

VIRGIN ISLANDS
PUBLIC FINANCE MANAGEMENT ACT, 2004
ARRANGEMENT OF SECTIONS

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I Assent

THOMAS MACAN
Governor
11th March, 2004

VIRGIN ISLANDS

No. 2 of 2004

An Act to make better provision for the management of public money and public stores, to repeal the Capital Fund Ordinance (Cap. 174) and the Finance Ordinance (Cap. 175) and to provide for other matters connected therewith.

[Gazetted 1st April, 2004]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I
PRELIMINARY**

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| <p>1. This Act may be cited as the Public Finance Management Act, 2004.</p> <p>2. This Act binds the Crown.</p> <p>3. (1) In this Act,</p> | <p>Short title.</p> <p>Act binds the Crown.</p> <p>Interpretation.</p> |
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“accountable officer” means a public officer who is concerned in or responsible for

- (a) the collection, receipt, custody, investment or payment of public money; or
- (b) the acquisition, custody, issue or disposal of public stores;

“Accountant General” means the person for the time being carrying out the duties of the public office of Accountant General;

“accounting officer” means a public officer appointed to be an accounting officer in accordance with section 21(1);

“Appropriation Act” means an Act to apply a sum out of the Consolidated Fund to the service of a financial year and includes a Supplementary Appropriation Act;

No. 13 of 2003

“Auditor General” means the Auditor appointed under section 4 of the Audit Act, 2003;

“authorised investments” means investment

- (a) in a bank, either at call or subject to notice not exceeding twelve months;
- (b) in a manner authorised for the investment of property in the hands of trustees by a law in force in the Territory or elsewhere; or
- (c) in such other manner as the Legislative Council may, by resolution, authorise;

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No. 2145

“Consolidated Fund” means the Fund established by section 59 of the Virgin Islands (Constitution) Order, 1976;

“Development Fund” means the Fund established by section 7(1);

“Development Fund vote” means the total sum appropriated out of the Development Fund

- (a) for a specific development scheme, project or programme, or
 - (b) generally for the purpose of development,
- by an Appropriation Act;

“expenditure vote” means a Development Fund vote or a supply vote;

“Financial Instructions” means instructions issued by the Financial Secretary under section 45;

“financial year” means the period from the 1st day of January in any one year to the 31st day of December in such year inclusive of both such days or such other period as the Minister may by notice published in the *Gazette*, appoint;

“public money” means revenue or other money raised or received on account, or for the purpose, of the Government and includes stamps, investments, securities and negotiable instruments that are the property of the Government;

“public stores” means chattels that are

- (a) the property of the Government;
- (b) in the possession of the Government; or
- (c) under the control of the Government;

“receiver of revenue” means a person appointed under section 21(4)(a);

“Regulations” means regulations made under section 44(1);

“special fund” means a fund created in accordance with section 11(1);

“statutory expenditure” means expenditure charged on the Consolidated Fund by a law that is not an Appropriation Act;

“Supplementary Appropriation Act” means an Act the purpose of which is to appropriate money to supplement the appropriation made by an Appropriation Act;

“supply vote” means the total sums appropriated out of the Consolidated Fund for and applied to a purpose by an Appropriation Act;

“trust fund” means

- (a) subject to section 13(1), a trust fund established by an enactment other than an Appropriation Act; or
- (b) a fund of money held by the Government pursuant to
 - (i) a deed of trust; or
 - (ii) a trust instrument, expressed or implied; or
 - (iii) an arrangement governing the use of the money so held.

(2) References in this Act to money raised or received for the purpose of Government does not include money received on deposit, or money held on trust, by the Government.

**PART II
PUBLIC FINANCE**

Minister may limit expenditure.

4. Notwithstanding the issue of a warrant under the hand of the Minister in accordance with section 60(1) of the Virgin Islands (Constitution) Order, 1976, the Minister may limit or suspend at any time any expenditure, other than

- (a) statutory expenditure, or
- (b) expenditure arising out of the Governor's exercise of his power to issue a warrant under the proviso of section 60(1) of the Virgin Islands (Constitution) Order, 1976 or under any other enactment,

with or without cancellation of the warrant if in his opinion the financial exigencies of the public interest so require.

Establishment of Contingencies Fund.

5. (1) There is established a Contingencies Fund to meet any urgent and unforeseen need for expenditure for which no other provision exists.

(2) There is to be paid into the Contingencies Fund

- (a) money from time to time appropriated to the Fund by a supply vote to meet such contingencies; and
- (b) the amount comprised in any supplementary estimate approved by the Legislative Council in accordance with section 63(2) of the Virgin Islands (Constitution) Order, 1976.

(3) The Contingencies Fund

- (a) does not form part of the Consolidated Fund;
- (b) shall be kept in a separate account by the Accountant General; and
- (c) shall comprise not more than one half per cent of the total sum appropriated in an Appropriation Act for the relevant year.

Administration of Contingencies Fund.

6. (1) If the Minister is satisfied that due to exceptional circumstances an urgent need for expenditure has arisen

- (a) for which no money has been appropriated or for which the sum appropriated is insufficient;

- (b) for which funds cannot be provided under section 24(1); and
- (c) which cannot be deferred without serious detriment to the public service,

the Minister may, by Contingencies Warrant signed by him, authorise an advance from the Contingencies Fund to meet that need.

(2) The Financial Secretary may, with the approval of the Minister, invest money standing to the credit of the Contingencies Fund in authorised investments.

(3) An investment made under subsection (2) and interest received from such an investment are part of the Contingencies Fund.

7. (1) There is established a Development Fund.

Establishment of Development Fund.

(2) There shall be paid into the Development Fund

- (a) money appropriated to the Fund by a supply vote; and
- (b) any money received by the Government by way of a grant or loan
 - (i) for a specific development scheme, project or programme; or
 - (ii) generally for the purpose of development.

(3) The Development Fund

- (a) does not form part of the Consolidated Fund; and
- (b) shall be kept in a separate account by the Accountant General.

8. (1) Money shall not be withdrawn from the Development Fund except upon the authority of a Development Warrant signed by the Minister.

Administration of Development Fund.

(2) The Minister shall not issue a Development Warrant to meet expenditure for development unless the expenditure has been approved by a Development Fund vote.

(3) Notwithstanding the issue of a Development Warrant, the Minister may at any time limit or suspend expenditure from the Development Fund with or without cancellation of the Warrant if he is satisfied that the financial exigencies or the public interest so require.

(4) The Financial Secretary may, with the approval of the Minister, invest money held in the Development Fund in authorised investments.

(5) The Financial Secretary shall not invest money in the Development Fund in contravention of any condition imposed on a grant or loan of money forming part of the Development Fund.

(6) An investment made under subsection (4) and interest received from such an investment are part of the Development Fund.

(7) Except as provided by subsection (4), money in the Development Fund received by way of a grant or loan shall be used by the Government for the purpose for which it was received unless the donor or lender of the money agrees that it may be used for some other purpose.

Establishment of
Repairs and
Renewal Fund.

9. (1) There is established a Repairs and Renewal Fund.

(2) There shall be paid into the Repairs and Renewal Fund money appropriated to the Fund by a supply vote.

(3) The Repairs and Renewal Fund

- (a) does not form part of the Consolidated Fund;
- (b) shall be kept in a separate account by the Accountant General; and
- (c) shall comprise not more than one quarter per cent of the total sum appropriated in an Appropriation Act for the relevant year.

Administration
of Repairs and
Renewal Fund.

10. (1) Money shall not be withdrawn from the Repairs and Renewal Fund except upon the authority of a Repairs and Renewal Warrant signed by the Minister.

(2) The Minister shall not issue a Repairs and Renewal Warrant unless he is satisfied that it is necessary to do so to meet expenditure for the repair or renewal of public stores or other Government property.

(3) Notwithstanding the issue of a Repairs and Renewal Warrant, the Minister may at any time limit or suspend expenditure from the Repairs and

Renewal Fund with or without cancellation of the Warrant if he is satisfied that the financial exigencies or the public interest so require.

(4) The Minister shall include an estimate of the expenditure to be made from the Repairs and Renewal Fund during a financial year in the estimates of the revenue and expenditure of the Government for that year.

(5) The Financial Secretary may, with the approval of the Minister, invest money standing to the credit of the Repairs and Renewal Fund in authorised investments.

(6) An investment made under subsection (5) and interest received from such an investment are part of the Repairs and Renewal Fund.

11. (1) The Minister may, with the approval of the Legislative Council, establish special funds for specific purposes. Establishment of special funds.

(2) There shall be paid into a special fund

- (a) revenue exclusively relating to or derived from the subject matter of the fund; and
- (b) any money appropriated for that purpose by a supply vote.

(3) A special fund

- (a) does not form part of the Consolidated Fund; and
- (b) shall be kept in a separate account by the Accountant General.

(4) The money in a special fund shall not be expended except for the specific purpose for which the fund was established.

(5) The Minister may declare, in writing, that a special fund is to be wound up and closed, and thereupon

- (a) after the liabilities of the fund have been paid, the fund shall be taken to have been closed accordingly; and
- (b) any balance standing to the credit of the fund shall be paid into the Consolidated Fund.

12. (1) The Minister shall appoint a public officer to be the accounting officer in respect of a special fund. Administration of special funds.

(2) A special fund shall be administered in accordance with such instructions as the Financial Secretary may issue.

(3) The Financial Secretary may, with the approval of the Minister, invest money standing to the credit of a special fund in authorised investments.

(4) An investment made under subsection (3) and interest received from such an investment are part of the special fund.

Trust funds.

13. (1) A trust fund established by an enactment other than an Appropriation Act is not a trust fund if the enactment that established it provides for the payment of money into the fund

- (a) out of the Consolidated Fund; or
- (b) from money which would otherwise have been paid into the Consolidated Fund,

unless the enactment that established the fund specifically provides that the fund is a trust fund for the purposes of this Act.

(2) A trust fund

- (a) does not form part of the Consolidated Fund; and
- (b) shall be kept in a separate account by the Accountant General.

Administration of trust funds.

14. (1) A trust fund shall be administered in accordance with the enactment, deed of trust, trust instrument or agreement which created it.

(2) If in relation to a trust fund

- (a) there is no enactment, deed of trust, trust instrument or agreement relating to the administration of the fund; or
- (b) the enactment, deed of trust, trust instrument or agreement contains provisions for the administration of the fund that are, in the opinion of the Financial Secretary, inadequate,

the Financial Secretary shall appoint a public officer to be the accounting officer of the fund and give instructions for the administration of the fund.

(3) The Financial Secretary may, with the approval of the Minister, invest money in a trust fund in authorised investments.

(4) An investment made under subsection (3) and interest received from such an investment are part of the trust fund.

(5) Nothing in this section authorises the terms of a trust to be altered or contravened.

15. (1) There is established a Reserve Fund.

Establishment of Reserve Fund.

(2) There shall be paid into the Reserve Fund money appropriated to the Fund by a supply vote.

(3) The Reserve Fund

(a) does not form part of the Consolidated Fund; and

(b) shall be kept in a separate account by the Accountant General.

16. (1) Money shall not be withdrawn from the Reserve Fund except upon the authority of a Reserve Warrant signed by the Minister.

Administration of Reserve Fund.

(2) The Minister shall not issue a Reserve Warrant unless the expenditure has been approved by an Appropriation Act or a resolution of the Legislative Council.

(3) Notwithstanding the issue of a Reserve Warrant, the Minister may at any time limit or suspend expenditure from the Reserve Fund with or without cancellation of the Warrant if he is satisfied that the financial exigencies or the public interest so require.

(4) The Financial Secretary may, with the approval of the Minister, invest money standing to the credit of the Reserve Fund in authorised investments.

(5) An investment made under subsection (4) and interest received from such an investment are part of the Reserve Fund.

PART III CONTROL AND MANAGEMENT OF PUBLIC FINANCE

17. (1) It is the duty of the Minister to supervise the finances of the Government to ensure that a full account of them is made to the Legislative Council.

Power and duties of the Minister.

(2) For the purposes of subsection (1), the Minister has, subject to this Act, the supervision and direction of every matter relating to the financial affairs of the Government.

Financial Secretary to be given information, etc.

18. A public officer shall provide the Financial Secretary or a person appointed by the Financial Secretary with any information, document or record he requires that

- (a) relates to public money, public stores or other Government property; and
- (b) is in the officer's possession or under his control.

Inspection of public money, stores and property.

19. A public officer shall allow the Financial Secretary or a person appointed by the Financial Secretary to inspect any public money, public stores and other Government property in the officer's possession or under his control.

Powers of Accountant General.

20. (1) It is the duty of the Accountant General

- (a) to compile and manage the accounts of the Government; and
- (b) to manage the Treasury Department.

(2) For the purposes of subsection (1), the Accountant General may, with the written approval of the Financial Secretary, give instructions, not inconsistent with this Act, the Regulations or any Financial Instructions, for the management of public money and public stores.

(3) The Accountant General shall, in particular, ensure

- (a) that money owed to the Government is promptly paid;
- (b) that money received or paid by the Government is brought promptly and properly to account;
- (c) that money is not paid out by the Government unless it is properly payable; and
- (d) that adequate provisions exist for the safe custody of public money and public stores.

(4) The Accountant General shall report in writing to the Financial Secretary

- (a) any apparent defect in a department's control of public money or public stores; or
- (b) any breach or non-observance of this Act, the Regulations, any Financial Instructions or any instructions issued by the Accountant General.

21. (1) The Minister shall appoint by name and in writing an accounting officer in respect of each expenditure vote to control and account for the expenditure of money applied to that vote by an Appropriation Act.

Accounting officers.

(2) An accounting officer is personally accountable for

- (a) public money received, collected or disbursed by the department or service for which the vote for which he is the accounting officer is provided; and
- (b) public money received, held or disposed of on account of that department or service.

(3) An accounting officer appointed in respect of a trust fund or any other fund established by or by virtue of this Act is personally accountable for the money in the fund and money received, collected or disbursed by the fund.

(4) An accounting officer

- (a) may, with the written approval of the Financial Secretary, appoint a public officer under the accounting officer's control to be the receiver of revenue for the collection of an item of revenue for which the accounting officer is accountable; and
- (b) if he does so, shall define in writing to the Financial Secretary's satisfaction the extent to which the powers and duties conferred and imposed on the accounting officer in respect of the receipt and collection of public money is to be exercised or performed on his behalf by that receiver of revenue.

(5) The appointment of a receiver of revenue under subsection (4) does not abate the personal accountability of the accounting officer who made the appointment.

(6) Without prejudice to subsection (4), an accounting officer may, and shall if required to do so by the Financial Secretary,

- (a) define in writing the extent to which the powers and duties conferred and imposed upon him in respect of public money may be exercised or performed on his behalf by a public officer under his control; and
- (b) give directions necessary to ensure the proper exercise or performance of those powers and duties.

Accountable officers to comply with instructions, etc.

22. An accountable officer shall comply with this Act, the Regulations, Financial Instructions and instructions given by the Accountant General under section 20(2).

Revenue etc. to be paid into Consolidated Fund.

23. Except as otherwise provided in the Virgin Islands (Constitution) Order, 1976 and this Act, revenue and other money received for the purpose of the Government shall be paid into the Consolidated Fund in accordance with the Regulations, Financial Instructions and instructions given by the Accountant General under section 20(2).

Re-allocation within supply vote.

24. (1) If, in the opinion of the Minister, the exigencies of the public service make it necessary or expedient to increase the sum assigned to a purpose within a supply vote, he may direct, by means of a Re-allocation Warrant, that there be applied in aid of the purpose for which the sum assigned may be deficient, a sum out of any surplus arising on a sum assigned to another purpose within the same supply vote.

(2) A Re-allocation Warrant issued under subsection (1) shall be laid before the Legislative Council by the Minister before the expiration of six months after the end of the year to which it relates.

(3) The Minister shall not issue a Re-allocation Warrant if the effect of the re-allocation would be to avoid the terms and conditions attached to a grant or loan to the Government.

Investment of money in Consolidated Fund.

25. (1) The Financial Secretary may, with the approval of the Minister, invest money in the Consolidated Fund in an authorised investment.

(2) An investment made under subsection (1) and interest received from such an investment are part of the Consolidated Fund.

Statutory payments.

26. (1) The Minister may issue a warrant to authorise the Accountant General to meet any statutory expenditure that has become due.

(2) The Minister shall not issue a warrant under subsection (1) until the Minister has been informed by the Financial Secretary that he is satisfied that the sum is lawfully payable.

(3) Subject to subsection (1), the disbursement of money provided in a financial year to meet expenditure on statutory expenditure is under the control of, and shall be accounted for by, the Accountant General.

27. (1) An appropriation by the Legislative Council of public money for the service of a financial year ceases to have effect at the close of that financial year.

Appropriation and warrants to lapse at end of financial year..

(2) A warrant issued under this Act during a financial year ceases to have effect at the close of that financial year.

28. The Accountant General may, with the written approval of the Minister, pay out of the Consolidated Fund

Refunds, etc.

- (a) money paid into the Consolidated Fund in error; and
- (b) money necessary to pay a refund, rebate or drawback in accordance with an enactment.

29. (1) Money in the Consolidated Fund shall be kept with such bank as may be specified by the Minister.

Consolidated Fund money to be kept with specified bank.

(2) Subsection (1) does not apply to money invested in accordance with section 25.

30. A public or official account shall not be opened at a bank without the written authority of the Minister.

Bank accounts.

31. (1) The Minister may, by Imprest Warrant signed by him, authorise the Accountant General to issue imprests from the Consolidated Fund to public officers for a purpose for which money has been appropriated from the Fund.

Imprests.

(2) Subject to subsection (4), a public officer to whom an imprest has been issued pursuant to subsection (1) shall retire the imprest before

- (a) the end of the financial year in which the imprest was issued; or
- (b) if some earlier date is specified in the Imprest Warrant, that earlier date.

(3) If a public officer to whom subsection (2) applies fails to retire an imprest in accordance with that subsection, the Accountant General may recover the amount of the imprest by deduction from the salary or other emoluments of the public officer.

(4) A public officer to whom an imprest has been issued to travel on duty outside the Territory shall retire the imprest in the manner and at the time instructed by the Financial Secretary.

(5) If a public officer to whom subsection (4) applies fails to comply with the instructions of the Financial Secretary, the Accountant General may recover the amount of the imprest by deduction from the salary or other emoluments of the public officer in such manner as the Financial Secretary directs.

(6) For the purpose of this section, a member of the Legislative Council is a public officer.

Restriction on borrowing.

32. The Government or any person acting on behalf of the Government has no power to borrow money except in accordance with an enactment or on the authority of a resolution of the Legislative Council.

Guarantees.

33. The Government or any person acting on behalf of the Government has no power to give a guarantee involving the Government in any financial liability unless the guarantee is given in accordance with an enactment or under the authority of a resolution of the Legislative Council.

Deposits.

34. (1) In this section, “deposits” means money, not being money raised or received for the purposes of the Government, which has been deposited

- (a) with the Accountant General; or
- (b) with any other public officer authorised to receive the money by the Accountant General.

(2) Deposits

- (a) do not form part of the Consolidated Fund; and
- (b) except as provided by subsection (4), shall not be applied for a purpose of Government.

(3) The Financial Secretary may, with the approval of the Minister, invest deposits in authorised investments.

(4) Interest received in respect of deposits invested in accordance with subsection (3) is to be paid into the Consolidated Fund.

**PART IV
AUDIT AND EXAMINATION OF
PUBLIC ACCOUNTS**

35. (1) The Accountant General shall, within four months after the end of a financial year or such longer period as the Minister may approve in writing, transmit to the Auditor General accounts showing the financial position of the Legislative Council and all Government departments and offices, including the Public Service Commission, at the end of that financial year. Annual accounts.

(2) Where, pursuant to subsection (1), the Minister grants a longer period for the Accountant General to transmit the accounts to the Auditor General, he shall within thirty days of such decision, inform Executive Council in writing of that fact.

36. Where the Minister causes a report of the Auditor General to be laid in the Legislative Council in pursuance of section 66(3) of the Virgin Islands (Constitution) Order, 1976, the Minister shall cause a copy of the relevant annual accounts referred to in section 35, to be attached to the report of the Auditor General. Annual accounts to be laid in Legislative Council.

**PART V
ABANDONMENT OF CLAIMS AND WRITE-OFF OF
PUBLIC MONEY AND PUBLIC STORES**

37. The Financial Secretary may, with the approval of the Executive Council, Abandonment of claims, etc. and write-off of public money and public stores.

(a) abandon or remit a claim by or on behalf of the Government; or

(b) write-off a loss of public money or public stores.

38. (1) Subject to subsection (2), the Minister may give serviceable public stores not required for Government purposes to institutions or organisations in the Territory established solely or principally for educational, scientific, cultural or charitable purposes. Disposal of certain stores to charitable organisations, etc.

(2) The approval of the Executive Council is required if the value of the public stores referred to in subsection (1) exceeds five thousand dollars.

PART VI
SURCHARGES AND SET OFFS

Power to surcharge.

39. (1) The Financial Secretary may surcharge a person who is or was a public officer, a sum determined by the Financial Secretary if it appears to the Financial Secretary that the person

- (a) failed to collect money owing to the Government which it was his duty to collect;
- (b) was responsible for
 - (i) the improper payment of public money;
 - (ii) an expenditure of money in excess of the amount authorised; or
 - (iii) a payment of public money not properly payable;
- (c) was responsible for a deficiency in public money; or
- (d) was responsible for
 - (i) the loss or destruction of, or
 - (ii) damage to,

public stores or other Government property.

(2) Before surcharging a person under subsection (1), the Financial Secretary shall give the person a period of fourteen days to provide a satisfactory explanation for the person's action.

(3) The Financial Secretary, in determining an amount for the purpose of subsection (1), shall

- (a) take due account of the person's ability to pay the surcharge without undue financial hardship; and
- (b) determine a sum that does not exceed
 - (i) the loss suffered by the Government; or
 - (ii) twenty-five per cent of the gross annual salary or pension of the person,

whichever is the lesser amount.

40. The Financial Secretary shall notify the person surcharged, the Minister, the Auditor General and the Accountant General, of the surcharge made under section 39. Notification of surcharge.

41. (1) A person aggrieved by a surcharge made against him may appeal to the Minister within Appeals against surcharge.

- (a) one month from the date on which he is notified of the surcharge in accordance with section 40; or
- (b) any longer period the Minister may allow after consulting the Financial Secretary.

(2) The Minister may, after making any investigation he considers necessary,

- (a) confirm the surcharge; or
- (b) direct that the person surcharged be released wholly or in part from the surcharge.

42. (1) Subject to subsection (2), the Accountant General shall, on being notified of a surcharge in accordance with section 40, recover the amount of the surcharge from the person surcharged in the manner determined by the Financial Secretary under subsection (3). Recovery of surcharge.

(2) A surcharge cannot be recovered

- (a) until after the end of the period allowed under section 41 for the lodging of an appeal; or
- (b) if the person surcharged appeals under section 41, until the amount of the surcharge has been confirmed or otherwise determined in accordance with that section.

(3) The amount of a surcharge is to be recovered by deducting each half-month from the salary, wages or pension of the person surcharged such amount as is determined by the Financial Secretary except that

- (a) each half-monthly deduction shall not exceed twenty-five per cent of the gross half-monthly salary, wages or pension of the person surcharged; and
- (b) the number of deductions shall not exceed twenty-four.

(4) Notwithstanding subsection (3), if the person surcharged is due to be paid money by the Government, other than by way of salary, wages or pension, the Financial Secretary may require the amount of the surcharge to be deducted from that money in whole or in part.

(5) The ability the Government has to surcharge a person does not prejudice any other legal remedy the Government may have against that person or any other person to recover the loss the Government has suffered.

Power to set off.

43. (1) If

- (a) the Government owes money to a person on account of a contract or otherwise, including money due by way of salary, wages or other emoluments, and
- (b) that person owes money to the Government,

the Financial Secretary may direct that there is to be set off against any payment made by the Government to that person the money due from that person to the Government.

(2) Where an amount is set off in accordance with subsection (1)

- (a) the amount due from the Government and referred to in subsection (1)(a) is to be dealt with and accounted for as if it had been paid in full by the Government to the person whom it was owed; and
- (b) the amount due to the Government and referred to in subsection (1)(b) is to be dealt with and accounted for as if that amount had been paid in full to the Government by the person from whom it was owed.

PART VII MISCELLANEOUS

Regulations.

44. (1) The Executive Council may, on the advice of the Financial Secretary, make such regulations as are necessary or expedient for the proper carrying out of the purposes of this Act, including regulations for

- (a) the care and custody of, and accounting for, any stores, supplies, plant, equipment, machinery, tool, vessel, vehicle, livestock or thing being the property, or in the possession or under the control, of the Government;

- (b) the appointment of a Tenders Board and for the procurement of goods and services by the Government, whether by tender, direct purchase or otherwise;
- (c) the disposal by auction, sale, transfer or otherwise, of any stores, supplies, plant, equipment, machinery, tool, vessel, vehicle, livestock or thing being the property, or in the possession or under the control, of the Government;
- (d) the giving on loan or hire of any stores, supplies, plant, equipment, machinery, tool, vessel, vehicle or thing being the property, or in the possession or under the control, of the Government;
- (e) the appointment of an Accident Investigation Board to enquire into the causes and costs of accidents involving damage to any plant, equipment, machinery, vessel, vehicle or other thing being the property, or in the possession or under the control, of the Government and to assess the extent of any blame or negligence on the part of the drivers or operators responsible for, or in control of, such plant, equipment, machinery, vessel, vehicle or thing.

(2) Regulations made under subsection (1) shall be subject to an affirmative resolution of the Legislative Council.

45. (1) The Financial Secretary may, from time to time after consultation with the Minister, issue financial instructions, not inconsistent with this Act or the Regulations, to public officers on how they are to handle public money, public stores and other Government property.

Financial
Instructions.

(2) The Financial Instructions may, in particular, direct public officers on

- (a) how public money is to be collected, spent and accounted for;
- (b) how public stores are to be acquired, issued, looked after, accounted for and disposed of; and
- (c) what records, examinations, inspections and departmental checks shall be made.

(3) The Financial Secretary shall ensure that the Financial Instructions are brought to the notice of public officers affected by them.

Enforcement.

S.R.O. 29 of
1969

46. Without prejudice to the institution of criminal proceedings or the imposition of a surcharge against him, disciplinary proceedings under the Public Service Commission Regulations, 1969 may be taken against a public officer who contravenes this Act, the Regulations, the Financial Instructions or any instructions issued by the Accountant General under section 20(2).

Repeal.
Cap. 174
Cap. 175

47. The Capital Fund Ordinance and the Finance Ordinance are repealed.

Transitional
provisions.

48. (1) Money standing to the credit of the Capital Fund established by the Capital Fund Ordinance immediately before the commencement of this Act is to be taken on that commencement to be money standing to the credit of the Development Fund established by this Act.

(2) Any instructions given by the Financial Secretary in respect of financial matters and in effect immediately before the commencement of this Act have effect on that commencement as if they were Financial Instructions given by the Financial Secretary under this Act in so far as they are not inconsistent with the provisions of this Act.

Passed by the Legislative Council this 26th day of February, 2004.

V. INEZ ARCHIBALD,
Speaker.

DENNISTON FRASER,
Clerk of the Legislative Council.