



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

R0,80

WINDHOEK — 30 December 1991

No. 333

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 157 1991

PROMULGATION OF ACT OF THE NATIONAL ASSEMBLY

The following Act which has been passed by the National Assembly and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 31 of 1991: State Finance Act, 1991.

ACT

To provide for the regulation of the receipt, custody and banking of, the accounting for, and the control and disposal of State moneys, stamps, securities, forms having a face or potential value, equipment, stores and other movable goods owned or leased by the State; the defrayal of expenditure on services of the State and the making of other payments from the banking accounts maintained in respect of State moneys; the recovery of losses or damages caused to the State; the powers and duties of the Treasury; the powers and duties of the Auditor-General; the raising and repayment of loans by the State; the determination of interest rates in respect of certain debts due to the State; the furnishing of guarantees, indemnities and securities by the Government in respect of the financial commitments of certain statutory institutions, banks, companies or juristic persons; and to provide for matters connected therewith.

(Signed by the President on 12 December 1991)

BE IT ENACTED by the National Assembly of the Republic of Namibia, as follows:-

Definitions.

1. (1) In this Act, unless the context indicates otherwise -

“accounting officer” means a person designated as accounting officer by or under section 8;

“appropriation Act” means an appropriation Act or additional appropriation Act passed pursuant to the provisions of Article 126(2) of the Namibian Constitution;

“Auditor-General” means the person appointed in that capacity under Article 127(1) of the Namibian Constitution;

“Bank” means the Bank of Namibia established by section 2 of the Bank of Namibia Act, 1990 (Act 8 of 1990);

“chief executive officer” means a chief executive officer as defined in section 1 of the Public Service Act, 1980 (Act 2 of 1980);

“Column 2 amount” means an amount mentioned in “Column 2” of a schedule to an appropriation Act;

“commercial bank” means a bank as defined in section 1 of the Banks Act, 1965 (Act 23 of 1965);

“estimate of expenditure” means an estimate of expenditure or an additional estimate of expenditure presented to the National Assembly in accordance with the provisions of Article 126(1) of the Namibian Constitution;

“financial year” means the period from 1 April in any year to 31 March in the next ensuing year or, in the application of the provisions of Part III in relation to a statutory institution, the financial year of the statutory institution concerned in terms of the law by or under which it has been established;

“internal registered stock” means public stock issued in Namibia under paragraph (b) of subsection (2) of section 29 and entered in the registers referred to in section 30(1)(a);

“main division”, in relation to a vote, means a main division shown in an estimate of expenditure;

“Minister” means the Minister of Finance;

“ministry” means a ministry as defined in section 1 of the Public Service Act, 1980 (Act 2 of 1980);

“municipality” means a municipality established or constituted or deemed to have been established or constituted under the Municipal Ordinance, 1963 (Ordinance 13 of 1963);

“Permanent Secretary” means the Permanent Secretary: Finance;

“public office” means a public office as defined in section 1 of the Public Service Act, 1980 (Act 2 of 1980);

“revenue” means all moneys received by way of -

- (a) taxes, levies, duties or fees not accruing by or under any law to the funds of any statutory institution;
- (b) tariffs, rates, scales or charges levied on services rendered by a ministry or public office;
- (c) fines imposed in respect of offences, whether under the common law or the provisions of any law, except such fines as in terms of any law accrued to the funds of any statutory institution, or the forfeiture to the State of any bail moneys or any other moneys seized, or the realization of goods seized, in connection with any such offence;
- (d) loans raised in terms of the provisions of this Act;
- (e) interest on moneys invested by the Permanent Secretary in terms of section 10;
- (f) dividends on shares held by the State;
- (g) the alienation of any asset of the State;
- (h) gifts accepted in terms of section 19;
- (i) grants-in-aid received by the State,

and all casual and other receipts of the State from whatever source;

“security” means any bill of exchange, promissory note or debenture, and, in the application of sections 24(1)(i), 29, 33 and 34 includes any treasury bill or any stock or bond certificate or other document issued under subsection (2) of section 29 and signed in terms of subsection (4) of that section;

“State Account” means the account maintained in terms of section 2;

“State moneys” means -

- (a) all revenue;
- (b) all other moneys whatever received or held by or on behalf of an accounting officer in relation to the administration of the affairs of the State;

“State Revenue Fund” means the State Revenue Fund referred to in Article 125(1) of the Namibian Constitution;

“statutory institution” means any board, body, fund, account, company, corporation, organisation or juristic person established by or under any law, controlling or being entitled to control by virtue of any such law, funds accruing to it as a whole or in part from moneys appropriated by Parliament for such purpose: Provided that a municipality and a village management board shall, for the purposes of Part III of this Act, be deemed to be statutory institutions;

“Treasury” means the financial authority in the Public Service which is vested in the Ministry of Finance and whose powers in relation to any matter are exercised by the Minister or an officer in that Ministry who, by virtue of a division of work in that Ministry, deals with that matter;

X “unauthorised expenditure” means -

- (a) any expenditure or payment incurred or made contrary to the provisions of section 6 or 17;
- (b) any expenditure or payment for which no provision has been made by or under any law;
- (c) any expenditure or payment incurred or made without the authorisation or approval required by this Act;
- (d) any expenditure or payment incurred or made contrary to the provisions of any law;
- (e) any expenditure or payment in respect of which no voucher or other proof of payment required by the Auditor-General has been produced or, in the

case of any expenditure or payment in respect of which any such voucher or other proof is defective or has been lost or destroyed, in respect of which the Treasury, or in the case of a statutory institution, the executive authority thereof, has not in terms of section 25(1)(c)(iv) authorised the Auditor-General to dispense with the production of the voucher or other proof concerned;

“village management board” means a village management board constituted or deemed to have been constituted under the Village Management Boards Ordinance, 1963 (Ordinance 14 of 1963);

“vote” means a vote shown in a schedule to an appropriation Act and in an estimate of expenditure.

(2) Any reference in any law or document -

- (a) to the Consolidated Revenue Fund or Central Revenue Fund or any account of such Fund, shall be construed as a reference to the State Revenue Fund;
- (b) to the Controller and Auditor-General, shall be construed as a reference to the Auditor-General;
- (c) to local stock or local registered stock, shall be construed as a reference to internal registered stock.

PART I

BANKING ACCOUNTS, ACCOUNTING SYSTEM, DEFRAYAL OF EXPENDITURE AND RECOVERY OF LOSSES OR DAMAGES

Accounts at Bank or
commercial banks.

2. (1) There shall be maintained at the Bank an account to be known as the State Account -

- (a) into which shall, subject to the provisions of this Act or any other law, be deposited all State moneys; and
- (b) from which shall, subject to the provisions of this Act or any other law, be defrayed all expenditure

on services of the State or shall be made all payments in relation to State moneys.

(2) Notwithstanding the provisions of subsection (1), the accounting officer for the vote of the Ministry responsible for communication may, for the purposes of defraying expenditure or of making payments in relation to the affairs of that Ministry, utilize or retain on hand for utilization, on such conditions as may be determined by the Treasury, any State moneys received in that Ministry in relation to communication without depositing it or causing it to be deposited in the State Account.

(3) Unless the Treasury determines otherwise, the Bank shall on every working day, in such form as the Treasury may determine, render a return to the Permanent Secretary in respect of all moneys deposited in and paid from the State Account.

(4) (a) An accounting officer may, with the authorisation of the Treasury, open an account at the Bank or any commercial bank into which all State moneys received by the accounting officer and as determined by the Treasury, shall be deposited, and from which all expenditure shall be defrayed and all payments shall be made as the Treasury may determine.

(b) The provisions of subsection (3) shall *mutatis mutandis* apply in relation to an account opened under paragraph (a): Provided that the return referred to in that subsection shall be rendered to a person determined by the Treasury.

Establishment of trading and related accounts.

3. (1) The Treasury may authorize an accounting officer to establish trading and related accounts in respect of services and goods supplied by such accounting officer's ministry or public office to any other ministry or public office or any other institution.

(2) Expenditure in respect of the supply of services and goods referred to in subsection (1), as determined by the Treasury, shall be financed from moneys in the accounts -

(a) which have been appropriated by Parliament;

(b) which, notwithstanding anything to the contrary in this Act or any other law contained, have been

received in payment of services and goods referred to in subsection (1);

(c) which have been obtained from the sale of redundant and unserviceable supplies related to the supply of the services and goods in question;

(d) which have been obtained with the concurrence of the Treasury from any other source.

(3) The relevant account of the State Revenue Fund shall be credited with any profit at the end of a financial year and any loss shall be made good from appropriated moneys.

System of account-books, accounts and registers.

4. The Permanent Secretary shall keep proper accounts of all transactions in relation to State moneys by means of a system of account-books, accounts and registers approved by the Treasury after consultation with the Auditor-General.

Form of estimates of expenditure and revenue.

5. The Minister shall determine the form in which estimates of expenditure and revenue shall be presented to the National Assembly.

Expenditure during a financial year.

6. Subject to the provisions of sections 9 and 16(1)(a) no expenditure shall be incurred during a financial year on services of the State which -

(a) in the case of expenditure in respect of which an amount of money has been appropriated by an appropriation Act -

(i) results in the total amount mentioned in an estimate of expenditure in respect of a vote being exceeded;

(ii) results in the total amount mentioned in a main division of a vote being exceeded;

(iii) results in the total amount mentioned in a subdivision of a main division being exceeded;

(iv) results in a Column 2 amount of any vote being exceeded;

- (b) in the case of expenditure in respect of which amounts of money have been appropriated by or under any other law, results in the amounts determined by or under such law being exceeded.

Duration of appropriation Act.

7. An appropriation Act shall not be construed as authorising the withdrawal from the State Revenue Fund of amounts of money appropriated thereby during a financial year other than the financial year to which it expressly relates.

Accounting officers and other responsible officers.

8. (1) Unless the Treasury determines otherwise, the chief executive officer of a ministry and of a public office shall, subject to the provisions of subsection (4), be the accounting officer for the vote or votes of that ministry or public office, and he or she shall -

- (a) be charged with the receipt, custody, banking and payment of, and accounting for, State moneys received in such ministry or public office; and
- (b) in relation to that vote or votes, exercise or perform the powers and duties conferred or imposed upon an accounting officer by or under this Act or any other law.

(2) Whenever an accounting officer is absent or is for any other reason unable to act, the person acting in his or her place shall exercise or perform the powers and duties conferred or imposed upon an accounting officer by or under this Act or any other law as if he or she were the accounting officer.

(3) The powers and duties conferred or imposed upon an accounting officer by or under this Act or any other law may be exercised or performed by the accounting officer personally or by an officer in his or her ministry or public office engaged in carrying out the said provisions under the control, direction or supervision of the accounting officer concerned.

- (4) (a) Notwithstanding the provisions of subsection (1), the Treasury may, after consultation with the accounting officer concerned, charge any person who is not an accounting officer with the responsibility of accounting for State moneys received and paid out by such person in so far as such receipt or payment relates to a particular portion of a vote.

- (b) The Treasury may assign to a person charged under paragraph (a) with the responsibility for a portion of a vote any or all of the powers and duties which the accounting officer may exercise or is required to perform in relation to such portion of a vote.
- (c) A power or duty assigned to a person under paragraph (b), shall be exercised or performed by such person in relation to the said portion of a vote to the exclusion of the accounting officer for the vote as if such person were the accounting officer.
- (d) The provisions of subsection (2) shall *mutatis mutandis* apply in relation to a person charged under paragraph (a) with the responsibility for a portion of a vote.

Authorisation by Minister for withdrawal of moneys from State Revenue Fund.

~~*~~ 9. (1) Notwithstanding the provisions of sections 6 and 7, the Minister may -

- (a) until an amount of money has been appropriated by an appropriation Act in respect of a financial year, but during a period not exceeding four months after the commencement of such financial year, authorise the withdrawal of moneys from the State Revenue Fund without an appropriation by law, in order to defray expenditure on services in respect of which money was appropriated in the preceding financial year: Provided that -
 - (i) the total amount of money which may be so authorised shall not at any time exceed an amount of money equal to thirty-three percent of the total amount of money appropriated by an appropriation Act for the preceding financial year;
 - (ii) any expenditure on services defrayed under such authorisation before the commencement of the appropriation Act in respect of the financial year concerned, shall be deemed to be expenditure defrayed under that appropriation Act;
- (b) authorise the withdrawal of moneys from the State Revenue Fund in order -
 - (i) to defray expenditure on services in connection with any anticipated excess of an

amount mentioned in an estimate of expenditure in respect of a vote;

- (ii) to defray expenditure on services of a special nature which are not provided for in an appropriation Act,

if the Minister is satisfied that the expenditure concerned cannot without serious detriment to the public interest be postponed until provision can be made therefor by law;

- (c) authorise the establishment of a new main division and, if necessary, subdivisions thereof in respect of a vote for the expenditure referred to in paragraph (b)(ii);
- (d) authorise the withdrawal of moneys from the State Revenue Fund in order to defray expenditure on services in connection with an anticipated excess of a Column 2 amount.

(2) The Minister shall not authorise under subsection (1)(b) or (d) the withdrawal of an amount of money which at any time exceeds an amount of money equal to three percent of the total amount appropriated by the current appropriation Act or of the total amount of money in respect of which the withdrawal has been authorised under subsection (1)(a), as the case may be, and particulars of the amounts of money withdrawn thereunder, shall be submitted by the Minister to the National Assembly for appropriation of the amounts concerned, not later than the end of the financial year in which such withdrawal has been authorised.

(3) Any main division established under paragraph (c) of subsection (1), shall for the purposes of this Act be deemed to have been shown in the estimate of expenditure concerned.

Withdrawal of moneys from State Account or State Revenue Fund by Permanent Secretary for certain purposes.

✶ 10. (1) The Permanent Secretary may -

- (a) notwithstanding anything to the contrary contained in any other law, withdraw amounts of money from the State Account, which are not required for immediate use, for investment at any financial institution in or outside Namibia approved by the Minister;

- (b) withdraw amounts of money from the State Revenue Fund -
- (i) for the payment of legitimate claims arising from a guarantee, an indemnity or a security furnished by the Minister under section 36 of this Act or under any other law;
 - (ii) for the refund of moneys inadvertently or incorrectly deposited into the State Revenue Fund;
 - (iii) for the payment of any interest payable on moneys borrowed and which are to be repaid from the State Revenue Fund, and of any losses suffered in relation to any loan raised in terms of this Act outside Namibia as a result of any change in the value of the currency of Namibia in relation to the currency of the country concerned and of any other expenditure incurred in connection with the raising of such loan;
 - (iv) for the repayment of any moneys borrowed in terms of this Act and for the repurchase or repayment of any securities issued under this Act.

(2) The amounts of money withdrawn in accordance with subsection (1) as a charge to the State Revenue Fund, shall be deemed to have been appropriated by law for the purposes concerned.

(3) The Minister shall as soon as practicable lay upon the Table of the National Assembly a statement showing particulars of payments made under subsection (1)(b)(i).

Recovery of losses or damages.

11. (1) Whenever -

- (a) any person who is or was employed in a ministry or public office caused any loss or damage to the State in that he or she -
 - (i) incurred an unauthorised expenditure or was responsible for incurring it;
 - (ii) failed to collect State moneys for the collection of which he or she is or was responsible;

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- (iii) is or was responsible for a deficiency in, or a destruction of or damage to, State moneys, stamps, securities, forms having a face or potential value, equipment, stores or other movable goods owned or leased by the State;
 - (iv) due to an omission to carry out his or her duties properly, is or was responsible for fruitless expenditure of State moneys or for a claim against the State;
- (b) any person -
- (i) in any manner caused any loss or damage to the State;
 - (ii) has as a result of an unauthorised expenditure been unjustly enriched,

the accounting officer concerned or, in a case where an accounting officer has caused such loss or damage or has been so unjustly enriched, the Treasury, shall determine the amount of such loss, damage or enrichment and, subject to the provisions of subsection (3), by notice in writing order such person to pay the amount so determined within a period of thirty days as from the date of such notice.

(2) Unless the Auditor-General directs otherwise, the accounting officer concerned or the Treasury, as the case may be, shall notify the Auditor-General forthwith of all the facts in connection with any loss, damage or enrichment in respect of which an order for payment has been made in terms of subsection (1).

(3) If for any reason an accounting officer is of the opinion that the amount of a loss or damage determined in terms of subsection (1) should not be recovered or should be recovered in part only from the person responsible therefor, the accounting officer may request the Treasury to waive the claim against such person under section 16(1)(c)(i) or to authorise under section 20 that he or she be discharged from liability, whether in respect of the whole or a portion of the amount involved.

(4) If a person who has been ordered to pay an amount in terms of subsection (1), fails to pay such amount within the period of thirty days referred to in that

subsection, or within a period of thirty days from the date upon which such amount has in terms of an authorisation or an order referred to in subsection (5) or (6) been reduced, the accounting officer concerned or the Treasury, as the case may be, shall recover the amount concerned -

(a) in the case of a person employed in a ministry or public office, by way of a deduction from such person's monthly salary or, if the amount exceeds one-fourth of such person's gross monthly salary, by monthly deductions not exceeding one-fourth of such person's gross monthly salary;

(b) in the case of a person who is not employed in a ministry or public office, by judicial proceedings.

(5) A person who has been ordered to pay an amount in terms of subsection (1), may, within the period of thirty days referred to in that subsection, request the Treasury to waive the claim against him or her under section 16(1)(c)(i) or to authorise under section 20 that he or she be discharged either wholly or partly from liability in respect of such amount.

(6) Any person in respect of whom a request referred to in subsection (5) has been refused may -

(a) within a period of thirty days after he or she has been informed of such refusal, appeal in writing against such refusal to the Minister, and the Minister may, after such investigation as the Minister may deem necessary, dismiss such appeal or order that the person be discharged either wholly or partly from liability; or

(b) within the period referred to in paragraph (a), or such further period as the court may allow, apply to a competent court for an order setting aside the order for payment made in terms of subsection (1) or reducing the amount determined under that subsection, and such court may set aside such order for payment or reduce such amount if the accounting officer or the Treasury, as the case may be, cannot satisfy the court that the merits of the case justified the making of such an order for payment or that the amount so determined is correct.

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(7) An amount payable in terms of this section shall for the purposes of section 35 be deemed to be a debt due to the State Revenue Fund as from the date of expiry of the period contemplated in subsection (4).

(8) The provisions of subsection (1) shall not apply to any person who is or was an accounting officer and who caused any loss or damage as contemplated in paragraph (a) of that subsection resulting from an instruction given by the Minister responsible for the ministry or public office concerned or, in a case where the accounting officer is or was a person other than the chief executive officer of the ministry or public office, by the chief executive officer of such ministry or public office, if -

(a) such accounting officer has beforehand pointed out in writing to the Minister or the chief executive officer, as the case may be -

(i) the provisions of subsection (1); and

(ii) that if such instruction is carried out such a loss or damage may be caused; and

(b) such Minister or chief executive officer, as the case may be, has nevertheless urged in writing that the instruction be carried out.

(9) Notwithstanding the provisions of paragraph (a) of subsection (4), the accounting officer concerned or the Treasury, as the case may be, may cause the amount involved to be recovered by way of judicial proceedings, instead of monthly deductions as contemplated in that paragraph, if the accounting officer or the Treasury, as the case may be, deems it advisable in any particular case.

Accounts and statements.

12. (1) As soon as practicable, but not later than six months after the end of a financial year, the Permanent Secretary shall, subject to the provisions of subsection (3), prepare in respect of the financial year concerned, in such form as the Permanent Secretary may determine after consultation with the Auditor-General -

(a) a statement setting out the total revenue to the benefit of, and the expenditure as a charge to, the State Revenue Fund;

(b) a statement setting out -

- (i) the total debt as a charge to the State Revenue Fund;
 - (ii) the amount of such debt incurred and redeemed during the financial year;
 - (iii) the interest paid in respect of all such debt; and
 - (iv) the expenditure incurred in connection with such debt;
- (c) a statement setting out the revenue received under the different heads of revenue shown in the estimate of revenue;
- (d) such other statements and accounts as the Auditor-General may require after consultation with the Permanent Secretary.

(2) The Permanent Secretary shall transmit the statements and accounts referred to in subsection (1) to the Auditor-General for investigation, examination and auditing.

(3) For the purposes of preparing the statements and accounts referred to in subsection (1), the Permanent Secretary shall not take into account any transactions in relation to the affairs of the Post Office Savings Bank referred to in section 52 of the Post Office Act, 1958 (Act 44 of 1958), but the officer occupying the post of Postmaster-General in terms of that Act, shall in respect of each financial year prepare a balance-sheet and a revenue and expenditure account in relation to the said Post Office Savings Bank and transmit such balance-sheet and revenue and expenditure account to the Auditor-General not later than six months after the end of the financial year concerned.

Appropriation accounts.

13. (1) The Permanent Secretary shall as soon as practicable, but not later than six months after the end of a financial year, prepare an appropriation account in respect of each main division of each vote specifying -

- (a) on the receipts side thereof, the amount mentioned in the estimate of expenditure, but with such adjustments to any amount so mentioned as may

be necessary by reason of any utilization in accordance with the provisions of paragraph (a) of subsection (1) of section 16 or any withholding or suspension under paragraph (b) of that subsection;

- (b) on the expenditure side thereof the amount actually expended,

and transmit such appropriation account to the accounting officer concerned before expiry of the said period of six months.

(2) Every accounting officer shall as soon as practicable, but not later than fifteen days from the date of receipt of an appropriation account in terms of subsection (1), sign such appropriation account and return it together with explanations of the causes of any variations in excess of two percent between the amounts referred to in paragraphs (a) and (b) of subsection (1) to the Permanent Secretary.

(3) The Permanent Secretary shall transmit the appropriation accounts referred to in subsection (2) as soon as practicable, but not later than seven months after the end of the financial year concerned, to the Auditor-General for auditing.

Designation of internal auditors.

14. The Treasury may designate as internal auditor or auditors any officer or officers of the Ministry of Finance to carry out investigations at ministries, public offices and statutory institutions in connection with any matter relating to the functions of the Treasury and to determine whether the provisions of this Act or any instructions issued under section 24 have been or are being complied with.

Internal auditor shall have access to accounts, documents, books and records.

15. (1) An internal auditor designated under section 14 shall perform his or her functions subject to the directions of the Treasury and shall have access to all such accounts, documents, books and records of a ministry, public office or statutory institution as may be necessary for performing his or her functions.

(2) In the event of any dispute arising as to whether access to any account, document, book or record is necessary for the performance of an internal auditor's functions under this Act, the dispute shall be referred to the Minister and the decision of the Minister thereon shall be final.

PART II

GENERAL POWERS OF TREASURY AND
TREASURY AUTHORISATIONS

General powers of
Treasury.

16. (1) The Treasury may -

(a) notwithstanding the provisions of section 6, authorise that a saving on -

(i) a Column 2 amount of a vote or on an amount mentioned in a main division of a vote, be utilized towards the defrayal of anticipated expenditure which may result in an excess of an amount mentioned in any main division of the vote concerned, including a main division established under section 9(1)(c); or

(ii) an amount mentioned in a subdivision of a main division of a vote, be utilized towards the defrayal of anticipated expenditure which may result in an excess of an amount mentioned in any other subdivision of the main division concerned, including any new subdivision which may be established with the authorisation of the Treasury;

(b) notwithstanding anything to the contrary in this Act or any other law contained, in its discretion, from time to time withhold or suspend the disbursement of any amount of money mentioned in an estimate of expenditure or in respect of which the withdrawal has been authorised under section 9 or which has been appropriated by or under any law, including a law whereby money has been appropriated for a statutory institution;

(c) subject to the provisions of this Act or any other law -

(i) waive any claim in terms of section 11 of this Act or in terms of any other law resulting from any loss or damage or unjust enrichment contemplated in the said section 11;

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- (ii) authorise any refund of revenue by way of grace;
- (iii) authorise any payment by way of grace from State moneys;
- (iv) authorise any person to be discharged from liability by way of grace in respect of any money due to the State Revenue Fund by such person;
- (v) authorise that any loss of or damage to State moneys for which no person is liable or any other amount due to the State, except fines imposed by courts of justice, be written off;
- (vi) make recommendations to the Minister in relation to the form and contents of an estimate of expenditure;
- (vii) determine the vote or main division of a vote to be charged with any particular expenditure;
- (viii) make recommendations to the Minister in relation to the various heads of revenue of an estimate of revenue under which revenue is to be received;
- (ix) determine the conditions on which revenue is to be collected and the manner in which State moneys may be received by an accounting officer;
- (x) authorise or condone, to such extent as the Treasury may think fit, the non-compliance with any instruction, determination or condition issued, made or laid down by the Treasury in terms of this Act or any other law, or with the provisions of section 23(1)(b).

(2) The provisions of paragraph (c)(ii), (iii) and (iv) of subsection (1) shall not apply -

- (a) if the amount involved in a particular case exceeds R20 000;

(b) in relation to any taxes, levies, duties or fees referred to in paragraph (a) of the definition of "revenue" in section 1.

(3) The utilization of any saving in accordance with paragraph (a) of subsection (1) shall have the effect that the relevant amounts mentioned in the estimate of expenditure affected by such utilization, be increased or decreased, as the case may be.

(4) Any moneys withdrawn from the State Revenue Fund in terms of paragraph (c)(ii) or (iii) of subsection (1) shall be deemed to have been appropriated by law.

(5) The Treasury shall -

(a) keep record of every withholding or suspension under paragraph (b) of subsection (1) and shall without delay notify the Permanent Secretary, the accounting officer concerned and the Auditor-General of every such withholding or suspension;

(b) inform the Permanent Secretary and the Auditor-General as soon as practicable of cases in respect of which claims have been waived under paragraph (c)(i) of subsection (1).

(6) The Treasury shall not exercise the power conferred upon it by paragraph (c)(i) of subsection (1) unless it is satisfied that -

(a) the amount involved is irrecoverable or the recovery thereof would be uneconomical;

(b) the recovery of the amount involved would cause undue hardship to the debtor or his or her dependants because they would be deprived of their minimum essential means of livelihood; or

(c) it would be to the advantage of the State to waive any such claim.

Prohibition on incurring expenditure or making payments without Treasury authorisation.

17. Subject to the provisions of this Act and notwithstanding anything to the contrary in any other law contained -

(a) no expenditure shall be incurred as a charge to the State Revenue Fund;

(b) no payments shall be made as a charge to the State Revenue Fund;

(c) no fees or charges, or the rates, scales or tariffs thereof, shall be determined as a charge to the State Revenue Fund,

without the authorisation of the Treasury.

Prohibition on unauthorised disposal of movable and immovable properties of State.

18. Notwithstanding anything to the contrary in any other law contained, no movable and no immovable property of the State shall be alienated, let, exchanged, donated or otherwise disposed of without the authorisation of the Treasury.

Prohibition on acceptance of gifts to State without Treasury authorisation.

19. (1) Notwithstanding anything to the contrary in any other law contained, no gifts to the State shall be accepted without the authorisation of the Treasury.

(2) The Treasury may, whenever it is not apparent to what purpose a gift referred to in subsection (1) has been made, determine the purpose to which any such gift shall be utilized or in what manner it shall otherwise be disposed of.

Discharge from liability in respect of money due to State Revenue Fund.

20. (1) Subject to the provisions of any law, no person shall be discharged from liability in respect of any money due to the State Revenue Fund without the authorisation of the Treasury.

(2) The provisions of section 16(6) shall *mutatis mutandis* apply in relation to the authorisation referred to in subsection (1).

Prohibition on variation of contracts or settlement or waiver of claims, without Treasury authorisation.

21. Notwithstanding anything to the contrary in any law contained -

(a) no contract in which the State is a party shall be cancelled or varied to the detriment of the State;

(b) no claim by the State resulting from any loss or damage or unjust enrichment contemplated in section 11, whether or not instituted by way of judicial proceedings, shall be waived or settled;

(c) no claim against the State shall be settled,

without the authorisation of the Treasury.

Prohibition on rendering of free services without Treasury authorisation.

22. Notwithstanding anything to the contrary in any law contained -

- (a) no services shall be rendered free by any ministry or public office to any person without the authorisation of the Treasury;
- (b) no fees or charges, or the rates, scales or tariffs of fees or charges, shall be determined in respect of services rendered by a ministry or public office for the benefit of the State Revenue Fund without the approval of the Treasury.

Authorisations or approvals of, or determinations by the Treasury.

23. (1) Any authorisation or approval or determination which is required from, or may be made by, the Treasury in terms of this Act or any other law -

- (a) shall, if it is granted or made, be granted or made by the Treasury in writing;
- (b) shall, subject to the provisions of section 16(1)(c)(x), be acquired or made beforehand;
- (c) may be granted or made by the Treasury in respect of any specific case or by way of a general direction;
- (d) may be granted or made by the Treasury on such conditions as it may deem fit;
- (e) may at any time be varied or withdrawn by the Treasury.

(2) The Treasury shall as soon as practicable inform the Permanent Secretary and the Auditor-General of all cases in respect of which it has, whether in terms of this Act or any other law, granted any authorisation or approval or has issued, made or laid down any instruction, determination or condition.

Treasury instructions.

24. (1) The Treasury may issue instructions -

- (a) conferring or imposing additional powers and duties on an accounting officer in relation to -
 - (i) the manner in which and the procedure according to which any power or duty

conferred or imposed in terms of this Act or any other law shall be executed;

- (ii) the planning of services by such accounting officer's ministry or public office and the submission to the Treasury of draft estimates and other information in connection therewith;
 - (iii) the advantageous utilization of moneys appropriated in relation to such accounting officer's vote;
- (b) providing for the designation of -
- (i) any person employed in the Ministry of Finance as Accountant-General;
 - (ii) any person employed in a ministry or public office as financial adviser of the accounting officer of the ministry or public office concerned;
 - (iii) persons employed in a ministry or public office as receivers of revenue,
- and prescribing the powers and duties of such person or persons;
- (c) prescribing, subject to the provisions of section 4, a system which shall be observed in relation to the collection, receipt, custody, banking, payment, disposal and control of, accounting for, and supervision over State moneys, and providing for any examination in relation to any such system;
 - (d) prescribing a system which shall be observed in relation to the control over and the disposal and stocktaking of, stamps, securities held in respect of debts due to the State Revenue Fund, forms having a face or potential value, equipment, stores and other movable goods owned or leased by the State, and providing for any examination in relation to any such system;
 - (e) prescribing the powers, duties and functions of internal auditors designated under section 14;

- (f) prescribing the nature of and the manner in which submissions and other documents which are to be submitted to the Treasury or, in accordance with the provision of this Act, to the Minister;
- (g) prescribing the documents which are to be submitted to the Treasury with a view to the acquisition of any authorisation or approval or determination which may be granted or made by the Treasury in terms of this Act or any other law or by the Minister in terms of this Act;
- (h)
 - (i) granting or making by way of general directions, subject to the provisions of section 23(1)(d), any authorisation or approval or determination which may be granted or made by the Treasury in terms of this Act or any other law;
 - (ii) entrusting, by way of general directions, the duties imposed upon the Permanent Secretary by section 4, 12 or 13, to one or more chief executive officers;
- (i) prescribing a system in relation to the accounting by the Permanent Secretary for loans raised in terms of this Act, the manner in which interest on such loans may be paid, and the issue of securities in connection therewith;
- (j) prescribing the registers to be kept in relation to immovable property owned or leased by the State or in or over which any right is held by the State, and the information to be recorded in such registers;
- (k) providing generally for the administration of the provisions of this Act.

(2) The Treasury may by way of an instruction issued under subsection (1), empower an accounting officer to issue directions to be complied with in such accounting officer's ministry or public office in relation to the matters referred to in paragraphs (c) and (d) of subsection (1).

PART III

DUTIES AND POWERS OF
AUDITOR-GENERAL

Duties of Auditor-
General.

- 25. (1) The Auditor-General shall -**
- (a) subject to the provisions of subsection (3), investigate, examine and audit -
 - (i) the account-books, accounts and registers referred to in section 4;
 - (ii) the statements and accounts referred to in sections 12 and 13;
 - (iii) any other account-books, accounts and registers prescribed under section 24;
 - (b) investigate, examine and audit the account-books, accounts, registers or statements which are to be kept or prepared in terms of any law in connection with the collection, receipt, custody, banking, payment or issue of money, stamps, securities, equipment and stores by any statutory institution and which are in terms of any law to be investigated, examined and audited by the Auditor-General;
 - (c) satisfy himself or herself -
 - (i) that all reasonable precautions have been taken to ensure that all moneys to which the investigation, examination and audit relate, are collected;
 - (ii) that the laws relating to the collection of such moneys have been complied with;
 - (iii) that all reasonable precautions have been taken in connection with the receipt, custody and issue of, and accounting for, stamps, securities, forms having a face or potential value, equipment, stores and other movable goods;

