

## CHAPTER 168

### THE FINANCE AND AUDIT ACT

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## FINANCE AND AUDIT

*(1st January, 1985.)*

29/1982.

## PART 1

## PRELIMINARY

1. This Act may be cited as the Finance and Audit **Short title.**  
Act.
2. (1) In this Act— **Interpretation.**
- "accountable officer" means any public officer, including an accounting officer concerned in or responsible for the collection, receipt, custody, issue or payment of public monies, stores, stamps, investments, securities, or negotiable instruments, whether the property of Government or on deposit with or entrusted to Government or to any public officer in his official capacity either alone or jointly with any other public officer or any other person;
- "Accountant-General" means the Accountant-General of Antigua and Barbuda;
- "accounting officer" means a public officer designated by the Minister to be an accounting officer, subject to the provisions of any law and to be accountable for—
- (i) the funds appropriated under any head of expenditure of the estimates of expenditure of Antigua and Barbuda for a financial year;
  - (ii) the collection of any revenue under the revenue heads to which that public officer is designated; and
  - (iii) the use and custody of any public monies, stamps or stores relating to the service for which such revenue heads are established:

“appropriation law” means any Act to apply a sum out of the Consolidated Fund for expenditure in a financial year and includes a supplementary appropriation law;

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“Development Fund” means the Development Fund established by the Development Fund Act, and any Act amending or substituted for that Act;

“Director of Audit” means the Director of Audit appointed under the Constitution;

“Financial Secretary” means the Financial Secretary of Antigua and Barbuda;

“financial year” means the twelve months ending with 31st December:

“head of expenditure” means a classification of expenditure for a distinct purpose or for the service of a particular Ministry, identified as such in the summary of recurrent expenditure in the annual estimates, and may relate to either statutory or supply services or both;

“the House” means the House of Representatives;

“Minister” means the Minister for the time being responsible for finance;

“public monies” means—

(a) all revenues or other monies raised or received for the purposes of the Government;

(b) any other monies or funds held, whether temporarily or otherwise, by any public officer in his official capacity either alone or jointly with any other person whether or not that other person is a public officer;

“public officer” has the meaning assigned to that expression in section 127 of the Constitution;

“statutory body” means any corporation, company, board, commission, authority or other body

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established by or under an Act to provide goods or services to the public on behalf of the Government;

"statutory expenditure" means expenditure charged on the Consolidated Fund by a law other than an appropriation law;

"supply vote" means the total sums appropriated out of the Consolidated Fund for and applied to any purpose by an appropriation law;

"virement" means a transfer of a provision from one subhead to another within the same head of expenditure;

"warrant" means a document authorising the payment of money.

(2) A reference in this Act to a Part or section is a reference to a Part or section of this Act and where in any section of this Act reference is made to a subsection without anything in the context to indicate that a reference to a subsection of some other provision of this Act is intended, the reference is a reference to a subsection of the section in which the reference is made.

## PART II

### PUBLIC FINANCE

**3.** (1) Withdrawals may be made from the Consolidated Fund in the following manner, that is to say—

**Withdrawals  
from the  
Consolidated  
Fund.**

(a) the Minister may authorise the Accountant-General by general warrant under the hand of the Minister to pay out of the Consolidated Fund, upon such conditions and in such manner as may to the Minister seem fit, such sums as are necessary to meet expenditure charged upon the Consolidated Fund by an appropriation law;

(b) where in any financial year any statutory expenditure is due and payable in respect of that financial year, the Minister may, from time to time during

that financial year, authorise the Accountant-General to meet such statutory expenditure out of the Consolidated Fund.

(2) Where monies forming part of the Consolidated Fund are deposited with a bank, the Crown Agents or any approved agency or where such monies are invested in a manner provided by any law enacted by Parliament, such monies shall not for the purposes of this section be regarded as having been issued from the Consolidated Fund.

(3) For the purposes of this section an approved agency is an agency approved as such for the purposes of this Act by law enacted by Parliament.

Annual  
Estimates.

**4.** The Estimates of revenues and expenditure of Antigua and Barbuda for a financial year shall be in such form as the Minister may from time to time direct;

Provided that—

(a) the estimates of statutory expenditure shall show the sums to be issued to meet the expenditure on each service and shall contain a reference to the law authorising expenditure for such service to be charged on the Consolidated Fund; and

(b) the estimates of each expenditure vote shall—

- (i) describe the ambit of the vote,
- (ii) show the sum required to be supplied for such vote by appropriation, and
- (iii) contain a reference to the accounting officer designated in respect of such vote.

Authorisation of  
expenditure in  
advance of  
appropriation.

**5.** If the appropriation law in respect of any financial year has not come into operation by the beginning of that financial year, the Minister may by provisional general warrant under his hand authorise the withdrawal of monies from the Consolidated Fund 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 the law whichever is the earlier:

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Provided that—

- (i) no expenditure upon any service for which no provision had been made in any law in force during the previous financial year shall be deemed to be authorised by this section;
- (ii) the expenditure so authorised for any service shall not exceed one third of the amount voted for that service in the appropriate law for the previous year; and
- (iii) all sums issued in pursuance of the said provisional general warrant shall be deemed to have been issued in anticipation of grants being made by Parliament in an appropriate law for the financial year in which the sums were issued, and, on the coming into operation of that law, the said provisional general warrant shall cease to have effect, and issues thereunder shall be deemed to have been made for the purposes of that law and shall be accounted for in accordance with the provisions thereof.

6. (1) The House may make provision in any appropriation law for the establishment of Special Funds.

(2) Special Funds shall not form part of the Consolidated Fund.

7. (1) Nothing in this Act shall abridge or alter the terms of any trust or be construed as authorising the making of any regulations or the giving of any directions or instructions requiring any person to obey any regulations, directions or instructions in relation to monies held on trust which contravene or are inconsistent with the terms of such trust.

(2) No public officer may accept appointment as a trustee without the written authority of the Minister to accept that appointment, and any appointment contrary to this section shall be void.



PART III

CONTROL OF PUBLIC FINANCE

Powers and duties of the Minister.

**8.** The Minister shall, subject to the provisions of this Act, control the Consolidated Fund and the Development Fund, established by the Development Fund Act, and any law amending or substituted for that Act and shall be responsible for the supervision, control and direction of all matters relating to the financial affairs of Government.

Powers and duties of the Financial Secretary.

**9.** The Financial Secretary—

(a) may issue directions and instructions not inconsistent with the provisions of this Act or with regulations made thereunder to accounting officers and to other public officers for carrying out provisions of this Act;

(b) shall take *all* proper steps to ensure that regulations made under this Act and any directions or instructions issued pursuant to this section are brought to the notice of all persons directly affected thereby;

(c) on receipt of any report submitted to him in accordance with any law or in response to directions issued pursuant to this Act by himself or by any other person or body authorised to do so, shall examine such report and take such action as the law or the directions, as the case may be, require.

Accountant-General.

**10.** The Accountant-General shall maintain the accounts of the Government and be responsible for the conduct of the Treasury; and without prejudice to the generality of those duties shall—

(a) ensure that all monies received and paid by the Government are brought promptly and properly to account;

(b) refuse payment on any voucher which is incorrect or insufficient in content, or which contravenes any regulations, directions or instructions under this Act or any other law for the management of public monies, or that is, in his opinion, in any other way unacceptable in support of a charge on public monies; and

(c) report to the Minister in writing any defect in departmental control of revenue, expenditure, cash, stamps or other property of Government that may be brought to his notice.

**11.** Every accounting officer shall, subject to the provision of any law, or direction of the Financial Secretary— **Accounting Officers.**

(a) be accountable for the funds appropriated under the head of expenditure to which he is designated, and for the collection of revenue within the revenue head to which he is designated, and for the custody of public monies, stamps and stores relating to the service of those heads; and

(b) obey all laws and regulations as well as all directions and instructions issued by the Minister, the Financial Secretary or the Accountant-General, in respect of the handling of and accounting for public monies, public stores, stamps, investments, securities or negotiable instruments which are the property of Government or on deposit with, or entrusted to, Government or to any public officer in his official capacity.

**12.** Every accountable officer shall obey all laws and regulations as well as all directions or instructions lawfully given in respect of the custody, handling of and accounting for public monies, public stores, stamps, investments, securities or negotiable instruments which are the property of Government or on deposit with, or entrusted to, Government or to any public officer in his official capacity. **Accountable Officers.**

**13.** All sums accounted for in the Consolidated Fund, except monies invested pursuant to the provisions of section 15, shall be kept with such bank or banks as the Minister may from time to time determine. **Consolidated Fund monies to be kept with specified bank or banks.**

**14.** No public or official account shall be opened at any bank without the authority in writing so to do of the Minister. **Bank accounts.**

**15.** (1) The Minister may authorise that monies forming part of the Consolidated Fund be invested— **Investment of monies.**

(a) with a bank, either at call or subject to notice not exceeding twelve months;

(b) with the Joint Consolidated Fund administered by the Crown Agents, or

(c) in a manner authorised by law for the investment of trust funds.

(2) All investments made under this section together with any interest received therefrom shall form part of the Consolidated Fund.

**Advances.**

**16.** (1) Subject to the provisions of this section, the Minister may, by advance warrant under his hand, authorise the Accountant-General to make disbursements of monies forming part of the Consolidated Fund, or of other public monies for the purpose of making advances—

(a) on behalf of, and recoverable from, other Governments and Administrations;

(b) to or on account of the Development Fund or any Special Fund where such advances are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances are made:

(c) to meet expenditure authorised by a Loan Act in anticipation of the receipt of any instalment of the loan authorised by that Act;

(d) to or on account of trusts or other funds administered by the Government, or to or on behalf of statutory bodies, or to or on behalf of companies, partnerships or associations in which the Government has not less than twenty-five per cent proprietary interest, where such advances are in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances are made:

Provided that no advance shall be made under this paragraph except in accordance with a written agreement and that the amount of any single such advance, or the sum of such advances to any single such borrower, shall not exceed two hundred thousand dollars;

(e) to or on behalf of any company, partnership or association not included in paragraph (4), or to or on behalf of other institutions or individuals, other than public officers or employees of the Government, where such advances are in the public interest and are recoverable within a period not exceeding twelve months after the close of the financial year in which such advances are made:

Provided that no advance shall be made under this paragraph except in accordance with a written agreement and that the amount of any single such advance, or the sum of such advances to any single such borrower, shall not exceed five thousand dollars; and

(f) to public officers and other persons employed by Government for such purposes and on such terms and conditions as may be prescribed from time to time by General Orders and Financial Instructions.

(2) The total advances authorised under paragraphs (4), (e), and (f) of subsection (1) shall not, after repayments have been deducted, and excluding balances still outstanding which arose before 31st December, 1977, exceed at any time an amount equivalent to four per cent of the total estimated recurrent revenue of Antigua and Barbuda for the current financial year.

(3) Where the Minister is satisfied that it would be in the public interest to make an advance other than advances for which provision is made in subsections (1) and (2), the Minister may submit his proposal to make such advance to the House and if the House, by resolution, approves the making of the advance, the Minister may issue an advance warrant under his hand authorising the Accountant-General to disburse monies up to the limit of the advance.

(4) The Minister may authorise the Financial Secretary in writing to sign on his behalf any advance warrant issued for the purposes of and under subsection (1).

**17.** (1) There shall be a Contingencies Fund consisting of such monies as may, from time to time, by law enacted by Parliament, be made available to that Fund from monies charged upon the Consolidated Fund.

**Contingencies  
Fund.**

(2) The Minister may, from time to time, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, make advances from the Contingencies Fund by contingencies warrants under his hand, to meet that need if the total balance available to the Fund is not overdrawn.

Imprests.

**18.** (1) The Minister may, by imprest warrant under his hand, authorise the Accountant-General to issue imprests from the Consolidated Fund to public officers or to any Minister of Government for any purpose for which monies have been appropriated from the Consolidated Fund.

(2) Except with the previous permission of the Accountant-General by notice in writing, where an imprest issued pursuant to subsection (1) is not retired within thirty days of the close of the financial year in which it was issued, the Accountant-General shall forthwith recover the amount of such imprest by deductions from the salary or other emoluments of the person to whom the imprest was issued.

Lapse of appropriations and warrants.

**19.** Except as otherwise provided in this Act, every appropriation by the House of public monies for the service of a financial year, and every warrant issued under the provisions of this Act shall lapse and cease to have effect at the close of that financial year.

Administration of Special Funds.

**20.** (1) In this Act, Special Fund means—

(a) any fund of public monies established under the provisions of section 6; and

(b) any trust fund held by Government.

(2) A Special Fund shall be administered and expenditure therefrom shall be in accordance with the law or trust instruments as the case may be, whereby the Fund is established.

(3) Where a Special Fund is a trust fund held by Government and the provisions of the trust instrument whereby the Fund is established are not adequate for the administration of the Fund, the Financial Secretary may, subject to the provisions of section 7, give such directions

as he may consider necessary to enable the Fund to be properly administered.

(4) The House may by resolution hypothecate revenue for a Special Fund.

(5) A special Fund shall be kept in a separate account by the Accountant-General or, where by virtue of the law or trust instrument establishing a Special Fund or of directions given by the Financial Secretary pursuant to subsection (3), some other public officer is responsible for the administration of the Fund, by that public officer or on his behalf by the Accountant-General.

(6) Subject to the provisions of section 6, the monies of a Special Fund shall be kept in a separate account or accounts in a bank or banks, at call or short notice.

(7) The receipts and accruals of a Special Fund or the balance of any Special Fund at the close of a financial year shall be retained for the purposes of the Special Fund.

(8) Subject to the provisions of section 6 and of this section, the Minister may authorise the investment of monies standing to the credit of a Special Fund in the same manner as he may authorise the investment of monies forming part of the Consolidated Fund.

**21.** (1) Subject to the provisions of section 7 if— **Dissolution of Special Funds.**

(a) the monies in a Special Fund are exhausted and no legal provision exists whereby further monies may be paid into the Special Fund; or

(b) the objects for which a Special Fund was established are fulfilled or cease to exist and, in the opinion of the Minister, there is no likelihood that any objects for which the Special Fund could be lawfully used will arise in the future,

the Minister may by Order dissolve the Special Fund.

(2) The monies remaining in any Special Fund dissolved by virtue of an Order under subsection (1) shall thereupon be paid into and shall form part of the Consolidated Fund.

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**Development  
Fund.**

**22.** (1) The Development Fund established by the Development Fund Act shall not form part of the Consolidated Fund, and shall be kept in a separate account by the Accountant-General.

(2) The Development Fund shall be administered and the expenditure therefrom shall be regulated in accordance with the provisions of the Development Fund Act and any Act amending or substituted for that Act.

**Accounting  
Officer's  
responsibility.**

**23.** (1) The control of each head of expenditure or revenue for any financial year shall be the responsibility of the accounting officer designated therefor.

(2) The accounting officer shall be personally and pecuniarily accountable for all public monies received, collected or disbursed and for all public stores received, held or disposed of by or on account of the department or service under the head for which he is designated.

**Existing  
investments.**

**24.** All investments held by or on behalf of the Government on the date when this Act comes into operation shall, in so far as they are not held on account of Special Funds or the Development Fund, be deemed to have been made out of monies issued from the Consolidated Fund and shall be deemed to form part of that Fund and, notwithstanding that such investments are not such as may be made under section 15, may be retained.

**Restriction on  
borrowing.**

**25.** (1) The Government shall not borrow money except in accordance with the provisions of an Act.

(2) The powers conferred by a general or any specific Loan Act or by any appropriation law to borrow money by means of advances from a bank or from the Crown Agents may be exercised by means of fluctuating overdrafts.

(3) The aggregate amount of any overdrafts shall be limited to that authorised by resolution of the Cabinet:

Provided that the resolution be approved by the House within one year.

(4) Subject to the provisions of a general or any specific Loan Act, any money borrowed by the Government in the manner provided for in subsection (2) shall be paid into and shall form part of the Consolidated Fund and shall be available in any manner in which such Fund is available.

**26.** No guarantee involving any financial liability shall be binding upon the Government unless such guarantee is given in accordance with the provisions of an Act or by resolution of the Cabinet: **Guarantees.**

Provided that the resolution be approved by the House within six months.

**27.** (1) If, in the opinion of the Minister, the exigencies of the public service render it necessary or expedient to vary the sum assigned to any purpose within a supply vote shown in the estimates of expenditure for any financial year, he may direct by means of a virement warrant that there shall be applied in aid of any purpose for which the sum assigned may be deficient a further sum out of any surplus arising on any sum assigned to any other purpose, except normally that assigned to Personal Emoluments, within the same supply vote: **Virement.**

Provided that—

(a) the sum appropriated for any supply vote by the Appropriation Act and by any Supplementary Appropriation Act for that financial year is not thereby exceeded, and

(b) no individual additional provision shall be approved by virement warrant which is in excess of fifty thousand dollars or which, together with any previous additional sum approved for that financial year, exceeds fifty per cent of the original provision appropriated for the subhead by Parliament, whichever is the less.

(2) Any virement warrant issued under the provisions of subsection (1) shall be laid before the House within six months from the date on which such virement warrant was signed.



## PART IV

## DEPOSITS

**Deposits.**

**28.** Any monies, not being money raised or received for the purposes of the Government, which may be deposited with the Accountant-General, or with any other public officer authorised by the Financial Secretary or by regulations made under this Act to receive such monies, shall not form part of the Consolidated Fund, and, except as provided in this Part, shall not be applied in any way for the purposes of Government.

**Investment of deposits.**

**29.** (1) The Minister may authorise the investment of deposits in the same manner as he may authorise the investment of monies forming part of the consolidated Fund.

(2) Any interest or dividend received in respect of deposits invested in accordance with subsection (1) shall be paid into the Consolidated Fund, unless otherwise directed by the Minister.

**Advances from deposits.**

**30.** Subject to the provisions of this section, the Financial Secretary may authorise the Accountant-General to use deposits for the purpose of making advances for all or any of the purposes specified in subsection (1) of section 16, except that deposits shall not be used where the advance in question is repayable or recoverable, as the case may be, after the close of the financial year in which such advance is made.

**Unclaimed deposits.**

**31.** Any deposit which is unclaimed for five years, shall be paid into the Consolidated Fund for the public purposes of the Government but if any person entitled thereto shall subsequently prove to the satisfaction of the Accountant-General his claim to any such deposit, the Accountant General shall thereupon refund to such person his deposit.

## PART V

## ACCOUNTS

**32.** (1) Within a period of six months after the close of each financial year the Accountant-General shall prepare, certify and submit to the Director of Audit the accounts of Antigua and Barbuda for that financial year, showing fully the financial position of Antigua and Barbuda at the end of the year, including the statements specified in subsection (2), with as many copies of the accounts as the Director of Audit may reasonably require:

Annual Accounts  
to be prepared  
by Accountant-  
General.

Provided that the House may by resolution approve an extension of the period of six months in respect of any financial year.

(2) The statements referred to in subsection (1) are—

(a) a statement of assets and liabilities;

(b) an annual abstract statement of revenue and expenditure by heads;

(c) a comparative statement of actual and estimated revenue by subheads;

(d) a comparative statement of actual and estimated expenditure by subheads;

(e) a statement of balances on advance accounts from the Consolidated Fund, analysed under the several categories set out in section 16;

(f) a statement of the balances on deposit account;

(g) a statement of outstanding loans made from the Consolidated Fund, by annual and aggregate receipts and payments;

(h) a statement of Public Debt;

(i) a statement of investments, showing the Funds, including Sinking Funds, on behalf of which the investments were made;

(j) a statement of contingent liabilities;

(k) a statement of Special Fund balances by annual and aggregate receipts and payments showing in respect

of each Special Fund the investments or other assets relating thereto;

- (l) in respect of the Development Fund,
  - (i) a statement of assets and liabilities;
  - (ii) an annual abstract statement of revenue by services and of expenditure by projects;
  - (iii) a comparative statement of actual and estimated revenue by heads;
  - (iv) a comparative statement of actual and estimated expenditure by subheads;
  - (m) a statement of losses of cash and stores and abandoned claims;
  - (n) a statement of *ex-gratia* payments, and amounts not covered by law;
  - (o) such other statements as Parliament may from time to time require.

**Annual Account  
of Special Funds.**

**33.** Within a period of six months after the close of a financial year or the close of such period of account as may be provided in any law or trust instrument relating thereto, or, in the absence of any such provision, the close of such period of account as may be prescribed by directions given by the Financial Secretary pursuant to subsection (3) of section 20—

- (a) any officer administering a Special Fund, and
- (b) any officer administering any trust or other fund or account not provided for in this section,

shall prepare, certify and submit to the Director of Audit an account of such fund or account relating to the period of account, in such form as the Accountant-General may, from time to time, require.

## PART VI

## THE DIRECTOR OF AUDIT

**34.** The Director of Audit shall satisfy himself— **Duties.**

(a) that all reasonable precautions have been taken to safeguard the collection and custody of revenue and that the law, directions and instructions relating thereto have been duly observed;

(b) that expenditure has been incurred with due regard to economy and to the value obtained;

(c) that public monies other than those which have been appropriated have been dealt with in accordance with proper authority;

(d) that all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of cash, stamps, securities and stores and that the regulations, directions and instructions relating thereto have been duly observed; and

(e) that adequate regulations, directions or instructions exist for the guidance of accounting officers and accountable officers.

**35.** The Director of Audit, or any other officer duly authorised by him, shall have access to all cash, stamps, securities, stores or other Government property of any kind whatsoever in the possession of any public officer. **Access to Government property.**

**36.** (1) In any place visited by the Director of Audit for the performance of his duties under the Constitution and this Act, such accommodation as the Director of Audit and his staff may deem necessary to enable them to perform their duties under the Constitution and this Act shall be provided in that place during the period necessary for performing those duties. **Accommodation and staff.**

(2) The Director of Audit shall be provided with adequate staff to perform his duties under the Constitution and this Act.

**Powers.**

**37.** In the exercise of the duties conferred upon him by the Constitution and this Act, the Director of Audit may—

(a) call upon any officer for any explanations and information which the Director of Audit may require in order to enable him to discharge his duties;

(b) require production to him of any books, accounts, vouchers or papers under the control of any officer relating to or in any way concerning the public accounts and keep such books, accounts, vouchers and papers for such time as he may require them in the discharge of his duties;

(c) authorise any person publicly carrying on the profession of accountant or any public officer to conduct on his behalf any inquiry, examination or audit and to report thereon to him;

(d) without the payment of any fee, cause search to be made in and extracts to be taken from any public office;

(e) lay before the Attorney-General for his opinion a case in writing relating to any question regarding the interpretation of any law concerning the powers of the Director of Audit or the discharge of his duties.

**Freedom from direction and control.**

**38.** In the exercise of his functions under this Act, the Director of Audit shall not be subject to the direction or control of any other person or authority.

**Pre-Audit.**

**39.** With the exception of examinations of computations of retirement benefits, the Director of Audit shall not be required to undertake any examination of accounts of the nature of a pre-audit which involves the acceptance by him of responsibility which would preclude him from full criticism of any accounting transaction after such transaction has been duly recorded.

**Incompatible undertaking.**

**40.** The Director of Audit shall not be required to undertake any duties outside those of his office if in his opinion such duties are incompatible with the responsibilities and duties of that office.

**41.** Anything which, under the Constitution or this Act, is to be done by the Director of Audit, other than certifying and reporting on accounts, may be done by any officer of his staff authorised by him to do so. **Delegation of functions.**

## PART VII

### THE AUDIT AND EXAMINATION OF ACCOUNTS

**42.** (1) On receipt of the accounts submitted to him under the provisions of sections 32 and 33, the Director of Audit shall cause them to be examined and audited and shall certify such accounts and sign and submit to the Minister a report on the examination and audit of all such accounts, together with copies of the accounts certified as above in this subsection. **Report on Accounts.**

(2) The Director of Audit may at any time, if it appears to him desirable, submit to the Minister a special report on any matter incidental to his powers and duties under this Act.

(3) The Minister shall, after receiving any report submitted to him pursuant to this section, lay it before the House not later than seven days after the House next meets, and if the Minister fails so to lay the report, the Director of Audit shall transmit a copy thereof to the Speaker of the House who shall, as soon as practicable, present it to the House.

**43.** If at any time it appears to the Director of Audit that irregularities have occurred in the receipt, custody, issue or expenditure of public monies; or in the receipt, custody, issue, sale, transfer or delivery of stamps, securities, stores, or other Government property; or in accounting for them, he shall immediately notify the relevant accounting officer thereof in writing and send a copy of his notice to the Financial Secretary. **Notification of irregularities.**

## PART VIII

### STATUTORY BODIES

**44.** (1) The provisions of sections 45, 46 and 47 shall apply to a statutory body only where such or similar provisions are not made in the law establishing that statutory body. **Application.**

(2) In this Part "the appropriate Minister" means the Minister under whose portfolio the statutory body in question falls.

Estimates of capital expenditure.

**45.** (1) A statutory body shall, before the commencement of each financial year of such statutory body, submit to the appropriate Minister for his approval and that of the Minister, estimates of its capital expenditure and the financing thereof for that year in such form as the Minister may from time to time direct.

(2) The appropriate Minister shall then lay the estimates approved by him and the Minister pursuant to subsection (1) before the House not later than fourteen days after the House next meets.

Estimates of recurrent income and expenditure.

**46.** (1) A statutory body shall, before the commencement of each financial year of such statutory body, submit for the approval of the appropriate Minister estimates of its recurrent income and expenditure for that year, in such form as the appropriate Minister may direct.

(2) A statutory body shall, at such time as the appropriate Minister may direct, furnish him with such further information in relation to its annual income and expenditure estimates as he may require.

(3) The estimates of recurrent income and expenditure of a statutory body for its financial year as approved by the appropriate Minister, may not be altered without the approval of the appropriate Minister.

Annual Report and Accounts.

**47.** (1) A statutory body shall, as soon as possible and in any case not later than six months after the termination of the financial year of the statutory body, submit an annual report to the appropriate Minister in such form as the Minister may from time to time direct.

(2) Such report shall include a balance sheet, an income and expenditure account and the report of the auditor of the statutory body on the accounts.

(3) On receipt of the annual report, the accounts and the auditor's report, the appropriate Minister shall lay them

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before the House, not later than fourteen days after the House next meets.

**48.** (1) Notwithstanding anything to the contrary in any law, the Minister may request the Director of Audit to examine and audit the accounts of any statutory body or to investigate and report on the financial affairs of any statutory body.

*Minister may request Director of Audit to audit or investigate.*

(2) In the exercise of his duties under this section the Director of Audit shall have such powers and discretion as are conferred upon him by sections 35 and 37 for the purpose of examining public accounts.

(3) The Director of Audit may, in his discretion, at any time consult the auditors of any statutory body regarding its financial affairs, and if he is not satisfied with the result of such consultation, may report to the Minister the nature of his dissatisfaction.

(4) In the exercise of his duties under this section the Director of Audit may, with the approval of the Minister, authorise any person publicly carrying on the profession of accountant to inspect, examine or audit the books and accounts, or investigate the financial affairs of any statutory body which the Director of Audit is required under this section to examine, audit or investigate; and such person shall report thereon to the Director of Audit in such manner as the Director of Audit may direct.

(5) The Director of Audit may report to the Minister on any investigation made by him under this section and send a copy of such report to the appropriate Minister, who may obtain the observations of the statutory body concerned on any matter in the report to which attention has been called by the Director of Audit.

(6) The appropriate Minister shall cause any report submitted to him under subsection (5) together with any observations of the statutory body concerned, to be laid before the House not later than thirty days after the House next meets.



(7) A statutory body whose accounts are audited or financial affairs investigated by the Director of Audit, whether under the provisions of this section or of any other law, shall pay such fees in respect of the work done and expenses incurred in connection with such audit or investigation by the Director of Audit or any accountant authorised under subsection (4) as may be approved by the Minister.

## PART IX

WRITE OFF OF PUBLIC MONEY OR STORES  
OR ABANDONMENT OF CLAIMS

Write-off and  
abandonment of  
claims.

**49.** (1) The House may by resolution authorise the Financial Secretary to write-off losses of public monies, stores or other moveable property belonging to the Government or provided for the public service, or to abandon or remit any claim by or on behalf of the Government or any service thereof.

(2) Such resolution may be in general terms and of continuing application and may be retrospective to the date of the coming into operation of this Act.

(3) The Financial Secretary may by writing under his hand delegate to any public officer any of the powers which he is authorised to exercise by resolution of the House under this section.

Disposal of  
serviceable stores  
to certain  
organisations.

**50.** Subject to the direction of the Minister, the Financial Secretary may authorise the gift of serviceable Government stores or property not required for Government purposes to institutions or organisations in Antigua and Barbuda that are established solely or principally for educational, scientific, cultural or charitable purposes:

Provided that where the value of such stores or property exceeds five thousand dollars the prior approval of the House of such gift shall be required.

## PART X

## SURCHARGE

**51.** If it appears to the Financial Secretary that by reason of the neglect or fault of any person who is or was at the time of such neglect or fault a public officer, public monies or public stores have sustained loss or damage; and if, within a period specified by the Financial Secretary, an explanation satisfactory to him is not furnished with regard to such apparent neglect or fault, the Financial Secretary shall surcharge against that person the amount which appears to him to be the loss suffered by the Government, or the value of the property lost or damaged, as the case may be, or such lesser amount as the Financial Secretary may determine.

Conditions under which surcharge may be imposed.

**52.** Neglect or fault of a person for the purpose of section 51 may include—

Neglect or fault.

(a) failure to collect any monies owing to Government for the collection of which such person is or was at the relevant time responsible;

(b) making, allowing or directing any payment of public monies without proper authority, or payment of public monies without obtaining proper evidence that the amount was due;

(c) responsibility for any deficiency in, loss or destruction of or damage to any public monies, stamps, securities, stores, or other public property;

(d) failure to render accurate accounts by a person whose duties require him to render accounts;

(e) signing an incorrect certificate on a voucher;

(f) mixing public monies with other monies;

(g) failure to observe Financial Instructions or Stores Rules, or other relevant instructions given under proper authority.

**53.** The Financial Secretary shall notify in writing the decision to surcharge to—

Notification of surcharge.

(a) the person surcharged;

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- (b) the Accountant-General; and
- (c) the Director of Audit.

**Appeal.**

**54.** (1) An appeal shall lie to the appropriate Service Commission in respect of any surcharge made pursuant to section 51 at the instance of the person against whom that surcharge is made.

(2) An appeal pursuant to subsection (1) shall be in writing addressed to the Chairman of the appropriate Service Commission and shall be lodged not later than one month after the person appealing had been notified of the surcharge.

(3) Cabinet may by regulation make provision for the procedure in appeals under this section and, in particular, for the attendance at such appeals of public officers and other persons as well as for the production of public accounts, public stores or any other public property at such appeals.

(4) Upon an appeal under this section the appropriate Service Commission may confirm the surcharge which is the subject of the appeal or may release the person against whom the surcharge is made either wholly or in part from the surcharge.

(5) No appeal shall lie from any decision of the appropriate Service Commission under this section.

**Withdrawal of surcharge.**

**55.** The Financial Secretary may at any time withdraw any surcharge in respect of which a satisfactory explanation is received or if it otherwise appears to him that no surcharge should have been made, and in any such event the Financial Secretary shall notify the person concerned, the Accountant-General and the Director of Audit of such withdrawal.

**Recovery of surcharge.**

**56.** (1) The Accountant-General, on receiving notice of a surcharge made under this Part, shall cause the amount of the surcharge to be recovered from the person surcharged in such manner as the Financial Secretary may, by direction given under subsection (2), authorise:

Provided that—

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- (i) no such recovery shall be made until after the expiration of the period specified in section 54 for the lodging of an appeal; and
  - (ii) where the person surcharged appeals under the provisions of section 54 no recovery shall be made unless the amount of the surcharge has been confirmed or that person has been only partially released from the surcharge in accordance with the provisions of section 54.

(2) The amount of any surcharge made under the provisions of this Part shall be recovered either in one sum or by such monthly instalments by deductions from the salary, pension or other emoluments of the person surcharged as the Financial Secretary may direct:

Provided that—

- (i) no such deduction shall exceed one quarter of the gross monthly salary or pension, as the case may be, of the person surcharged; and
- (ii) where the person surcharged is due to be paid any monies by the Government, other than by way of salary or pension, the Financial Secretary may require the amount of any surcharge imposed on that person to be deducted from such monies in whole or in part as he may consider just and reasonable.

(3) The provisions of this section shall not prejudice the right of the Attorney-General, on behalf of the Government, acting on the instructions of the Financial Secretary, to sue for and recover the amount of any surcharge as a civil debt due to the Government.

## PART XI

### REGULATIONS

**57.** (1) The Minister may make regulations not **Regulations.** inconsistent with the provisions of this Act as may appear to him to be necessary and expedient for the proper carrying out of the provisions of this Act, and, without prejudice

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to the generality of this provision, such regulations may provide for—

(a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all public monies and the guidance of all persons concerned therein;

(b) the record, examination, inspection and departmental check of all receipts and expenditure and the keeping of all necessary books and accounts;

(c) the forms for all books and documents whatsoever required under the provisions of this Act or the regulations made thereunder;

(d) the purchase, safe custody, issue, sale or other disposal or writing-off of public stores and other property of the Government and the proper accounting for, and stocktaking of, such stores and property;

(e) the preparation of the estimates of revenues and expenditure;

(f) the authorisation of rates of payment of public funds for specific purposes where such rates of payment are not provided by law;

(g) the making of advances to public officers and other persons and the rates and limits of such advances and the rates of interest thereon.

(2) All regulations made under this section shall be published in the *Gazette* and shall be laid before the House by the Minister as soon as may be after they have been so published and if the House resolves that any of them shall be annulled, such regulation is void as from the date of the resolution, but without prejudice to the validity of anything done thereunder or to the making of a new regulation.

## PART XII

### TRANSITIONAL

**Transitional  
Provisions.**

**58.** (1) In respect of the accounts of any financial year ending before 31st December, 1981, which have not been

submitted for audit on or before the date on which this Act comes into operation, the Accountant-General shall submit statements of account for audit according to law as at the closing date of that financial year, and not under this Act.

(2) In respect of the accounts of any financial year ending before 31st December, 1981, on which he has not reported on or before the date on which this Act comes into operation, the Director of Audit shall carry out the duties of audit, examination and reporting of the Chief Auditor according to law as at the closing date of that financial year.

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