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Finance Management and Audit Act, 1967

Act 18 of 1967

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Finance Management and Audit Act, 1967

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eSwatini

Finance Management and Audit Act, 1967

Act 18 of 1967

Commenced on 25 April 1967

[This is the version of this document at 1 December 1998.]

An Act to provide for the control and management of the public moneys for the audit thereof and of the funds of certain statutory corporations and for incidental or connected matters.

Part I – Preliminary

1. Short title

This Act may be cited as the Finance Management and Audit Act, 1967.

[Amended A.3/1992]

2. Interpretation

In this Act, unless the context otherwise requires—

“**Committee**” means the Losses Committee referred to in [section 22](#);

[Added A.1/2005]

“**Consolidated Fund**” means the fund referred to in section 126 of the Constitution;

“**controlling officer**” means an officer designated by the Minister in terms of the Financial Management and Accounting Regulations as the officer responsible for the control of each head of expenditure and each item of revenue in the estimates of revenue and expenditure laid before Parliament in terms of section 128 of the Constitution;

“**Financial Management and Accounting Regulations**” means regulations made by the Minister under [section 26](#) and includes the instructions and regulations referred to in [section 3](#);

[Amended A.3/1992]

“**General Orders**” means the regulations defining the conditions of service of public officers;

“**loss of public property**” means the occurrence of any of the events referred to in paragraphs (a) to (d) of [section 21](#);

[Added A.1/2005]

“**meeting**” has the meaning assigned to it in the Standing Orders of the House of Assembly (published under [Legal Notice No. 52 of 1968](#));

“**Minister**” means the Minister of Finance;

“**Principal Secretary**” means the Principal Secretary for Finance;

“**public moneys**” include—

- (a) all revenues or other moneys raised or received for the purposes of the Government;
- (b) any other moneys or funds held whether temporarily or otherwise, by any public officer in his official capacity, either alone or jointly with any other person, whether a public officer or not;

“**public officer**” means any person employed by the Government and shall, for the purposes of [section 7](#) and [21](#) to [28](#), but only for the purposes of those sections, include members of the Judiciary and Ministers;

[Replaced A.1/2005]

“**special fund**” means a fund established by or under [section 12](#);

“**statutory expenditure**” means expenditure charged by the Constitution, this Act or any other law (other than an appropriation law for the time being in force) on the Consolidated Fund or the revenues and public funds of Swaziland.

[Amended A.3/1967; A.17/1970]

3. Continuation of existing financial and accounting instructions and stores regulations

The Financial Management and Accounting Regulations and stores regulations issued under the authority of the Government and in operation immediately before the commencement of this Act shall have effect after such commencement as if they had been made under [section 26](#), but shall be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

Part II – Finance

4. Consolidated Fund

(1) No moneys shall be withdrawn from the Consolidated Fund or other public funds except upon the authority of a warrant under the hand of the Minister, and no such warrant shall be issued for the purpose of meeting any expenditure other than statutory expenditure unless that expenditure has been authorized by an Appropriation Act for the financial year during which the withdrawal is to take place or except in accordance with this Act.

(1bis) Any warrant issued under subsection (1) by the Minister for the withdrawal from the Consolidated Fund of any money authorized by an Appropriation Act for the financial year to meet expenditure on any service of Government shall lapse at the expiration of the financial year if at that time such money has not been expended for the purpose authorized by the Appropriation Act in respect of that financial year:

Provided that if any such money has already been committed to the payment of duly approved Government orders made before 31st March of the relevant financial year but which orders have not been fulfilled before that date the relative warrant shall lapse after the 30th day of June following the expiration of the financial year in respect of which the warrant was issued.

[Added A.3/1992]

- (2) Money to the credit of the Consolidated Fund shall, except for day-to-day cash requirements, be kept in an account at such banks as the Minister may approve.
- (3) The Minister may authorize the investment of moneys standing to the credit of the Consolidated Fund with a bank or banks either at call or subject to notice not exceeding twelve months, or with the Crown Agents, or in any of the investments authorized by law for the investment of trust funds.
- (4) Such investments together with any interest received therefrom shall form part of the Consolidated Fund.
- (5) The Accountant-General shall in each year value any investments held by assigning thereto the middle market price of such investments at the close of business on the last day in the year for which such information is available.
- (6) Any appreciation or depreciation arising from the valuation of such investments, together with any profits or losses arising from the sale or redemption of such investments, shall be credited or

debited direct to the Consolidated Fund, and be shown as an addition to or deduction from the “opening” balance of the Consolidated Fund in the annual statement of assets and liabilities.

- (7) The procedure for authorizing supplementary expenditure shall be that laid down in section 128(3) and (4) of the Constitution.
- (8) The repayment of sums of money either paid in excess of amounts properly due and payable or paid in error is hereby charged upon the Consolidated Fund and may be repaid from the Consolidated Fund by warrant issued in accordance with subsection (1).

[Amended A.12/1968]

5. Issue of money before commencement of Appropriation Act

If the Appropriation Act for any financial year has not come into operation by the beginning of that financial year the Minister may by warrant under his hand authorize the withdrawal from the Consolidated Fund of moneys to meet such expenditure as may be necessary to carry on the services of the Government until the expiry of four months from the beginning of that financial year or the coming into operation of that Appropriation Act, whichever is the earlier:

Provided that—

- (a) no expenditure upon any service for which no provision has been made in a law in force during the previous financial year or which has not been approved by a resolution of the House of Assembly in that year shall be deemed to be authorized by this section; and
- (b) the expenditure so authorized for any service shall not exceed one quarter of the amount appropriated for that service in the Appropriation Act for the immediately preceding financial year; and

[Amended A.3/1992]

- (c) all moneys withdrawn from the Consolidated Fund in pursuance of the said warrant shall be deemed to have been issued in anticipation of grants being made by the legislature in the Appropriation Act for the financial year in which such withdrawal took place, and on the coming into operation of such Act the said warrant shall cease to have effect, and withdrawal thereunder shall be deemed to have been made for the purposes of such Act and shall be accounted for accordingly.

[Amended A.3/1967; A.12/1968]

6. Contingencies Fund

- (1) A Contingencies Fund is hereby established for the purpose of enabling advances to be made to meet urgent and unforeseen expenditure in accordance with subsection (3).

- (2) The total advances made under subsection (1) shall not exceed the sum of E3,000,000:

Provided that this limit shall not apply when an advance is made for the purpose of onlending to a statutory body or any other organisation in which the Government has a financial interest.

[Amended A.10/1973; A.3/1992]

- (3) If the Minister is satisfied that an urgent and unforeseen need for expenditure has arisen which—
 - (a) is in respect of a new service and is not provided for in any law; or
 - (b) will result in an excess of the sum provided for an existing service in any law;

and that it is in the public interest that money should be provided to meet that need prior to the next meeting of the House of Assembly, he may by warrant under his hand and in anticipation of the approval of the House of Assembly, authorize advances from the Contingencies Fund in such amounts as may be necessary to meet that need.

- (4) If an advance is made from the Contingencies Fund, the Minister shall present to the House of Assembly, as soon as possible and in any case not later than at its first meeting held after the expiry of ninety days from the date on which the warrant authorizing the advance was issued, a paper containing a supplementary estimate of the expenditure required for the service to which the warrant relates.
- (5) On approval of such expenditure by the House of Assembly, the warrant shall cease to have effect, and advances thereunder shall be deemed to have been issued for the purposes of the supplementary estimate and shall be accounted for accordingly.

[Amended A.21/1968; A.17/1970]

7. Issue of other advances

- (1) The Minister may, by advance warrant, authorize the issue of advances from the Consolidated Fund and other public funds—
 - (a) on behalf of, and recoverable from, other governments;
 - (b) to the Swaziland Railway Board or the Swaziland Electricity Board where such advances are in the public interest and are recoverable within a period not exceeding six months after the close of the financial year in which such advances are made;
 - (c) to or on account of trust or other funds administered by the Government, or to, or on behalf of, public bodies, institutions or individuals, 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;
 - (d) to public officers for the purposes and under the conditions set out in General Orders or the Financial Management and Accounting Regulations;
 - (e) for the purpose of expenditure authorized by a loan law, in anticipation of the raising of a loan.
- (2)
 - (a) The total advances made under subsection (1)(c) and (d) shall not at any time exceed such amounts as may be authorised from time to time by the Minister with Cabinet's approval after repayments have been deducted.
 - (b) The Minister shall publish in the *Gazette* the amount approved in paragraph 2(a).

[Amended K.O-I-C. 20/1977; A.3/1992; A.4/1996]

- (3) The total advances authorized under subsection (1)(e) shall not exceed such amount as may be authorized from time to time by resolution of the House of Assembly.

8. Guarantees

The Minister may, in writing, guarantee the payment of a debt incurred or about to be incurred by any person and the issue of such guarantee shall be reported by him to the House of Assembly as soon as possible, but not later than at its next meeting immediately following upon the issue of such guarantee:

Provided that he shall obtain the prior approval of such House before guaranteeing a debt in excess of E500,000.

[Added A.17/1970]

9. Trading accounts

The Minister may authorize the establishment of accounts to be known as trading accounts to which all expenditure (including that on personal emoluments) incurred and all revenue received for the purpose for which the trading accounts are established, shall be debited or credited as the case may be.

10. Advances to Government

- (1) The House of Assembly may from time to time by resolution authorize the Minister to borrow, by means of advances from a bank or from the Crown Agents or from any public institution or other person, money to an amount not exceeding in the aggregate, the sum specified in that behalf in the resolution, to meet current requirements:

Provided that such resolution shall not have effect for any period exceeding twelve months.

- (2) The principal and interest of all such advances shall be charged on the Consolidated Fund.
- (3) Where, by resolution in accordance with this section or in pursuance of any law, power to borrow money by means of advances or from the Crown Agents or from any public institution is conferred on the Minister such power may be exercised by means of a fluctuating overdraft.

11. Deposits

- (1) Subject to sections [12](#) and [13](#), any moneys (not being moneys raised or received for the purposes of the Consolidated Fund) which may be deposited with the Accountant-General or a public officer authorized to receive such deposits by the Accountant-General or by Financial Management and Accounting Regulations or General Orders (such moneys being hereinafter referred to as deposits) shall not form part of the Consolidated Fund and shall not be applied in any way except as provided in this section.

- (2) Deposits shall be kept in a special account or accounts by the Accountant-General, or may be invested under the authority of the Minister in like manner to that permitted by [section 4\(3\)](#) in respect of the Consolidated Fund, or may be used to finance temporary advances over periods not exceeding twelve months.

- (3) Any interest or dividend received in respect of any deposit shall be credited to the Consolidated Fund as soon as possible after it is received.

- (4) Any deposit which is unclaimed for five years shall be credited to the Consolidated Fund for the public purposes of Swaziland:

Provided that if any person entitled thereto subsequently proves to the satisfaction of the Accountant-General his claim to such deposit, such deposit may be refunded to him by warrant under the hand of the Minister.

- (5) Subject to this section, the Accountant-General is hereby authorized to administer and, in appropriate cases, to refund deposits to those who may be entitled to them.

12. Special funds (Schedule)

- (1) All loans or grants received by or on behalf of the Government which the Minister designates as capital funds and all monies specially appropriated by law to such fund, shall be paid into a special fund to be known as the "Capital Fund" and all the provisions of this Act relating to the Consolidated Fund shall apply *mutatis mutandis* to the Capital Fund.
- (2) The funds specified in the Schedule are hereby established as special funds.
- (3) Special funds shall not form part of the Consolidated Fund and shall be kept in separate accounts with the Accountant-General.
- (4) A special fund shall be administered in the manner provided by the law or trust instrument, creating it or which relates to it:

Provided that in the absence of any law or trust instrument, or if the better carrying out of such law or trust instrument so requires, the Minister shall, by regulation, provide for the administration of such special fund, or for the better administration of such special fund, as the case may be.

- (5) Subject to this section and any other law, special funds may be invested under the authority of the Minister in like manner to that permitted by [section 4](#)(3) and (4) in respect of the Consolidated Fund.
- (6) Unless provided for by law or trust instrument any interest or dividend received in respect of any special fund shall be credited to the account of that special fund and shall become in all respects part of that special fund.
- (7) The Minister may by order published in the *Gazette* from time to time establish additional special funds or close any special fund:

Provided that the House of Assembly shall first, by resolution, approve such order.

[Amended A.12/1968; A.17/1970]

13. Sinking funds

- (1) The Accountant-General shall establish and maintain a sinking fund in respect of each loan received by or on behalf of the Government and which is to be repaid on one specified date.
- (2) Subsection 12(3) and (5) shall apply to a sinking fund in the same manner as they apply to a special fund.

[Amended A.12/1968]

Part III – Audit and accounts

14. Powers of auditors

[Repealed A.4/2005]

15. Duties of Auditor-General

[Repealed A.4/2005]

16. Powers of Auditor-General

[Repealed A.4/2005]

17. Frauds, losses, etc.

[Repealed A.4/2005]

18. Annual accounts

[Repealed A.4/2005]

19. Annual certificates and reports of Auditor-General

[Repealed A.4/2005.]

20. Accounts of statutory bodies

[Repealed A.4/2005]

Part IV – Surcharge

[Added A.1/2005]

21. Surcharge by Principal Secretary

If it appears to the Principal Secretary that any person who is or was a Public Officer—

- (a) has failed to collect any moneys owing to the Government for the collection of which such person is or was at the time of such employment responsible;
- (b) is or was at the time of such employment responsible for any improper payment of public moneys or for any payment of such moneys which is not duly vouched;
- (c) is or was at the time of such employment responsible for any deficiency in, or for the loss or destruction of, any public moneys, stamps, securities, stores or other Government property; or
- (d) is or was at the time of such employment responsible for any damage to any stores or other Government property;

and if, within a period specified by the Principal Secretary an explanation satisfactory to him is not furnished with regard to such failure to collect improper payment, payment not duly vouched, deficiency, loss, damage or destruction, as the case may be, the Principal Secretary shall surcharge such person the amount not collected or such improper payment, payment not duly vouched, deficiency, loss or the value of the property destroyed or damaged, as the case may be, or such lesser amount as the Principal Secretary may determine:

Provided that, where the Principal Secretary is the public officer to whom this section applies, the Auditor General shall exercise the powers vested in the Principal Secretary in this Part.

[Added A.1/2005]

22. Losses Committee

- (1) The Minister may, for the purposes of investigating the loss of public property, appoint a Committee, to be known as the Losses Committee.
- (2) The Committee shall investigate such report of loss of public property as the Principal Secretary may refer to it and shall make recommendation to the Principal Secretary based on its investigation.

[Added A.1/2005]

23. Composition of the Committee

- (1) The Committee shall comprise of—
 - (a) the Accountant-General or his representative;
 - (b) the Principal Secretary, Public Service and Information or his representative;
 - (c) the Attorney-General or his representative;
 - (d) the Commissioner of Police or his representative;
 - (e) the General Manager of the Central Transport Authority or his representative; and
 - (f) three persons who are not public officers and of whom at least one has a legal background and one other an accounting background.
- (2) The Principal Secretary shall designate a public officer to act as secretary to the committee, from amongst the staff of the Ministry of Finance.

- (3) The Minister shall appoint one of the persons mentioned in subsection (1)(f) to be Chairperson of the Committee.
- (4) A quorum of the Committee shall be formed by the Chairperson and at least one-half of the other members, not including the secretary.
- (5) In the absence of the Chairperson the members shall elect one of the other members to act in that stead:

Provided that the Chairperson shall be elected from amongst the persons mentioned in subsection (1)(f).

[Added A.1/2005]

24. Referral of matter to Attorney-General

Where, in the investigation of a loss of public funds—

- (a) a public officer denies liability or disputes the value of property under investigation; or
- (b) there is conflicting evidence as the culpability or otherwise of a public officer;

the Committee or the Principal Secretary, as the case may be, may refer the matter to the Attorney-General, who shall cause the issues in dispute to be referred to a court of competent jurisdiction for its determination.

[Added A.1/2005]

25. Notification of surcharge

- (1) The Principal Secretary shall cause the Auditor-General and the controlling officer of the department concerned to be notified of any surcharge made under [section 21](#).
- (2) The controlling officer on receiving such notification shall notify the person surcharged and advise the Accountant-General to withhold or defer the payment of any terminal benefits which may be due to the person surcharged.
- (3) The Accountant-General shall recover the amount surcharged from the person who has been surcharged.

[Added A.1/2005]

26. Withdrawal of surcharge

The Principal Secretary may on the recommendation of the Losses Committee withdraw any surcharge in respect of which a satisfactory explanation has been received, or if it otherwise appears that no surcharge should have been made, and in any such event the Principal Secretary shall notify the Auditor-General, the Accountant-General and the controlling officer of the department concerned of the withdrawal of that surcharge.

[Added A.1/2005]

27. Remedy of person aggrieved by surcharge

- (1) Any person who is dissatisfied with any surcharge made against him under [section 21](#), may, within a period of twenty-one days after he has been notified of the surcharge, appeal in writing to the appropriate Service Commission.
- (2) The appropriate Service Commission, acting in its discretion shall determine every such appeal and shall make an order thereon accordingly.

- (3) A copy of every order made under subsection (2) shall be transmitted to the Principal Secretary, the controlling officer of the department concerned, and the Auditor-General.
- (4) This section shall not be deemed to affect the powers of the High Court to review any proceedings taken under this Part.

[Added A.1/2005]

28. Recovery of surcharge

- (1) The amount of any surcharge made under this Part shall be recovered by such deductions from the salary or pension of the public officer as the Principal Secretary may direct:

Provided that—

- (a) no one such deduction shall exceed one-sixth of the public officer's gross monthly salary or pension, as the case may be; and
 - (b) where the public officer concerned is due to be paid any moneys of whatever description by the Government, other than by way of salary or pension, the Principal Secretary may cause the amount of any surcharge imposed on that officer to be deducted from such moneys in whole or in part as he considers fit.
- (2) Notwithstanding subsection (1) the Attorney-General may, on behalf of the Government and acting on the instructions of the Principal Secretary, sue for and recover the amount of any surcharge as a civil debt due to the Government.
- (3) In any action by the Attorney-General for the recovery of such surcharge, a certificate signed by the Principal Secretary stating the amount of the surcharge owing by the person being sued shall be *prima facie* proof of the correctness of such amount.

[Added A.1/2005]

Part V – General

[Added A.1/2005]

29. Financial Management and Accounting Regulations

The Minister may issue instructions, to be called Financial Management and Accounting Regulations, for the better carrying out of this Act, which without prejudice to the generality hereof may provide for—

- (a) the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all public moneys 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 whatever required under the provisions of this Act or of the Financial Management and Accounting Regulations;
- (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 estimates of revenue and expenditure;
- (f) the authorization 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; or

- (h) the investigation of loss of public property and the surcharge of public officers.

[Added A.1/2005]

Schedule (Under section 12 of the Act)

Special Funds

Capital Fund

Dairy Industry Fund

Guardians' Fund

Police Rewards and Fines Fund

Revolving Loan Fund

Unified Teaching Service Provident Fund

Agricultural Loan Fund

Private Township Funds

Overseas Service Aid Scheme

Maize Levy Fund

Somhlolo National Stadium Fund

The Prison Officers' Reward Fund

Contract Gratuities Fund

General Revenue Reserve Fund

I.M.F. General and Special Drawing Account

Disabled Soldiers and Dependants Pensions Special Fund

Post Office Special Fund

Water and Sewerage Board Special Fund

Central Transport Board Special Fund

Workers' Voluntary Deferred Pay Special Fund

Parliamentarians' Gratuities Special Fund

[Amended L.N.5/1968; L.N.40/1969; L.N.53/1969; L.N.49/1970; L.N.21/1971; L.N.5/1972; L.N.42/1973; L.N.55/1973; L.N.37/1974; L.N.34/1975; L.N.106/1976; L.N.82/1977]