as such pursuant to section *seven*;
- “Controller of Internal Audit” means an officer appointed as such under section *ten*;
- Cap. 387 “financial institution” shall have the meaning assigned to it in the Banking and Financial Services Act;
- “financial year” means the period of twelve months ending on 31st December in any year;
- “general revenues” includes moneys accruing to the Republic by way of taxes, licences, import fees, fines, levies and charges, sale of Government property and shares, loans, donations and grants raised from within or outside Zambia or any other income due to the Republic;
- “Government agency” means any unincorporated person or body of persons to which functions exercisable on behalf of the Republic, involving the use of public moneys or stores are delegated by or under any written law;
- “Government building” means any building owned or occupied or under the control of the Republic and used for Government purposes;
- “head of expenditure” means a head of expenditure shown in the estimates of revenue and expenditure in respect of a financial year approved by Parliament pursuant to the Constitution;
- Cap. 1 “internal audit” means the process of evaluating and assessing the efficiency and effectiveness of internal control systems;
- “internal auditor” means an officer appointed as internal auditor under section *eleven*;
- “officer” means any public officer;
- Cap. 386 “Privatisation Revenue Account” has the meaning assigned to it by section *two* of the Privatisation Act;

- “Public Accounts” means all accounts required under this Act to be kept by Ministries, Departments or statutory corporations in respect of transactions involving assets or liabilities of the Republic;
- “public debt” means financial, material and other resources including guarantees acquired or borrowed by the Government, Government agencies or local authorities in the interest of the Republic;
- “Public funds” means funds received by an officer by virtue of the officers employment and includes public moneys;
- “public moneys” means moneys received by an officer in the course of the officer’s employment or any other person directly or indirectly for the purpose of Government and includes all stores, stamps, negotiable instruments, bonds, debentures, investments and other securities raised or received by or on behalf of, or for the benefit of, the Republic;
- “public stores” means all chattels of whatever nature purchased or donated belonging to or in possession of, or under the control of, the Republic and includes plant, vehicles, machinery and equipment;
- “statutory corporation” means any body corporate established by an Act of Parliament in which the Government has a majority or controlling interest, and includes a Government agency;
- “Secretary to the Treasury” means the Secretary to the Treasury, appointed under section *six*;
- “Treasury Account” means the Treasury Account established under section *thirteen*;
- “Treasury” means the office of Treasury established under section *four*; and
- “working account” means an account established for the purposes defined in section *twenty-five* of the Act.

PART II

MANAGEMENT OF PUBLIC FINANCES

3. (1) The Minister shall, subject to the provisions of the Constitution and this Act, have the management, supervision, control and direction of all matters relating to financial planning and the economic management of the Republic.

Functions of
the Minister
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(2) Without prejudice to the generality of subsection (1) the Minister shall be responsible for—

- (a) presenting the annual estimates of revenue and expenditure and supplementary estimates to the National Assembly;
- (b) presenting, half yearly, budget performance reports to the National Assembly; and
- (c) presenting the annual audited financial report to the National Assembly

Establishment
of Treasury

4. (1) There is hereby established the office of the Treasury which shall consist of—

- (a) the Minister, who shall be the head of the Treasury; and
- (b) the ministry responsible for financial and fiscal matters.

(2) The Minister shall make policy and other decisions of the Treasury, except for those decisions taken under delegation or instruction in terms of section *six*.

(3) Powers of the Treasury shall be exercised by the Secretary to the Treasury referred to in section *six* or such other officer as may be authorised by the Secretary to the Treasury in writing.

Functions and
Powers of
Treasury

5. (1) The Treasury shall—

- (a) promote the Government's national fiscal policy;
- (b) co-ordinate the macro-economic policy;
- (c) manage the national budget preparation process;
- (d) exercise control over the implementation of the annual national budget, including any supplementary budgets;
- (e) facilitate the implementation of the Appropriation Act;
- (f) promote and enforce transparency and effective management in respect of revenue, expenditure, assets and liabilities of ministries, Government departments and statutory corporations; and
- (g) perform such other functions as may be assigned to the Treasury by or under this Act.

(2) The Treasury shall, for purposes of performing its functions under subsection (1)—

- (a) prescribe uniform treasury norms and standards;
- (b) enforce the provisions of this Act and any prescribed standards of generally recognised accounting practices and uniform classification systems, in ministries, departments and statutory corporations;
- (c) monitor and assess compliance with this Act and any prescribed norms and standards by ministries, departments and statutory corporations;
- (d) assist ministries, departments and statutory corporations in building their capacity for efficient, effective and transparent financial management;

- (e) investigate any system of financial management and internal control in any ministry, department or statutory corporation;
- (f) take appropriate steps to redress any serious or persistent breach of this Act by any ministry, department or statutory corporation; and
- (g) do all such things as are necessary or conducive to the performance of its functions.

(3) In the event of any dispute arising as to whether access to any account, document, book or record is necessary for the exercise by the Treasury of any functions under this Act or any other written law, the dispute shall be referred to the Minister and the Minister's decision shall be final.

(4) Nothing in this section shall be construed as authorizing the Treasury to issue instructions which contravene the Constitution and this Act.

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(5) The Secretary to the Treasury and any other officer authorised by the Secretary to the Treasury shall be entitled to inspect and have full access to all accounts, documents, books and records of any Ministry, department, or statutory corporation as is necessary for the exercise of the functions of the Treasury under this Act and shall be given all available information required with regard to the moneys and property specified in subsection (1).

6. (1) There shall be a Secretary to the Treasury who shall be a public officer and who shall be appointed by the President.

Secretary to
the Treasury

(2) The Secretary to the Treasury shall be the Chief Executive Officer of the Treasury and the Chief Controlling Officer of the Government and shall exercise such functions as provided in this Act or as may be authorised, in writing, by the Minister.

(3) The Secretary to the Treasury shall be responsible for—

- (a) preparing annual estimates of revenue and expenditure pursuant to the provisions of the Constitution;
- (b) preparing supplementary estimates of expenditure when the situation so demands;
- (c) quarterly review of the performance of the budget and submitting a report thereof to the Minister;
- (d) preparing the annual consolidated statement of assets and liabilities including a statement of the public debt of the Republic as well as the consolidated revenue statement;
- (e) submitting the statements referred to in paragraph (d) to the Auditor General for examination and certification;
- (f) consolidation of all audited annual revenue statements, appropriation accounts and balance sheets for incorporation in the financial report to be laid before the National Assembly;

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- (g) releasing of funds from the Consolidated Fund for appropriation by controlling officers;
 - (h) ensuring the implementation of the recommendations of the Parliamentary Committee on Public Accounts;
 - (i) preparing the Treasury Minute in respect of the implementation of the recommendations of the Public Accounts Committee for submission to the National Assembly;
 - (j) the general management and administration of the Consolidated Fund and other funds established under this Act;
 - (k) opening, maintaining and closing accounting units in ministries, departments and projects;
 - (l) seconding accounting and audit staff to the units referred to in paragraph (k) and ensuring that they perform their duties in accordance with the provisions of this Act and any regulations issued under this Act;
 - (m) ensuring that annual appropriation accounts are prepared and submitted promptly by controlling officers to the Auditor-General for certification and the same are included in the financial report;
 - (n) ensuring that the annual consolidated balance sheet of assets and liabilities of the Republic and consolidated revenue statements are promptly prepared by controlling officers for certification by the Auditor-General;
 - (o) ensuring that consolidated financial statement for statutory corporations are prepared in accordance with generally recognised accounting practice for each financial year;
 - (p) compiling in accordance with international standards and publishing in the *Gazette*, financial statistics and aggregations concerning all spheres of Government;
 - (q) maintaining compatible, effective, efficient and transparent financial management information system;
 - (r) ensuring compliance, by officers with the provisions of this Act; and
 - (s) providing advice and guidance on all matters relating to accounting policy and general financial management;
 - (t) monitoring and inspecting the operations of the decentralised accounting units in ministries and departments to ensure value for money;
 - (u) providing a regulatory framework for sound financial management to accounting units; and
 - (v) carrying out such other functions as may be considered necessary for proper financial management of the Republic.

7. (1) The Secretary to the Treasury shall designate in respect of each head of revenue or expenditure provided for in any financial year, an officer who shall be a controlling officer. Controlling officers
- (2) The controlling officer shall be the Chief Accounting Officer in respect of all public moneys collected, received or disbursed and in respect of all public stores received, held or disposed of by or on behalf of the ministry or department or service for which such head is provided.
- (3) Every controlling officer shall be charged with the duty of planning and controlling the expenditure of public funds under the controlling officer's control which shall encompass the following:
- (a) maintenance of an effective, efficient and transparent system of financial and risk management and internal control;
 - (b) maintenance of a system of internal audit under the control and direction of an audit committee complying with and operating in accordance with this Act;
 - (c) maintenance of an appropriate procurement and provisioning system in accordance with the Zambia National Tender Board Act; Cap. 394
 - (d) maintenance of a system for properly evaluating capital projects;
 - (e) ensuring effective, efficient, economic and transparent use of the resources under their control;
 - (f) preventing unauthorised, irregular and wasteful expenditure and losses resulting from negligence and criminal conduct;
 - (g) on discovering any unauthorised, irregular or wasteful expenditure, referred to in paragraph (f) immediately report, in writing, particulars of the expenditure to the Secretary to the Treasury;
 - (h) taking immediate, effective and appropriate disciplinary steps against any officer in the ministry or department who contravenes or fails to comply with the provisions of this Act; and
 - (i) not committing Government to expenditures in excess of money appropriated by Parliament.
- (4) Every controlling officer shall, subject to the provisions of this Act or any other written law and in consultation with the Treasury—
- (a) define in writing the extent to which the functions conferred or imposed upon such controlling officer may be exercised or performed by any accounting officer under the control of such controlling officer; and

(b) give to every accounting officer referred to in paragraph (a) such directions as may be necessary for the proper exercise or performance of such functions by the accounting officer.

(5) Every controlling officer shall, if so required by the Secretary to the Treasury, certify, subject to such explanation or qualification as may be considered necessary, the correctness of the accounts under the control of the controlling officer and the propriety of any charge shown therein.

(6) Every controlling officer shall, in respect of each financial year, prepare for the examination and certification of the Auditor-General, a detailed statement of revenue and appropriation accounts for each head of expenditure under the controlling officer's control, giving adequate explanations for variations between estimated expenditure and actual expenditure, if any.

(7) Upon certification by the Auditor-General the controlling officer shall submit forthwith a detailed statement of accounts referred to in subsection (6) to the Secretary to the Treasury for incorporation in the financial report required to be laid before the National Assembly pursuant to the provisions of the Constitution.

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(8) Every controlling officer shall promptly answer fully all audit queries and observations.

(9) Every controlling officer shall collect, account and promptly remit to the Treasury all moneys due to the Government under the responsibility of the controlling officer.

Accountant-
General

8. (1) There shall be an Accountant-General appointed by the Public Service Commission who shall be the head of the accounting services of the Treasury and shall, subject to the direction of the Secretary to the Treasury, be responsible for the compilation and management of the accounts and the custody and safety of public money and public stores of the Government; and

(2) The Accountant-General may give such general or specific directions to accounting officers in relation to the performance of their functions in accordance with the provisions of this Act or any regulations that may be made under the Act.

Appointment
and duties of
accounting
officers

9. (1) There shall be appointed by the Public Service Commission, as public officers, such accounting officers as shall be necessary for the proper administration of this Act.

(2) Subject to subsection (1) an accounting officer shall perform such duties, keep such books and render such accounts as may be prescribed, or as may be directed by the Secretary to the Treasury.

(3) An accounting officer shall in the performance of duties under this Act—

- (a) ensure that systems of financial management and internal control established for a ministry, department or statutory corporation are implemented within the area of responsibility of that officer;
- (b) promote the effective, efficient, economical and transparent use of financial and other resources within that officer's area of responsibility;
- (c) take effective and appropriate steps to prevent within that officer's area of responsibility, any unauthorised expenditure, irregular and wasteful expenditure;
- (d) manage and safeguard the assets of the Republic and management of the liabilities within that officer's area of responsibility;
- (f) collect, receipt, retain in the accounting officer's custody, issue or pay public moneys whether such moneys are the property of the Republic or are entrusted to the Republic or to the accounting officer in the officer's capacity either alone or jointly with any other officer or person.

10. (1) There shall be a Controller of Internal Audit appointed by the Public Service Commission who shall be the head of Internal Audit and shall, in the performance of duties under this Act be subject to the direction of the Secretary to the Treasury.

Internal
Audit

(2) Subject to subsection (3), the Controller of Internal Audit shall be responsible for the internal audit of every ministry, department and statutory corporation.

(3) Notwithstanding the provisions of any other written law and the existence of internal auditors in any statutory corporation, the Secretary to the Treasury shall have power to assign internal auditors to carry out special audits in such statutory corporation as the case may be.

11. (1) There shall be appointed by the Public Service Commission, as public officers, such internal auditors as shall be necessary for the proper administration of this Act.

Appointment
and powers
of internal
auditor

(2) In the performance of their duties under this Act an internal auditor subject to the direction of the controller of Internal Audit—

- (a) shall at all reasonable times have access to all accounts, records, books, vouchers and other documents relating to the accounts of any statutory corporation, ministry or department;

- (b) may require from the accounting authority of a ministry, department or statutory corporation concerned such information and explanations as may be necessary; and
- (c) may investigate whether there are adequate measures and procedures for the proper application of sound economic, efficient and effective management of public funds.

(3) An internal auditor shall submit reports to the controlling officer and the audit committee and such reports shall be copied to the Secretary to the Treasury and to the Auditor General.

Audit
committees

12. (1) There shall be established for each ministry, department and statutory corporation an audit committee which shall perform such functions and exercise such powers in relation to internal audit as are imposed or conferred on the committee by or under this Act.

(2) An audit committee shall consist of five members appointed by the Secretary to the Treasury as follows:

- (a) two public officers; and
- (b) one representative from the Zambia Institute of Chartered Accountants;
- (c) one representative from the Law Association of Zambia;
- (d) one representative from any other relevant professional body;

Provided that an audit committee for a statutory corporation shall be appointed by the Board of that statutory corporation and shall comprise five members.

(3) The functions of an Audit Committee shall be to—

- (a) receive reports from internal auditors;
- (b) evaluate and review audit policy;
- (b) evaluate the management procedures—
 - (i) regarding internal control; and
 - (ii) regarding financial reporting.

(4) The members of an audit committee shall be appointed for a term of three years and may be re-appointed for a further term of three years.

(5) A member of an audit committee shall be paid such allowance as the Minister may, by statutory instrument, prescribe.

(6) An audit committee shall meet, for the transaction of business, once in every three months at such places and at such times as the Chairperson may determine.

(7) Subject to the other provisions of this Act an audit committee shall regulate its own procedure.

PART III

CONTROL OF PUBLIC FINANCES

13. (1) There shall be established a Consolidated Fund into which all general revenues and other public moneys accruing to the Treasury shall be credited.

Consolidated
Fund

(2) The moneys payable to the Consolidated Fund under subsection (1) shall be deposited into the Treasury Account which shall be maintained at the Bank of Zambia.

14. Payments from the Consolidated Fund shall not be made except in accordance with the provisions of the Constitution and this Act.

Payments
from
Consolidated
Fund
Cap. 1

15. (1) Subject to any express direction of the Secretary to the Treasury in respect of the operation of any Fund or Working Account established pursuant to section *twenty-five* all moneys received by any accounting officer shall be deposited not later than the next business day following the day of receipt.

Gross
Revenues

(2) All moneys paid into a bank pursuant to sub-section (1) shall be deemed to be public moneys.

(3) A controlling officer shall not invest public funds without the written approval of the Secretary to the Treasury and details of all investments made from public funds shall be copied to the Auditor General.

(4) Any officer who without reasonable cause fails to deposit moneys received as provided under subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

16. (1) When the Annual Budget has been approved by the National Assembly, the Minister shall table an Appropriation Bill to cover the appropriation of funds voted under various heads or expenditure for the financial year.

Appropriation

(2) Unless special provision to the contrary is made in any Appropriation Act, every appropriation by the National Assembly of public moneys for the service of any financial year shall lapse and cease to have any effect at the close of that year.

(3) Where an Appropriation Act has not come into force at the commencement of any financial year, the President may authorise by provisional warrant the withdrawal of moneys from the Treasury account for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of that Act whichever is earlier.

(4) Any sum so authorised under subsection (3) shall not exceed the sum specified for such service in the estimates presented for the current year or one third of the sums provided in the Appropriation and Supplementary Appropriation Acts of the previous year, whichever is the lesser, and shall be set off against the amounts respectively provided in the Appropriation Act upon the same coming into operation.

Releases of
Funds

17. (1) As soon as the Appropriation Act has been passed by Parliament and the General Warrant has been issued by the President pursuant to the provisions of the Constitution, the Secretary to the Treasury shall —

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(a) cause to be released from the Treasury Account the amounts becoming payable during the ensuing month of statutory and Constitutional expenditure; and

(b) release from the Treasury Account amounts not exceeding in the whole the sums applied by Appropriation Acts for the supply of goods and services during the financial year.

(2) Notwithstanding the issue of a warrant, the Minister may limit or suspend expenditure, with or without cancellation of the warrant, if in the Minister's opinion financial exigencies or the public interest so require.

(3) The Secretary to the Treasury shall withhold the release of funds to a controlling officer or an institution which —

(a) over commits Government to expenditures in excess of appropriated funds; or

(b) does not submit to the Secretary to the Treasury and the Auditor-General returns including receipts and utilization of grants or donations contrary to the provisions of this Act and accompanying regulations.

Releases to be
paid to bank
accounts

18. All releases from the Treasury to the credit of Government bank accounts at the end of every financial year shall be deemed to be public moneys and shall be paid into the Consolidated Fund unless prior authority has been obtained from the Secretary to the Treasury for their retention in such accounts.

Bank
balances at
end of
financial year

19. All unspent balances standing to the credit of Government bank accounts at the end of every financial year shall be deemed to be public moneys and shall be paid into the Consolidated Fund unless prior authority has been obtained from the Secretary to the Treasury for their retention in such accounts.

Bank
accounts in
respect of
public
moneys

20. (1) A person shall not open or close any account in respect of public moneys with any bank without the written approval of the Secretary to the Treasury.

(2) A bank shall not permit an account in respect of public moneys to be opened or closed without the written approval of the Secretary to the Treasury.

(3) A person shall not permit a bank account in respect of public moneys to be overdrawn or arrange for an overdraft without the written approval of the Secretary to the Treasury.

(4) A bank shall not permit an overdraft to be incurred on any bank account in respect of public moneys without the written approval of the Secretary to the Treasury.

(5) All banks maintaining accounts in respect of public moneys shall submit to the account holders and the Secretary to the Treasury such statements as may be required from time to time.

(6) No transfer of public moneys shall be made between accounts at the same bank or different banks without the written approval of the Secretary to the Treasury.

(7) Any person who contravenes the provisions of subsections (1) and (3) commits an offence and shall be liable to disciplinary action as provided under this Act.

(8) Any contravention, by a bank, of the provisions of subsections (2) or (4) may result in all accounts containing public moneys in that bank being closed and transferred to other banks.

(9) The Secretary to the Treasury may delegate functions under this section to the Accountant General.

21. All interest accrued on bank accounts and other investments shall constitute general revenue and shall be paid into the Treasury Account. Interest on bank accounts

22. (1) Moneys standing to the credit of the Republic in the Treasury Account or with any other bank account and not immediately required for any other purpose may be authorised to be invested by the Secretary to the Treasury with a bank at call or subject to notice not exceeding twelve months or in any of the investments authorised by law for the investment of trustee funds. Investments

(2) Where any investment under subsection (1) is realised the proceeds shall be paid by the Treasury to the credit of the Treasury Account.

(3) All investments made under this section shall form part of the Consolidated Fund.

23. (1) Any deposit of money, other than public moneys raised or received which may be deposited with any public officer authorised to receive such deposit, shall not form part of the Consolidated Fund and shall not, except as provided in subsections (2), (3) and (4), be applied for any public purposes. Deposits

(2) Any interest accruing on a deposit, shall not be credited to the Consolidated Fund.

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

(4) A deposit which is unclaimed for over a year shall, subject to any other enactment, cease to be a deposit and accrue to the general revenues provided that if a genuine claim is received for refund of the deposit, such refund shall be made from the general revenues.

(5) Any deposit arising from seizures of money and property shall not constitute part of general revenues until such cases are disposed off by courts of law or any other relevant authorities.

Contingency
Fund

24. (1) There shall be established a Contingency Fund for the purpose of enabling advances to be made to meet urgent and unforeseen expenditure in accordance with subsection (2).

(2) Where the Minister is of the opinion that it is necessary to incur expenditure on any service —

(a) which, being a new service, is not provided for in the estimates of a particular ministry; or

(b) which will result in an excess of the sum provided for that service in the estimates, and that expenditure cannot, without injury to the public service, be postponed until provision, or adequate provision, as the case may be, is made by Parliament;

the Minister may, by warrant under the President's hand, and in anticipation of approval of supplementary provision being given in Parliament, authorise an advance from the Contingency Fund of the amount required.

(3) The Secretary to the Treasury shall issue instructions from time to time for the operation of the Fund.

Funds and
working
accounts

25. (1) Where the Secretary to the Treasury considers it expedient to do so, the Secretary to the Treasury may establish funds or working accounts for the purpose of —

(a) the purchase of stores, equipment or livestock for subsequent use or resale;

(b) services rendered or to be rendered by any individual and it is desirable to recover the cost of such services from such other department or individual; or

(c) the making of grants or loans for purposes specified in the estimates of expenditure, or where moneys are made available from any other source for any of the above stated purposes.

(2) Each fund or working account established under subsection (1) shall be credited with its receipts, earnings and accruals and any moneys —

(a) appropriated by Parliament for the purposes for which it was established; or

(b) which otherwise may be made available for the fund or working account;

may be expended from the fund or working account on the purposes for which it was established.

(3) The Secretary to the Treasury may give directions as to the manner in which any fund or working account established under subsection (1) may be operated.

(4) Except where the Secretary to the Treasury otherwise directs, the receipts, earnings or accruals of any funds or working accounts established pursuant to this section or any balance standing to the credit of any such fund or working account at the close of the financial year shall not be paid into the Consolidated Fund but shall be retained in the fund or working account and such fund or working account shall not be closed.

(5) Where the Secretary to the Treasury is satisfied that a fund or working account established under subsection (1) has fulfilled its purpose or is not being operated for the purpose for which it was established, the Secretary to the Treasury may direct that the fund or working account be closed and that the balance outstanding in such fund or working account be paid into the Treasury Account for the credit of general revenues.

26. (1) Upon the commencement of this Act, the Minister shall, by statutory instrument, provide for balances standing to the credit of the Treasury Account together with all other sums standing to the credit of any other public account of the Government of Zambia which shall form part of the Consolidated Fund.

Existing funds

(2) Nothing in this section shall apply to any sums of money held in trust by, or under the control of any court or officer of a court, the public trustee, the Administrator -General or the Official Receiver or to any sums of money held in trust by any other officer for purposes other than the purposes of the Government.

(3) All investments held by the Treasury or by any other person on behalf of the Republic on the date on which this Act comes into operation shall if the same are not already held on account of the funds held in the Consolidated Fund be deemed to have been made out of moneys from the Consolidated Fund.

Recoverable
advances

27. (1) The Secretary to the Treasury may at any time authorise the issue, from the Consolidated Fund, of sums of money which may be used for the following purposes:

- (a) to meet payments due for public services which for reasons the Secretary to the Treasury considers sufficient, cannot presently be charged to any vote;
- (b) to provide imprest accounts for the use of departments or individuals;
- (c) to make payments for, and on behalf of another Government or person at the request of such Government or person:
Provided that the amounts so paid shall be recoverable from such other Government or person;
- (d) to make provision for any payment which has been made under any head of expenditure and which has been disallowed as a charge against the head of expenditure in the approved estimates;
- (e) to advance public moneys to any person where such advance is in the public interest and is —
 - (i) repayable at some future date;
 - (ii) subsequently chargeable against any head of expenditure; or
 - (iii) in part repayable as provided by sub-paragraph (i) and in part chargeable as provided by sub-paragraph (ii);

and for such purposes separate records (in this Act referred to as “advances accounts”) shall be maintained:

Provided that any such advance shall not be made in anticipation of an appropriation by the National Assembly.

(2) Except where the Secretary to the Treasury otherwise directs, any balance outstanding and unpaid in any advance account at the close of any financial year shall not be charged to any expenditure vote.

Aided
projects

28. (1) All moneys received by way of loans, grants, and donations shall constitute public moneys and shall be paid into the Treasury Account for the credit of the Consolidated Fund.

(2) The Secretary to the Treasury shall make provision in the budget estimates for loans, grants and donations receivable in cash.

(3) Where the quantum of the loan, grant or donation referred to in subsection (2) is not known a provision shall be included in the estimates and when the quantum becomes known a supplementary estimate shall be raised for the amount involved.

(4) Where loans, grants and donations are receivable in kind, the value of such donations shall be determined and included in the estimates and reflected as expenditure in the financial year.

(5) Moneys received for specified projects which have been paid into the Treasury Account shall be released when required to the appropriate project bank account.

(6) The Secretary to the Treasury shall—

(a) cause separate and proper books and records to be kept and maintained in respect of all projects and for appropriate audited financial statements to be included in the financial report; and

(b) ensure that whenever projects are completed, the project assets including buildings, plant, vehicles, furniture, fittings and equipment are properly recorded and handed over to Government or other appropriate authorities within the time frame provided for in the agreement.

(7) Where no time frame is provided for project assets shall be handed over within three months from the date of the closure of the project.

(8) In the absence of any instructions to the contrary any unexpended balance standing to the credit of any project account shall be paid into the Treasury Account for the credit of the Consolidated Fund.

29. (1) Where —

- (a) any public moneys have been lost or misappropriated; or
 (b) any public stores have been lost, damaged or misappropriated, then subject to the express provisions of this or any other written law, such loss may, with the approval of the Secretary to the Treasury, be charged against moneys appropriated by Parliament for the purpose.

Losses of
money
or stores

(2) The Secretary to the Treasury shall —

(a) have power to—

(i) write off deficits of public moneys and the value of deficient, damaged, condemned, unserviceable or obsolete public stores;

(ii) abandon irrecoverable amounts of revenue, debts and overpayments except where, by any other Act, such power is expressly conferred upon any other public officer in respect of any specified class of public revenue, debts or overpayments;

(iii) write off unused accountable forms including receipt forms which have been lost or damaged on being satisfied that they have not been fraudulently used; or

- (iv) delegate in writing to any officer any powers which the Secretary to the Treasury is authorised to exercise under paragraphs (i), (ii) and (iii) setting out in each case the limits up to which such powers may be exercised; and
- (b) cause details of all write-offs and abandonments effected pursuant to paragraph (a) to be published in the annual financial report and *Gazette*.
- (3) Where any public stores are no longer required the Secretary to the Treasury, may, on the recommendation of the Board of Survey direct the disposal thereof by destruction or sale by public auction, or public tender and payment of the proceeds of sale if any into the general revenues of the Republic.

PART IV SURCHARGE

Failure by
controlling
officer
to perform

30. (1) Subject to the other provisions of this Part, where a controlling officer fails to perform any financial duties assigned under this Act and such failure results in a loss of public moneys, a failure to collect revenue due to the Government or in wasteful or unnecessary expenditure of public moneys by a ministry or department, the Secretary to the Treasury shall —

- (a) impose on such controlling officer a surcharge equivalent to the loss, wasteful or nugatory expenditure incurred by Government; and
- (b) recommend to the Secretary to the Cabinet disciplinary action to be taken against the defaulting controlling officer which may include —
- (i) an appropriate surcharge;
 - (ii) a demotion of the controlling officer or both; or
 - (iii) such other disciplinary action as may be decided by the appropriate disciplinary authority.

(2) In addition to the disciplinary action referred to in subsection (1) the Secretary to the Treasury may recommend to the Minister to have the controlling officer replaced:

Provided that before such a recommendation is made the controlling officer shall be given an opportunity to exculpate oneself of the charge.

Surcharge

31. (1) If through any act of wilful default or gross neglect of duty any officer —

- (a) whenever it is such officer's duty to collect any moneys due and owing to the Government, the officer fails to collect the same and by reason of such failure such moneys cannot be collected;

- (b) makes, causes or permits any improper payment of public moneys, or any payment of such public moneys which is not duly authorised or for which no funds have been provided;
- (c) causes or permits any loss or deficiency in respect of any public moneys under the officer's control and for which he is bound to account;
- (d) causes or permits any damage to or destruction or loss of any public stores;
- (e) causes or permits any personal injury or damage to property in circumstances which give rise to liability of the Republic to third persons in respect of such injury or damage;
- (f) causes or permits damage to or loss of any Government building, or any fixtures, fittings or furniture therein; or
- (g) makes improper decisions which result in loss of public moneys or property;

that officer shall be liable to the Government in such amount in respect of such failure to collect, improper payment, loss, deficiency, damage or destruction, as the case may be, as may be determined pursuant to subsection (4) and, subject to the provisions of this section, any liability so determined may be recovered at the suit of the Attorney-General in that behalf.

(2) If the Secretary to the Treasury is of the opinion that loss has been suffered by the Government because of any act or wilful default or gross neglect of duty of any officer, as referred to in subsection (1), the Secretary to the Treasury may assess, as attributable to such act, an amount, being not greater than the actual loss suffered, and shall forward to the officer, a notice in writing, of the assessment of claim and of the amount thereof.

(3) Within twenty-one days after the receipt by the officer from the Secretary to the Treasury of a notice of assessment of claim pursuant to subsection (2), the officer may make representations to the Secretary to the Treasury, in writing, with respect to—

- (a) the officer's liability under subsection (1); or
 - (b) the amount assessed pursuant to subsection (2) attributable to the officer's act of wilful default or gross neglect of duty;
- and the Secretary to the Treasury shall give due consideration to any representation so made by the officer.

(4) If —

- (a) after the expiration of twenty-one days from the date upon which notice of assessment of claim was forwarded to the officer, pursuant to subsection (2), the Secretary to the Treasury receives no representation from the officer pursuant to subsection (3); or

(b) after giving due consideration to any representation made by the officer pursuant to subsection (3), the Secretary to the Treasury is of the opinion that the officer should be held liable to the Government as stated in the notice of assessment of claim;

the Secretary to the Treasury may determine the amount of the liability of the officer and the amount assessed pursuant to subsection (2), or, if the Secretary to the Treasury deems fit, at a lesser amount, and shall make demand in writing upon the officer for payment of the amount so determined.

(5) If, after giving due consideration to the representations made by the officer pursuant to subsection (3), the Secretary to the Treasury is of the opinion that the officer did not commit any act of wilful default or gross neglect of duty in respect of the matters grounding the assessment of claim made pursuant to subsection (2), the Secretary to the Treasury shall cancel the assessment of claim and notify the officer, in writing, of the cancellation.

(6) Upon receipt of the demand for payment referred to in subsection (4), the officer may, in writing —

(a) admit liability in the sum stated in the demand for payment; and

(b) consent to the recovery of the admitted or agreed sum by equal monthly instalments by way of deduction from the salary or pension of the officer in a stated monthly sum, to be fixed by the Secretary to the Treasury, not exceeding one-fourth of the monthly salary or pension, as the case may be, of the officer.

(7) Where any officer has admitted liability in any admitted or agreed sum and consented to the recovery of such sum as provided by subsection (6), and the officer's employment by the Republic is terminated, whether by resignation, dismissal, death or otherwise, before the entire sum admitted or agreed has been fully recovered the admission of liability shall be deemed to be, and shall have effect as a consent to judgement in favour of the Republic in the amount of any outstanding balance of the admitted or agreed sum remaining unpaid at the date of the termination of the officer's employment, and such consent to judgement shall be effective in any proceedings brought in respect of the liability against the officer or the officers's legal representatives, as the case may be.

(8) If, after the expiration of ten days after receipt of the demand for payment referred to in subsection (4), the officer has failed to admit liability pursuant to subsection (6), the Attorney-General may institute proceedings for the recovery of the amount so demanded.

(9) Anything done pursuant to this section shall be without prejudice to the exercise of disciplinary action over the officer by any lawful authority in respect of any act of wilful default or gross neglect of duty.

32. (1) In any action brought for the recovery from any officer of any liability to the Government under the provisions of section *thirty-one*, the court may, at any time after the action is brought, grant, on the *ex parte* application of the Attorney-General, an interim order of surcharge pursuant to subsections (2) and (3).

Interim and
final order of
surcharge

(2) An application for an interim order of surcharge pursuant to subsection (1) shall be grounded upon the affidavit of the Secretary to the Treasury setting out —

(a) the facts upon which the claim is founded and exhibiting copies of the notice of assessment of claim and demand for payment, issued and forwarded to the officer pursuant to subsections (2) and (3), respectively, of section *thirty-one*; and

(b) disclose the official status of the officer, the officer's length of service, the officer's monthly salary, and how long the officer was employed in the position the officer held at the time when the alleged loss, incorrect, payment deficiency or damage occurred.

(3) An interim order of surcharge made pursuant to this section shall empower the Secretary to the Treasury to cause to be deducted from the salary of the officer a stated sum each month, not exceeding one-fourth of the monthly salary of the officer, and, pending the final determination of the action, to apply the deducted sums towards the liquidation of the amount claimed.

(4) If any action, in which an interim order of surcharge was obtained pursuant to this section, is discontinued, or is dismissed by the court, the interim order shall, upon the filing of the notice of discontinuance, or upon the judgement of dismissal becoming final, as the case may be, cease to have any force or effect, and the Secretary to the Treasury shall, within twenty-one days thereafter, cause such sums as had been deducted from the monthly salary of the officer on the authority of the interim order to be refunded to the officer in full.

(5) Where in any action, in which an interim order of surcharge was obtained pursuant to this section, judgement is decreed in the amount claimed, or in any lesser amount, and costs, the court may, on the application of the Attorney-General, make an order of surcharge in respect of the balance due on the judgement after deducting from the judgement all sums up to the time of the judgement deducted from the monthly salary of the officer pursuant to the interim order.

(6) Any order of surcharge made pursuant to this subsection shall be in such terms as the court may consider fit and shall empower the Secretary to the Treasury to deduct from the salary of the judgement debtor a stated sum each month, not exceeding one-fourth of the monthly salary of the judgement debtor, until all sums outstanding on the authority of the judgement and costs have been paid in full.

(7) If on any action judgement is decreed in an amount which together with any costs allowed is less than the total sum deducted pursuant to an interim order of surcharge made under this section, the Secretary to the Treasury shall, within twenty-one days after such judgement becomes final, cause to be refunded to the judgement debtor any sum deducted in excess of the amount of the judgement and costs.

(8) Where a final order for surcharge made pursuant to this section is in force in respect of any officer, and the employment of the officer by the Republic is terminated, whether by resignation, dismissal, death or otherwise, the Secretary to the Treasury may, against any moneys payable to the officer by the Government, set off any balance remaining unpaid on the authority of the judgement in respect of which the surcharge order was made.

(9) Any judgement decreed pursuant to this section shall be without prejudice to the exercise of disciplinary action over such officer by any lawful authority in respect of the act, wilful default or gross neglect of duty giving rise to the action in which such judgement was decreed.

Attachment of
property of
officer as
security

33. (1) Where an officer steals or converts to the officer's own use any public funds or any public stores and an action is brought against such officer at the suit of the Attorney-General for the recovery of such moneys, property or stores or for damages for their loss, the Attorney-General may apply *ex parte* to the court, either at the time of the institution of the action, or at any time thereafter until final judgement, for an order directing that any property belonging to the officer shall be attached until the further order of the court, and such order of attachment shall be executed according to its tenor.

(2) Where the property sought to be attached pursuant to subsection (1) is—

(a) land, or any interest in land, the application shall contain a description of the land sufficient to identify the same for the purposes of registration of the order directing the attachment in the Lands Registry pursuant to subsection (4), together with a statement of the interest of the officer therein required to be attached;

- (b) movable personal property, the application shall contain a description of the property required to be attached, the estimated value thereof so far as can reasonably be ascertained, and the place where the property may be found;
- (c) a bank or building society account, the application shall contain the name of the bank or building society and the address of the office or branch thereof at which the account is believed to be kept and, if the account is not in the name of the officer, the name in which it is kept and a statement of any reason why such account is believed to be the property of the officer;
- (d) an account in any other financial institution, the application shall contain the name under which such account is kept, and if the account is not in the name of the officer, the name in which it is kept and a statement of any reason why such account is believed to be the property of the officer;
- (e) a debt owing to the officer, the application shall contain the name and address of the debtor; and
- (f) shares in a company, the application shall contain the name of the company and the address of its registered office in Zambia.

(3) In any order directing the attachment of property pursuant to subsection (1), the court may direct the attachment of the whole of the property specified pursuant to subsection (2) or such portion thereof as the court considers sufficient to satisfy any judgement which may be passed in the action.

(4) Where the property directed to be attached pursuant to this section is land or an interest in land, such attachment shall be effected by lodging a certified copy of the order directing the attachment in the Registry of Lands and Deeds, for entry in the register, and any such attachment so effected shall be in the nature of a caveat by the Attorney-General in respect of the lands attached, and the provisions of Part VI of the Lands and Deeds Registry Act shall apply, with necessary modification, to such attachment.

Cap. 185

(5) Where the action brought is one for the return of specific goods claimed to be public stores unlawfully detained by an officer, the order made pursuant to subsection (1) may provide that the goods, upon being attached pursuant to the court order, be delivered to the Government to be retained by the Government until the further order of the court:

Provided that no such delivery shall be ordered pursuant to this subsection unless the Attorney-General gives an under-taking on behalf of the Government that the goods shall be returned to the officer in the event of the dismissal of the action.

(6) Any attachments made pursuant to this section shall not affect the rights in the attached property of persons who are not parties to the action, and in the event of any claim being preferred to the attached property, the claim shall be investigated in the manner prescribed for the investigation of claims to property attached in execution of a judgement of the court.

(7) In all cases of attachment pursuant to this section, the Court shall, at any time, remove or discharge the order upon the officer furnishing sufficient security to satisfy any judgement which may be ordered against the officer in the action together with security for the costs of the attachment.

(8) Where in any action in which property is attached pursuant to subsection (1) final judgement is decreed -

(a) in favour of the officer, the court shall remove the attachment, and order, where necessary, the restoration of the property to the officer;

(b) in favour of the Attorney-General, the court shall issue execution against the attached property to the extent of the judgement and costs, and upon such execution being effected the attachment shall cease to have any further force or effect.

(9) The Attorney-General may at any time, in the prescribed form, consent to the removal from attachment, pursuant to this section, of the whole or any part of any property so attached, and such consent shall have effect according to its tenor.

(10) Where the order directing attachment has been registered in respect of any lands pursuant to subsection (4) any consent to the removal of such attachment pursuant to subsection (9) in respect of such lands or any part thereof shall be registered and shall have effect as a withdrawal *pro tanto* of the attachment of the lands.

(11) The provisions of any Act or rule of law suspending any civil remedy in respect of the subject-matter of any criminal proceedings pending the determination of such proceedings shall not apply so as to limit or suspend the obtaining of an order of attachment pursuant to this section.

PART V

CONTROL OF STATUTORY CORPORATIONS

Representation
on statutory
corporations

34. (1) Notwithstanding the provisions of any other written law, the Secretary to the Treasury shall ensure that Government is represented on all boards of directors of statutory corporations.

(2) The Board of directors of any statutory corporation referred to in subsection (1) shall furnish the Secretary to the Treasury at the end of every financial year with reports covering the operations of such statutory corporations and the corporation's financial affairs.

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|---|--|
| <p>35. Before any grant is released to a statutory corporation the Secretary to the Treasury shall, in writing, set conditions for the appropriation of the grant and the statutory corporation shall comply with the conditions:</p> <p style="padding-left: 40px;">Provided that if the statutory corporation fails to comply with the conditions, the Secretary to the Treasury may suspend release of further grants to the statutory corporation until such time as the conditions are complied with.</p> | <p>Conditions for appropriation of grants</p> |
| <p>36. The Secretary to the Treasury shall ensure that grants released to statutory corporations are appropriated for the purposes for which they are released.</p> | <p>Grants paid to statutory corporations</p> |
| <p>37. (1) Where on the creation of a statutory corporation, it becomes necessary for Government assets to be vested in such statutory corporation, the Secretary to the Treasury shall arrange for such assets to be valued by a qualified valuer and the value of such assets shall be reckoned as Government's contribution to the accumulated fund of the statutory corporation.</p> <p>(2) On the transfer of assets referred to in subsection (1), the value of the assets transferred shall be reflected in the financial report.</p> | <p>Transfer of assets to statutory corporations</p> |
| <p>38. (1) The Secretary to the Treasury shall cause to be maintained a record of all moneys invested in statutory corporations and ensure that such statutory corporations are managed efficiently so that they yield reasonable dividends to Government.</p> <p>(2) For purposes of subsection (1), the chief executive officer of the statutory corporation shall ensure that financial statements including management reports and returns are submitted to the Secretary to the Treasury on a regular basis.</p> | <p>Records of Investments in statutory corporations to be maintained</p> |
| <p>39. (1) If at any time it becomes apparent to the Secretary to the Treasury that the operations of a statutory corporation are not being carried out in an efficient manner, the Secretary to the Treasury shall bring this matter to the notice of the Board of such statutory corporation.</p> <p>(2) If in spite of bringing the matter to the notice of the Board there is no noticeable improvement in the operations of the statutory corporation, the Secretary to the Treasury shall refer the matter to the Minister and the Minister shall take such action as the Minister may consider necessary.</p> | <p>Inefficient operations of statutory corporations</p> |
| <p>40. (1) The chief executive officer of a statutory corporation shall take such steps as are necessary to ensure that the assets of the statutory corporation are protected against misuse or theft.</p> | <p>Protection of assets of statutory corporations</p> |

- Protection of Government interest on privatisation of statutory corporation
- 41.** Notwithstanding the provisions of any other written law, the Secretary to the Treasury shall ensure that on the privatisation of a statutory corporation, Government's interests in that statutory corporation are adequately protected and that the proceeds of the sale of the statutory corporation are paid into the Privatisation Revenue Account.
- Recovery of outstanding moneys
Cap.386
- 42.** Where moneys are owing from the sale of a statutory corporation to private investors under the Privatisation Act, the chief executive officer of the Zambia Privatisation Agency shall ensure that such moneys are recovered and credited to the Privatisation Revenue Account.
- Dissolution of statutory corporation
- 43.** (1) Subject to the provisions of any other written law, in the event of the dissolution of a statutory corporation which has been receiving grants from Government and where the Board of such statutory corporation has been dissolved the Secretary to the Treasury shall constitute a Committee consisting of not less than three members two of whom shall be Government officers to wind up the affairs of such statutory corporation.
- (2) The committee appointed under subsection (1) shall ensure that—
- (a) the assets of such statutory corporation are properly inventorised, valued and disposed of subject to the instructions of the Secretary to the Treasury;
 - (b) ensure that all debts due to such statutory corporation are promptly recovered;
 - (c) ensure that the claims of all creditors including employees and tax liabilities, if any, are proved and settled in full;
 - (d) any balance remaining after the conclusion of transactions referred to in paragraphs (b) and (c) is credited to Government revenue; and
 - (e) any asset considered strategic by Government in the public interest reverts to the ownership of the Government at no cost to Government.

PART VI

AUDIT

- Auditor-General to audit accounts of statutory corporations
Cap. 378
- 44.** (1) Notwithstanding anything to the contrary contained in any written law establishing a statutory corporation with respect to the appointment of an auditor, it shall be the duty of the Auditor-General, at such times as the Auditor-General considers fit, to audit in accordance with the provisions of the Public Audit Act the accounts of any statutory corporation.
- (2) In the performance of duty under subsection (1), the Auditor General and any public officer, agent or specialist consultant authorised by the Auditor General shall have access to all the books, records, returns, reports and other documents relating to the accounts of a statutory corporation as the Auditor General considers necessary.

45. (1) The Auditor-General shall carry out performance and specialised audits in respect of a ministry, Government department or statutory corporation as the Auditor General may consider necessary and shall prepare a report on the audit for submission to the National Assembly.

Performance
audit

(2) In the performance of duties under this Part, the Auditor General and any public officer, agent or specialist consultant authorised by the Auditor General shall have —

- (a) access to all books, records, returns, reports and other documents relating to the accounts of any statutory corporation, Government department or institution under audit examination or inspection;
- (b) access at any reasonable time of the day to the premises of any statutory corporation, Government department or institution under audit examination or inspection;
- (c) power to call for any relevant information from persons responsible for the financial administration of any statutory corporation, Government department or institution under audit examination or inspection.

(3) Notwithstanding anything contained in subsection (2) and subject to subsection (4) the Auditor-General shall not authorise any agent or specialist consultant—

- (a) to have access to any books, records, returns, reports or other documents, or to enter upon any premises, of any component of the Defence Force or the Zambia Security Intelligence Service; or
- (b) to have access to any books, records, returns, reports or other documents, or to enter upon any premises other than those mentioned in paragraph (a), if such access or entry is likely to —
 - (i) prejudice the security, defence or international relations of the Republic or the investigation or detection of offences; or
 - (ii) involve the disclosure of any matters or deliberations of a secret or confidential nature of the Cabinet or any sub-committee of the Cabinet.

the investigation or detection of offences; or involve the disclosure of any matters or deliberations of a secret or confidential nature of the Cabinet or any subcommittee of the Cabinet.

(4) Notwithstanding subsection (3), where the circumstances of an audit so require the Auditor-General may, after obtaining the written consent of the President, authorise an agent or specialist consultant—

(a) to have access to the books, records, return, reports or other documents, or to enter upon any premises, of any component of the Defence Force or the Zambia Security Intelligence Services; or

(b) to have access to the books, records, returns reports or other documents, or to enter upon any premises other than those mentioned in paragraph (a).

Auditor General
may secure
services of agents
or specialist
consultants
Cap 378

46. The Auditor General may in accordance with the provisions of section *six* of the Public Audit Act, secure the services of agents or specialist consultants to assist the Auditor-General in the execution of duties under this Act.

PART VII

GENERAL PROVISIONS

Unauthorised
use of public
money

47. An officer or other person shall not use any public moneys or public stores or other assets for any purpose not authorised by this Act or by any other written law.

Consultancy
services

Cap. 394

48. (1) Where it is considered expedient the Secretary to the Treasury may in accordance with the provisions of the Zambia National Tender Board Act engage the services of consultants to advise on matters not expressly provided for in this Act.

(2) An officer shall not contract or engage a consultant to provide accounting and allied services without the written authority of the Secretary to the Treasury.

(3) Any officer who contravenes the provisions of subsection (2) commits an offence.

Restrictions
regarding
agreements

49. (1) Except where express provision has been made in any other written law for the time being in force, no person representing a ministry, department or statutory corporation shall enter into an agreement or arrangement with any other person, organisation or Government committing the Government to receive or repay moneys pursuant to such agreement or arrangement unless such agreement or arrangement is authorised in writing by the Minister.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding two thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

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- 50.** (1) Where the President abolishes a ministry or department in accordance with the Constitution, the Secretary to the Treasury shall appoint a committee to examine and value the assets of such ministry or department and make recommendations on the disposal of such assets.
- Abolition of Government Departments
Cap. 1
- (2) The Secretary to the Treasury may, in consultation with the Minister responsible for works and supply, distribute the assets referred to in subsection (1) among other ministries or departments or sell the assets by public auction or tender.
- 51.** Any person who commits an offence under this Act for which no penalty is provided shall be liable, upon conviction, in the case of a first offence, to a fine not exceeding one thousand penalty units or to imprisonment for a term not exceeding two years and, in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding four years, or to both.
- General penalty
- 52.** (1) The Minister may make such regulations as the Minister may consider necessary for the proper carrying out of the provisions of this Act.
- Regulations
- (2) Without prejudice to the generality of subsection (1) regulations made under this section may provide for—
- (a) the safety, economy and investment of public moneys and property;
 - (b) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all public moneys including donor funds and public stores, except where and to the extent otherwise expressly provided in that behalf by any written law;
 - (c) the keeping of records, the examination, inspection and checking of all receipts and payments and the keeping of all necessary books and accounts;
 - (d) the forms of accounts, books, records and other documents required pursuant to this Act;
 - (e) the purchase, safe custody, issue, sale or other disposal or writing-off of public stores and the proper accounting for, and stock-taking of, such public stores;
 - (f) the preparation and form of estimates of the revenues and expenditure of the Republic;
 - (g) the authorisation of rates of payment of public funds for specific purposes where such rates of payment are not provided by this or any other written law;

- (h) the making of advances to public officers and other persons and the rates and limits of such advances and the rates of interest thereon;
- (i) the refund to persons of moneys deducted or property seized from them in error;
- (j) the appointment of persons other than officers as financial or purchasing agents of the Republic;
- (k) the prompt release of funds for public expenditure;
- (l) the proper management of the Consolidated Fund;
- (m) the control and management of investments in statutory corporations; and
- (n) any other activities related to the foregoing.

Savings and
transitional

53. (1) The person who was serving as Secretary to the Treasury shall upon the commencement of this Act continue to hold office as if appointed under section *six* of this Act.

(2) The person who was serving as Accountant-General shall upon the commencement of this Act continue to hold office as if appointed under section *eight* of this Act.

(3) The person who was serving as Controller of Internal Audit shall upon the commencement of this Act continue to hold office as if appointed under section *ten* of this Act.

Repeal of
Cap. 347

54. The Finance (Control and Management) Act, 1969 is hereby repealed.
