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Act 654



THE SIX HUNDRED AND FIFTY-FOURTH

ACT

OF THE PARLIAMENT OF THE REPUBLIC

OF GHANA

ENTITLED

FINANCIAL ADMINISTRATION ACT, 2003

AN ACT to regulate the financial management of the public sector; prescribe the responsibilities of persons entrusted with financial management in the government; ensure the effective and efficient management of state revenue, expenditure, assets, liabilities, resources of the government, the Consolidated Fund and other public funds and to provide for matters related to these.

DATE OF ASSENT: *28th October, 2003.*

BE IT ENACTED by Parliament as follows:

PART I—CONTROL AND MANAGEMENT OF PUBLIC FUNDS

Powers and responsibilities of the Minister

1. (1) The Minister shall
 - (a) develop and implement a macro economic and fiscal policy framework for the country and shall
 - (i) supervise and monitor the finances of the country; and
 - (ii) co-ordinate international and intergovernmental financial and fiscal relations;

- (b) advise Government on the total resources to be allocated to the public sector and the appropriate level of resources to be allocated to individual programmes and activities within that sector.
- (2) The Minister shall ensure that periodically and not less than once a year
 - (a) the fiscal policy of Government; and
 - (b) a statement of the current and projected state of the economy and financesare presented to Parliament.
- (3) The Minister shall ensure that
 - (a) systems are established throughout the public sector
 - (i) to budget for the use of resources; and
 - (ii) to approve requests for the issue of public money prior to inclusion in estimates of expenditure for submission to Parliament in accordance with this Act;
 - (b) when Parliament has approved the Consolidated Fund Expenditure Estimates, authority to disburse funds to meet the expenditure is conveyed to Principal Account Holders through the Controller and Accountant-General; and
 - (c) transparent systems are established and maintained which
 - (i) provide a full account to Parliament for the use of resources and public moneys; and
 - (ii) ensure the exercise of regularity and propriety in the handling and expenditure of public funds.
- (4) Approval of withdrawal from the Consolidated Fund of moneys allocated by Parliament shall be by warrant signed by the Minister.

Duties of the Minister

2. (1) The Minister shall, subject to the provisions of this Act and any other enactment, have responsibility for the management and control of the Consolidated Fund and such other public funds as shall be designated as being in the care of the Minister and of matters relating to the financial affairs of the Government.
- (2) The Minister may make such regulations or may give such directions not inconsistent with this Act as may appear to the Minister to be necessary and expedient for the proper implementation of the intent and purpose of this Act and the safety, economy and advantage of public revenue and property.
- (3) The Minister shall ensure that any directions given under this section are brought to the notice of persons directly affected.
- (4) The Minister may cause the inspection of the books, records and offices of a department.

Appointment and duties of the Controller and Accountant-General

3. (1) There shall be appointed in accordance with article 195 of the Constitution, a Controller and Accountant-General who is responsible to the Minister for the custody, safety and integrity of the Consolidated Fund and other public funds designated under the care of the Controller and Accountant-General.

(2) The Controller and Accountant-General is responsible for the compilation and management of the accounts prepared in relation to the Consolidated Fund and other public funds and for this purpose the Controller and Accountant-General may give general instructions to the Principal Spending Officers of departments which shall not be inconsistent with this Act or any regulations or instructions issued under this Act.

(3) The Controller and Accountant-General is the Chief Accounting Officer of the Government who has responsibility to keep, render and publish statements of public accounts as required by this Act or any other enactment.

(4) As Chief Accounting Officer, the Controller and Accountant-General is the chief adviser to the Minister and the government on accountancy matters and is the person who approves accounting instructions of departments and promotes the development of efficient accounting systems within departments.

(5) The Controller and Accountant-General receives, disburses and provides secure custody for moneys payable into the Consolidated Fund and other funds and for this purpose shall establish such accounts with the Bank of Ghana and its agents as are considered necessary for the deposit of the moneys.

(6) A bank account shall not be opened for any department except under the authority of the Controller and Accountant-General and a bank shall not open an account for any department without the authority of the Controller and Accountant-General.

(7) Without limiting the generality of these duties, the Controller and Accountant-General shall

- (a) in consultation with the Auditor-General, specify for departments, the accounting basis, policies and the classification system to be applied in public accounting and ensure that a proper system of accounting is established in each case; and
- (b) ensure, in so far as is practicable, that adequate provisions exist for the safe custody of public money, securities and accountable documents.

Appointment and duties of Deputy Controller and Accountants-General

4. (1) There shall be appointed in accordance with article 195 of the Constitution, such number of Deputy Controllers and Accountants-General as may be considered necessary for the purposes of this Act.

(2) A Deputy Controller and Accountant-General shall perform such functions of the Controller and Accountant-General as the Controller and Accountant-General shall determine.

(3) The terms and conditions of service of a Deputy Controller and Accountant-General shall be as specified in the person's letter of appointment.

PART II—PUBLIC FUNDS

Public funds

5. (1) In accordance with article 175 of the Constitution, the public funds of Ghana consist of the Consolidated Fund, Contingency Fund and such other funds as may be established by or under an Act of Parliament.

(2) Except as otherwise provided in this Act, any fund other than the Consolidated Fund shall be governed by the enactment establishing the fund.

Consolidated Fund

6. (1) In accordance with article 176 of the Constitution, there shall be paid into the Consolidated Fund,

- (a) revenue or other moneys raised or received for government business or on behalf of the Government; and
- (b) any other moneys raised or received in trust for or on behalf of the Government.

(2) The revenue and other moneys referred to in subsection (1) exclude revenue or other moneys

- (a) payable by or under an Act of Parliament into some other fund established for a specific purpose; or
- (b) that may, under an Act of Parliament, be retained by the department or agency of Government that received them for the purpose of defraying the expenses of that department or agency.

(3) Where under sub-section (2) provision is made in any enactment for an agency of Government to retain its internally generated funds for the purpose of defraying its expenses pursuant to article 176 (2) (b) of the Constitution, the agency shall make full disclosure of internally generated funds to the Minister at the end of every month.

(4) Notwithstanding any provision to the contrary in any enactment in existence immediately before the coming into force of this Act, no investment in Government securities shall be made of internally generated funds by an agency of Government without prior approval in writing of the Minister.

The Contingency Fund

7. (1) In accordance with article 177 of the Constitution, there shall be paid into the Contingency Fund, moneys voted for the purpose by Parliament; and advances may be made from that Fund by the Committee responsible for financial matters in Parliament whenever the Committee is satisfied that there is an urgent or unforeseen need for expenditure for which no other provision exists to meet the need.

(2) Where an advance is made from the Contingency Fund a supplementary estimate shall be presented as soon as possible to Parliament to replace the amount advanced.

Other special funds

8. (1) Moneys received by or on behalf of the Government for a special purpose and paid into the Consolidated Fund, may be paid out of that Fund subject to the provisions of an Act of Parliament.

(2) Subject to any enactment, interest may be allowed in respect of any money to which subsection (1) applies at rates fixed by the Minister in Regulations or administratively.

Custody of public moneys and moneys received in trust for Government

9. (1) A person who collects or receives public moneys or moneys in trust for Government shall keep a record of receipts and deposits in a form and manner that the Controller and Accountant-General may prescribe.

(2) Any person who collects or receives any public moneys or moneys in trust for Government without the prior authority of the Controller and Accountant-General shall immediately pay the moneys into the Consolidated Fund and explain to the Controller and Accountant-General the circumstances under which these moneys came into the possession of that person.

(3) Persons authorised to collect or receive public moneys and moneys in trust for Government shall pay the moneys promptly into the Consolidated Fund in such manner as may be prescribed in regulations or as the Controller and Accountant-General may direct.

Payment for services rendered by Government departments

10. Where a service is rendered by a department to any person and the Minister is of the opinion that a charge for that service should be borne by the

person to whom the service is rendered, the Minister may subject to the provisions of an enactment relating to that service, prescribe the fees to be charged.

Receipt and payment of deposits

11. (1) Where money is received by a public officer from any person, such as a deposit to ensure the doing of an act or thing, the public officer shall hold or dispose of the money in such manner as the Minister may prescribe.

(2) Where money is paid by a person to a public officer for a purpose that is not fulfilled, the money may, less such sum as in the opinion of the Minister is properly attributed to service rendered, be returned or repaid or otherwise dealt with as the Minister may direct.

(3) Money paid to the credit of the Consolidated Fund, not being public money, may be returned or repaid in such manner as the Minister may prescribe.

(4) The Minister may determine the amount of cash or securities held to meet obligations under this section.

Deletion from the accounts

12. (1) The Minister may, subject to the approval of Parliament, in the public interest, recommend the deletion from the public accounts or other government accounts, in whole or in part, of any obligation or debt due to the Government or any claim by the Government.

(2) The deletion from the accounts does not constitute a remission of the obligation, debt or claim and does not debar subsequent proceedings for recovery, should the Minister see fit.

(3) The Minister may by regulation delegate the power of deletion under this section, subject to such terms and conditions as the Minister may require, to any public officer who shall personally exercise the delegated powers.

(4) The obligations, debts and claims deleted from the accounts shall be reported in financial statements required under sections 54 and 55 of this Act.

Payment out of the Consolidated Fund

13. (1) A payment shall not be made out of the Consolidated Fund except as provided by article 178 of the Constitution.

(2) A payment shall not be made in excess of the amount granted under an appropriation for any service.

(3) The Minister may by legislative instrument prescribe for the approval of Parliament, procedures to be followed to make payments out of the Consolidated Fund in times of emergency.

Appropriation of public money

14. (1) When departmental estimates of expenditure are approved by the President they shall become subject to Article 179 of the Constitution.

(2) Each estimate shall indicate the officer in control of and accountable for the use of public moneys.

(3) When an appropriation for a department has been approved in accordance with article 179 of the Constitution, it shall be used only in accordance with the purpose described and within the limits set by the classification within the estimate of the department.

(4) The Minister may, by legislative instrument, authorise the reallocation of expenditure within the ambit of a department's appropriation.

Charges on appropriation and orders for disbursement

15. (1) A charge shall not be made against an appropriation except on the requisition of the appropriate head of the government department for which the appropriation was made or a deputy authorised by that head.

(2) A requisition for payment out of the Consolidated Fund shall be in such form, with such documents and certified in such manner as the Controller and Accountant-General may require.

(3) The Controller and Accountant-General shall reject a requisition if the Controller and Accountant-General is of the opinion that payment on it

- (a) would not be a lawful charge against the appropriation;
- (b) would result in expenditure in excess of the appropriation; or
- (c) would reduce the balance available in the appropriation in such a manner that it would not be sufficient to meet the commitments to be charged against it.

(4) The Controller and Accountant-General may transmit to the Minister any requisition for the direction of the Minister and the Minister may order that the requisition be made or refused.

(5) The officer named on the requisition may issue an order for payment to be made on the authority of a requisition certified by the Controller and Accountant-General as valid for payment.

(6) Where any payment is refused by the Controller and Accountant-General, the head of department concerned may report the circumstances to the Minister for decision, and the Minister may confirm or reverse the refusal of the Controller and Accountant-General and give such directions as are necessary to carry out the decision.

Payment for work done

16. (1) Payment shall not be made for work done, goods supplied or services rendered whether under a contract or not, in connection with any part of the public service, unless in addition to any other voucher or certificate that is required, the head of the government department or any other officer authorised by the head of department certifies

- (a) that the work has been performed, the goods supplied or the service rendered, and that the price charged is according to the contract or if not specified by the contract, is reasonable; or
- (b) where payment is to be made before the completion of the work, delivery of the goods or rendering of the service, that the payment is in accordance with the contract.

(2) Where the Controller and Accountant-General reports in respect of any contract under which a cost audit is required to be made, that any cost or charges claimed by the contractor should not be allowed, the costs or charges shall not be allowed unless the Minister otherwise directs.

(3) Where taxes are required to be paid in respect of payment for work done, goods supplied or services rendered, whether under a contract or not, the head of the department concerned shall be responsible to ensure that any tax is paid.

Payment for contracts

17. (1) Subject to the Loans Act, 1970 (Act 335), a contract that provides for the payment of any money by the government shall not be considered valid without the prior approval of the Minister.

(2) The Minister shall signify approval, on the basis of a signed certificate to the effect that there is sufficient unencumbered balance available out of any appropriation or out of an item included in the estimates, to discharge any commitments under the contract that would come in the course of payment, during the financial year in which the contract was entered into.

(3) In the case of forward commitments, the certificate shall state that if and when the government grants an appropriation, the commitments will be entered as an encumbrance against the appropriation.

(4) Copies of each contract made under this section shall be submitted to the Auditor-General and to the Controller and Accountant-General as soon as it is made.

Government contracts

18. (1) Subject to the provisions of the State Property and Contracts Act, 1960 (C.A. 6), the Minister with the prior approval of Parliament may by legislative instrument make Regulations with respect to the following:

- (a) the conditions under which contracts may be entered into; and
- (b) the security to be given in the name of the Government to secure the due performance of contracts and may direct in the Regulations or the order that no contract shall be entered into or have effect unless execution of the contract has been approved by Parliament where payments are required in excess of the prescribed amount.

(2) Where payment under a contract is withheld to ensure the due performance of the contract, the payment may be charged to the appropriation for the contract and the amount charged may be credited to a special account to be paid out in the manner prescribed by the contract.

Modalities for making payments out of the Consolidated Fund

19. (1) There shall be opened, under the authority of the Controller and Accountant-General and in accordance with section 3, special bank accounts for each department into which shall be lodged departmental allocations under an Appropriation Act.

(2) Except otherwise determined by the Minister, special bank accounts shall be opened with the Bank of Ghana and the balance at any time shall form part of the Consolidated Fund.

(3) Subject to Article 178 of the Constitution, every payment out of the special bank account relating to an appropriation shall be made under the direction and control of the head of the department concerned, either by cash, cheque or other instrument in such form and authenticated in such manner as the Minister may by legislative instrument prescribe.

(4) Every head of department shall ensure that a record is kept of cheques or other instruments issued under the direction of that department.

(5) The Minister may, in consultation with the Auditor-General by legislative instrument provide for the destruction of cheques or other negotiable instruments.

Balance of appropriation

20. (1) The balance of an appropriation made for a financial year that remains unexpended at the end of the financial year shall lapse and subordinate authorities made under the appropriation shall lapse with it.

(2) Every head of department shall prepare and submit to the Minister a statement of the commitments entered into but undischarged before the end of the financial year in which they were incurred.

(3) The Minister may by legislative instrument determine the time limits for the submission of a statement of undischarged commitments.

(4) If the Minister is satisfied that the undischarged commitments may be properly carried forward and that unexpended balances of the previous year's appropriation are available to finance their discharge, the Minister may issue a warrant to be known as the revote warrant to provide for their due discharge.

(5) The moneys specified in the revote warrant shall, as soon as possible after that, be included in the first supplementary estimates of the new financial year to be presented for the approval of the Parliament.

Investment of public moneys in securities

21. (1) The Minister may cause public moneys to be invested on behalf of the Government in the purchase of securities for such periods and on such terms as the Minister thinks fit except that public moneys may not be invested in government securities.

(2) The interest received in respect of securities shall be paid into the Consolidated Fund as revenue, except where the securities are held on behalf of a trust fund and an enactment or agreement requires that the interest shall be paid into the trust fund.

(3) The Minister may, where it appears expedient, cause the investment to be sold or converted into money and the proceeds either credited to the Consolidated Fund or re-invested on behalf of the Government.

(4) Profits and losses realised on the sale of securities shall be charged to revenue or expenditure, except where the securities are held on behalf of a trust fund and an enactment or agreement provides that the profits or losses shall be chargeable to that fund.

(5) At least once in every year, the Auditor-General shall inspect certificates in respect of the securities and other investments.

(6) The annual return of securities and other investments shall be prepared by the Controller and Accountant-General and forwarded for verification to the Auditor-General.

(7) The investment of the funds shall not constitute a withdrawal from the Consolidated Fund as defined in this Act.

Advances from the Consolidated Fund

22. (1) Subject to Article 181 of the Constitution, no public moneys shall be advanced from the Consolidated Fund except under authority of Regulations made by the Minister and approved by Parliament.

(2) Such Regulations shall specify the terms of release and repayment of advances and require the completion of agreements between the government and the borrowers as a condition for release.

(3) Parliament may require that interest be payable in respect of the advances and shall determine the rate to be paid.

(4) The Controller and Accountant-General may recover an advance or any portion of it that is not repaid or accounted for, as required by Regulations or by agreement out of any moneys payable by the Government to the person to whom the advance was made.

(5) Each accountable advance that is not repaid or accounted for as required by subsection (4) shall be reported in the public accounts.

(6) The Minister shall, when annual estimates are being submitted for the approval of Parliament, include for approval, schedules showing the amounts by which it is proposed that advances shall be increased or diminished in the ensuing financial year and shall seek the prior approval of Parliament for any subsequent revision of the limits set by it.

Loans from the Consolidated Fund

23. (1) Subject to Article 181 of the Constitution, the President may with the approval of Parliament, authorise the Minister to enter into an agreement to grant a loan from the Consolidated Fund.

(2) An agreement entered into under subsection (1) shall be laid before Parliament and shall not come into operation until it has been approved by Parliament and shall contain a clause to this effect.

(3) Parliament may, by resolution of majority of all the members, authorise the Minister to approve particular classes of loan subject to such limitations as may be specified by Parliament.

(4) The Minister shall, when annual estimates are being submitted for approval by Parliament,

(a) include for approval a schedule of the loans to be payable or repayments to be recovered during the year; and

(b) seek the prior approval of Parliament for any additional amounts that may be required under a general authority to lend, given in accordance with subsection (3).

(5) The amount issued as loans from the Consolidated Fund shall be shown in the public accounts as an asset of the Consolidated Fund until recovery has been effected.

(6) The interest on loans shall be paid into the Consolidated Fund as revenue, and recoveries shall be paid into the Consolidated Fund.

(7) For the purposes of this section the term “loan” means moneys issued from the Consolidated Fund on condition of return or repayment over or after a period of more than one year.

Equity investments of the Consolidated Fund

24. (1) The President, with the approval of Parliament, may authorise the Minister to provide for, acquire by agreement, or purchase from the Consolidated Fund all or part of the equity capital of a company or other organisation on grounds of state policy.

(2) The Minister shall, when annual estimates are being submitted for approval by Parliament, include for approval a schedule for the equity investments to be made or to be sold or otherwise disposed of during the year.

(3) The amounts issued for provision, acquisition or purchase or equity investments from the Consolidated Fund shall be shown in the public accounts as an asset of the Consolidated Fund until the asset has been sold or otherwise disposed of by authority of Parliament.

(4) The profits and dividends or proceeds of sale arising from the equity investments shall be paid into the Consolidated Fund.

(5) A detailed statement of government’s equity investments shall be reported annually in the annual statement of the public accounts.

PART III—REVENUE AND EXPENDITURE

Estimates of revenue and expenditure

25. (1) Subject to Article 179 of the Constitution, the President shall cause to be prepared and laid before Parliament at least one month before the end of the financial year, estimates of the revenues and expenditure of the Government for the following financial year.

(2) The estimates of the expenditure of departments and agencies

(a) shall be classified under programmes or activities which shall be included in a Bill to be known as the Appropriation Bill and which shall be introduced into Parliament to provide for the issue from the Consolidated Fund or such other appropriate fund of the sums of money necessary to meet that expenditure and the appropriation of those sums for the purposes specified in that Bill;

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- (b) shall outline for each vote of expenditure a statement of the performance criteria to be met in providing the required outputs; and
- (c) shall in respect of payments charged on the Consolidated Fund, be laid before Parliament for the information of Members of Parliament.

(3) Parliament shall determine the procedure for the presentation of Appropriation Bills.

(4) Where, in respect of a financial year, it is found that the amount of moneys appropriated by the Appropriation Act for any purpose to a government department is insufficient or that a need has arisen for expenditure for a purpose for which no sum of moneys has been appropriated by that Act, a supplementary estimate showing the sum of money required shall be laid before Parliament for its approval.

(5) Where in the case of a financial year, a supplementary estimate has been approved by Parliament in accordance with subsection (4), a supplementary Appropriation Bill shall be introduced into Parliament in the next financial year to provide for the appropriation of the sum approved for the purposes specified in that estimate.

(6) Notwithstanding the provisions of the preceding subsections of this section, the President may cause to be prepared and laid before Parliament, estimates of revenue and expenditure in the country for periods covering more than one year.

(7) This section shall not apply to a department or agency to which section 6 (2) (b) applies.

Expenditure in advance of appropriation

26. (1) In accordance with Article 180 of the Constitution, where it appears to the President that the Appropriation Act in respect of any financial year will not come into operation by the beginning of that financial year, the President may, with the prior approval of Parliament by a resolution, authorise the withdrawal of moneys from the Consolidated Fund to meet expenditures necessary to carry on the services of the Government in respect of the period expiring three months from the beginning of the financial year or on the coming into operation of the Act whichever is earlier.

(2) Notwithstanding the provisions of section 1 of the Revenue Agencies (Retention of Part of Revenue) Act, 2002 (Act 628), where the President is satisfied at the beginning of any financial year that insufficient revenue has

been collected by the Revenue Agencies and that revenue determined to be retained by the Revenue Agencies is inadequate to meet the expenditure to carry out the functions of the Revenue Agencies, the President may, with the prior approval of Parliament, authorise the withdrawal of moneys from the Consolidated Fund to meet the expenditure necessary to carry out the functions of the Revenue Agencies for the period expiring three months from the beginning of the financial year, but this money shall be refunded to the Consolidated Fund before the end of the financial year.

Duration of appropriations and warrants

27. Except for statutory payments, every appropriation by Parliament of public moneys for the service of a financial year and every warrant or other authority issued under this Act in respect of the financial year shall lapse and cease to have any effect at the close of that year and the unexpended balance of any moneys withdrawn from the Consolidated Fund shall be repaid to the Consolidated Fund.

Tax revenue

28. Tax revenue shall be administered by the revenue agencies in accordance with legislative provisions.

Non-tax revenue

29. (1) The estimates of non-tax revenue of Ministries, departments and agencies other than those that generate tax revenue, shall be classified in accordance with directives issued by the Minister.

(2) Ministries, departments and agencies shall prepare annual estimates for each class of non-tax revenue and shall outline for each revenue classification, performance criteria to be met to attain the estimated revenue.

PART IV—GOVERNMENT STORES

Government stores

30. (1) Each government department shall maintain adequate records of stores and the Minister in consultation with the Public Procurement Board, established under the Public Procurement Act may make Regulations governing the acquisition, receipt, custody, control, issue and disposal of the stores.

(2) Except as determined by the Minister and subject to any other enactment, government stores shall be procured from only Value Added Tax registered persons.

Joint acquisition of stores

31. (1) Subject to the provisions of this Part, two or more departments may for the purposes of economy or convenience acquire stores together.

(2) Heads of departments acquiring joint stores shall be responsible for their respective share of resources committed to the joint stores.

Responsibility for government stores

32. (1) A person is responsible for the proper custody, care and use of government stores under the control of that person.

(2) Notwithstanding subsection (1), a head of department is responsible for the general management of government stores held within the department and for the due performance of the duties of subordinate staff in relation to the government stores.

Procurement of stores

33. Procurement of government stores for departments shall be by or under an enactment of Parliament.

Transfer of Government stores

34. Subject to any other enactment, a transfer, lease, loan or sale of government stores shall not be made to any person except by or under the authority of an enactment.

Discharge of accountability for Government stores

35. (1) A head of department is accountable for the government stores from the time of acquisitions to the time they are of no further use or value to government.

- (2) Accountability is discharged when government stores have been
- (a) consumed in the course of public business and records are available to show that the government stores have been consumed;
 - (b) worn out in the normal course of public business and deletion from the accounts has been approved by the Minister and they have been disposed of in accordance with the Minister's directions;
 - (c) lost, stolen, destroyed, damaged or rendered unserviceable other than by fair wear and tear, and if deletion from the accounts has been approved by Parliament.

(3) The Minister may by regulation delegate powers of deletion and disposal under subsection (2)(b) to a principal spending officer and the delegated power shall be personally exercised by the principal spending officer.

(4) If the Minister is satisfied that the retention of any government stores is no longer in the public interest, the Minister may authorise disposal in accordance with section 30 of this Act subject to any Regulation approved by Parliament governing the disposal.

(5) Authority for deletion from the accounts in cases that fall within subsection (2)(c), rests with the Minister who may by Regulations delegate powers of deletion to the principal spending officers and the delegated power shall be personally exercised by the principal spending officer.

(6) Deletions from the accounts under subsection (5) shall be reported in the annual financial statements of the department concerned in such manner as Regulations made under this Act may prescribe.

Special enquiry

36. (1) Where the Minister has good reason to believe that a malfeasance has occurred in connection with government stores, the Minister shall bring this to the notice of Parliament and the Auditor-General.

(2) Parliament may, request the Auditor-General to enquire into and report on the matter.

Application of stores

37. Subject to section 34, government stores shall not be applied for any purpose other than towards the furtherance of the programmes and objectives of government departments.

PART V—ACCOUNTS AND AUDIT

Basis of accounts

38. (1) The accounts submitted in accordance with this Part shall state the basis of accounting used in the preparation of the accounts and identify any significant departures and the reasons for the departures.

(2) Without limiting subsection (1), financial statements shall be prepared in accordance with generally accepted accounting principles.

Classification of accounts

39. The Controller and Accountant-General shall, with reference to the approved Government Chart of Accounts, determine the classification of accounts.

Monthly statement of public accounts

40. (1) Within a period of fifteen days, or such other period as Parliament may by resolution appoint, after the end of each month, there shall be prepared and transmitted to the Auditor-General and the Minister by the Controller and Accountant-General in respect of the month, the public accounts which shall be published in the *Gazette* and shall comprise

- (a) a balance sheet showing the assets and liabilities of the Consolidated Fund as at the end of the month;
 - (b) a statement of revenue and expenditure of the Consolidated Fund for the month;
 - (c) cash flow statement of the Consolidated Fund for the month; and
 - (d) notes that form a part of the accounts.
- (2) The accounts submitted under this section shall
- (a) be prepared in accordance with generally accepted accounting principles and in accordance with any instructions issued by the Controller and Accountant-General in consultation with the Auditor-General; and
 - (b) state the basis of accounting used in the preparation and identify any significant departures and the reasons for the departure.
- (3) The Controller and Accountant-General shall prescribe, in Departmental Accounting Instructions, which items are to be classified as the assets and liabilities of the public accounts.
- (4) Subject to subsection (3), the Controller and Accountant-General shall maintain a composite record of public property classified as assets and for this section, departments shall include schedules of their assets in the notes to their respective accounts required under section 41.

Annual statement of accounts

41. (1) Within a period of three months, or such other period as Parliament may by resolution appoint, after the end of each financial year, there shall be prepared by the

- (a) head of each department and transmitted to the Auditor-General, the Minister and the Controller and Accountant-General in respect of the financial year, accounts of the department which shall comprise
 - (i) a balance sheet showing the assets and liabilities of the departments as at the end of the year;
 - (ii) a statement of revenue and expenditure of the department for the year;
 - (iii) a cash flow statement of the department for the year; and
 - (iv) notes that form part of the accounts which shall include particulars of the extent to which the performance criteria specified in the estimate in relation to the provision of the department's output were satisfied.

- (b) Controller and Accountant-General and transmitted to the Auditor-General and Minister in Respect of the financial year, the public accounts which shall comprise
 - (i) a balance sheet showing the assets and liabilities of the Consolidated Fund as at the end of the year;
 - (ii) a statement of revenue and expenditure of the Consolidated Fund for the year;
 - (iii) a cash flow statement of the Consolidated Fund for the year; and
 - (iv) notes that form part of the accounts.

- (2) The accounts submitted under this section shall
 - (a) be prepared in accordance with generally accepted accounting principles and in accordance with any instructions issued by the Controller and Accountant-General in consultation with the Auditor-General; and
 - (b) state the basis of accounting used in their preparation and identify any significant departures and the reasons for the departures.

(3) The Controller and Accountant-General shall prescribe in Departmental Accounting Instructions, which items are to be classified as assets and liabilities of the public accounts and the departmental accounts.

(4) Without limiting this section, the Controller & Accountant-General may prescribe for inclusion in the Departmental Accounting Instructions of each department the content of information to be included in the notes required under subsection (1)(a)(iv) and 1(b)(iv).

Closure of accounts

42. (1) At the close of business of the last working day of each month or financial year, whichever is applicable, the accounts shall be balanced off.

(2) The receipts and payments that belong to a period or a financial year other than the period or financial year in question, shall be shown in the accounts and the details shall be given in the notes in accordance with sections 39 and 40.

Financial year

43. The financial year of Government shall extend from the first day of January until the thirty-first day of December in each year.

Audit of accounts

44. (1) The public accounts, accounts of departments and statutory corporations and other public institutions provided for by this Act shall be audited in accordance with the provisions of the Audit Service Act, 2000, (Act 584) and Regulations made under that Act.

(2) The internal audit of departments and statutory corporations and other public institutions provided for by this Act shall be conducted in accordance with any enactment for the time being regulating internal auditing of departments, statutory corporations and public institutions.

PART VI—STATUTORY CORPORATIONS AND OTHER PUBLIC INSTITUTIONS**Application of this Part**

45. (1) This Part of the Act applies to statutory corporations and other public institutions other than those set up for commercial purposes unless otherwise expressly provided in the enactment establishing the corporation or other public institution.

(2) Any reference in the following provisions of this Part to a “corporation” shall be construed as a reference to a “statutory corporation”, or “other public institution” referred to in subsection (1).

Financial year of corporation

46. The financial year of a corporation shall be the same as the financial year of the Government.

Funds of a corporation

47. The funds of a corporation include

- (a) money that may be provided by Parliament for the corporation;
- (b) loans granted to the corporation; and
- (c) moneys accruing to the corporation in the exercise and performance of its functions.

Bank accounts

48. A corporation may, with the approval of the Minister maintain in its own name, one or more accounts in such bank in the country as the Minister may approve.

Special accounts with Government

49. (1) Funds of a corporation may be placed to the credit of a special account in the Consolidated Fund in the name of the corporation if the Minister and the sector Minister approve, subject to the enactment under which the corporation exists.

(2) The Minister may pay out or repay to the corporation the money in the special account.

(3) Interest may be allowed and paid from the Consolidated Fund to the credit of a special account at rates determined by the Minister.

Payment over of surplus money

50. (1) A corporation shall pay to the Government such money administered by it as the sector Minister and the Minister consider to be in excess of the amount required for the purposes of the corporation.

(2) Any money paid may be applied towards the discharge of an obligation of the corporation to the Government or may be applied as state revenue.

Investments of moneys

51. (1) A corporation may invest the moneys of the corporation in such manner as the Minister may approve and in consultation with the Minister may reinvest any of its investments.

(2) Notwithstanding subsection (1), a corporation shall not invest its money in government securities.

Award of contracts

52. The Minister may make Regulations or issue instructions on the conditions upon which a corporation may undertake contractual commitments.

Reserves

53. The Minister may upon recommendation of the governing body of a corporation direct the corporation to make provision for reserves, for extensions, depreciation of assets, for uncollectable debts and for other purposes.

Books, accounts and audit

54. (1) A corporation shall keep proper books of accounts and proper records in relation to them and the books of accounts and records shall be in such form as the Auditor-General may approve.

- (2) The financial statements of a corporation comprising
- (a) a balance sheet of the assets and liabilities of the corporation as at the end of the year;
 - (b) a statement of revenue and expenditure of the corporation for the year;
 - (c) the cash flow statement of the corporation for the year; and

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(d) notes that form part of the accounts which shall include particulars of the extent to which the performance criteria specified in the estimate in relation to the corporations outputs were satisfied, shall be prepared within a period of three months after the end of each financial year.

(3) The financial statement shall be prepared and transmitted to the Auditor-General, the Minister and the sector Minister by the head of the corporation.

(4) The accounts submitted under this section shall

(a) be prepared in accordance with generally accepted accounting principles and in accordance with any instructions issued by the Auditor-General; and

(b) state the basis of accounting used in preparation and identify significant departures from the principles and the reasons for the departure.

(5) The Minister, the sector Minister or head of department shall prepare a report in the prescribed form and manner for Parliament, or the sector Minister.

(6) The report under subsection (5) shall be directed by Parliament.

(7) The Auditor-General shall audit accounts of public corporations governed by this Act in accordance with the provisions of the Audit Service Act, 2000 (Act 584).

Annual report

55. (1) The board of directors of a corporation shall, as soon as possible after the expiry of each financial year but within six months after the end of the financial year, submit an annual report to the sector Minister dealing generally with the activities and operations of the corporation within that year.

(2) The annual report shall include

(a) a copy of the audited accounts of the corporation together with the Auditor-General's report on them;

(b) a statement of any directions given by the sector Minister to the Board within that year in accordance with this Act and the enactment under which the corporation exists; and

(c) such other information as the sector Minister may in writing reasonably request.

(3) A copy of the annual report of the Board of Directors of a corporation shall also be sent by the Board to

- (a) the Minister for Finance;
- (b) the head of the Ghana Statistical Service;
- (c) the Governor of the Bank of Ghana; and
- (d) any other person that the Minister for Finance may authorise.

(4) The sector Minister shall, as soon as practicable and in any event within two months after receiving the annual report of the Board, cause the report to be laid before Parliament.

The Board of Directors to ensure preparation of accounts

56. The Board of Directors of a corporation shall ensure that proper accounts are prepared and submitted to the Board not later than three months after the end of the financial year of the corporation in accordance with the Audit Service Act, 2000 (Act 584).

Board of Directors responsibility for the collection and receipt of moneys due to public corporations

57. (1) The Board of Directors of each public corporation governed by this Act shall ensure the efficient management of the financial resources of the Corporation including the collection and receipt of moneys due to that corporation.

(2) If it appears to the Auditor-General from any examination, audit or inspection that a corporation has wilfully or negligently omitted to ensure the collection or receipt of moneys due to the corporation, the Minister may withdraw or suspend the emoluments of the Board of Directors whether jointly or severally upon the recommendation of the Auditor-General.

Efficiency and operational auditing

58. (1) Notwithstanding anything in this Part, the Minister may cause the efficiency and operational auditing of a corporation to be conducted.

(2) Without limiting subsection (1), the Minister may cause

- (a) an assessment and appraisal of standards and techniques of management; and
- (b) an assessment of the effectiveness of the procedures adopted and instructions issued

to be made in respect of any corporation.

Minister's power of direction

59. The sector Minister may give general directions in writing to the Board on matters of policy.

PART VII—LIABILITY, OFFENCES AND PENALTIES**Responsibility of accounting officers**

60. The responsibility of the Auditor-General to examine and certify public accounts or to audit other government accounts, does not relieve an officer responsible for keeping or rendering accounts, from the duty to comply with and to ensure the compliance of subordinate staff with the provisions of this or any other enactment or with any Regulations or directions issued.

Liability to keep public money

61. (1) Where the Controller and Accountant-General has reason to believe that any person

- (a) has received money for the Government and has not duly paid it over;
- (b) has received money for which the person is accountable to the Government and has not duly accounted for it; or
- (c) has in hand public money which has not duly been applied,

the Controller and Accountant-General may cause a notice to be served on the person or on the personal representative of the person within the meaning of the Administration of Estates Act, 1961 (Act 63), in the case of a deceased person, which shall require the person or the personal representative of the person, within such time as may be specified by notice to duly pay over, account for, or apply the money and transmit to the Controller and Accountant-General satisfactory evidence that this has been done.

(2) Where a person fails to comply with a notice served under subsection (1) within the time stipulated, the Controller and Accountant-General shall cause to be stated an account between the person and the Government, showing the amount of the money not duly paid over, accounted for or applied, with interest at the prevailing bank rate from the date the amount became due.

(3) In proceedings for the recovery of money, a copy of the account stated by a person authorised in that behalf by the Controller and Accountant-General shall be prima facie evidence that the amount stated together with interest is due and payable to the Government.

- (4) Where it appears
- (a) by the books of account kept by or in the office of a person employed in the collection or management of public moneys;
 - (b) in any accounting by that person; or
 - (c) by written acknowledgement or confession,

that the person has, in the course of employment received moneys that belong to the Government and refused or neglected to pay over the moneys to the proper persons at the proper times, an affidavit deposing to these facts made by any person who has knowledge of the matter shall in any proceedings for the recovery of the moneys be received in evidence and be *prima facie* evidence of the facts stated.

(5) Where any sum of money is lost to the Government by misconduct, neglect of duty or negligence by any person employed in the collection or receiving of any public moneys, the person is accountable for the sum, as if the person had collected and received it and it may be recovered from that person as if he collected and received it.

(6) The provisions of this section shall apply with modification to government stores or the value of the stores where appropriate as they apply to government moneys.

Offences

62. (1) Each officer or person acting in an office or employment connected with the collection, management or disbursement of public or trust moneys or with the control of government stores who

- (a) accepts or receives money or valuable consideration for the performance of official duties;
- (b) conspires with another person to defraud the Government, or makes opportunity for another person to defraud the Government;
- (c) deliberately permits the contravention of the law by another person;
- (d) wilfully makes or signs a false entry in a book or wilfully makes or signs a false certificate or return in any case in which it is a duty of the person to make an entry, certificate or return;
- (e) having knowledge or information of the contravention of financial legislation by any person, or fraud committed by any person against the Government under legislation relating to public finance fails to report the knowledge or information to the person's senior officer or any state security agency; or
- (f) demands or accepts or attempts to collect, directly or indirectly, as payments of gifts or otherwise, any sum of money, or other thing of value, for the compromise, adjustment or settlement of a charge or complaint for a contravention or alleged contravention of legislation relating to public finance,

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commits an offence, and is liable on summary conviction to a fine not exceeding 5000 penalty units or to imprisonment for a term not exceeding 10 years or to both.

(2) Any person who

(a) promises, offers or gives any money or other valuable consideration to any officer or person acting in an office or employment connected with the collection, management or disbursement of public or trust moneys or the control of government stores with intent

(i) to influence a decision or action on any question or matter that is then pending, or may, by law, be brought before the person in an official capacity; or

(ii) to influence the officer or person to commit, or aid and abet in committing any fraud on the government or to connive at, take part in, or allow any opportunity for the commission of the fraud; or

(b) accepts or receives money or valuable consideration,

commits an offence, and is liable on summary conviction to a fine not exceeding three times the amount so offered or accepted, or to imprisonment for a term not exceeding 5 years or to both.

(3) Where any person is required to perform any function or duty under this Act and that person fails to perform that duty within the time required, the person shall be liable to such punishment as may be prescribed in Regulations made under this Act.

Government property

63. (1) Books, papers, accounts and documents kept or used by, or received or taken into the possession of any person, who is or has been employed in the collection or management of revenue by virtue of that employment, is property that belongs to Government.

(2) The moneys and valuable securities received or taken into the possession of an officer or a person in the cause of employment is money and valuable securities that belong to the Government.

Deduction from money due by the Government

64. (1) Where a person is indebted to the Government for a specific sum of money, the Minister in consultation with the Attorney-General may authorise the retention, by way of deduction or set-off, of the amount of the indebtedness out of any sum of money that may be due or payable by the Government to that person.

(2) Notwithstanding subsection (1), the Controller and Accountant-General or another head of department shall recover an overpayment made out of the Consolidated Fund on account of salary, wages and allowances out of a sum of money that may be due or payable by the Government to the person to whom the overpayment was made.

(3) No payment shall be made where an amount of more than 1,000 currency points is due from the Consolidated Fund to any individual or body of persons unless there is produced to the paying officer a certificate issued by the Commissioner of Income Tax showing that tax is not due from the individual or body of persons or that satisfactory arrangements have been made for payment of any tax due by the individual or body.

(4) Currency point under subsection (3) has the meaning assigned to it under section 165(2) of the Internal Revenue Act, 2000 (Act 592).

Transfer of Government property

65. No transfer, lease or loan of property owned by the Government shall be made to any person except in accordance with the appropriate law for the time being in force for the purpose.

**PART VIII—ESTABLISHMENT OF FINANCIAL ADMINISTRATION
TRIBUNAL**

Establishment of Tribunal

66. (1) There is established by this Act a Financial Administration Tribunal referred to in this Act as the “Tribunal”.

(2) The Tribunal shall comprise,

- (a) a Justice of the High Court who shall be the chairperson;
- (b) a chartered accountant; and
- (c) a management accountant or a professional valuer.

(3) The members shall be nominated by the Chief Justice in consultation with the Judicial Council and shall be appointed by the President.

(4) The terms and conditions of the members other than the Justice of the High Court shall be as stated in their letters of appointment.

Jurisdiction of the Tribunal

67. The Tribunal has jurisdiction

- (a) to hear and determine matters that fall for determination under this Act;
- (b) to enforce recommendations of the Public Accounts Committee on the Auditor-General’s reports as approved by Parliament;
- (c) to enforce contracts and bonds entered into in pursuance of this Act;

- (d) to make such orders as it considers appropriate for the recovery of monies, assets or other property due to the State;
- (e) to prohibit any individual whether a public officer or not from managing public accounts or funds if the individual is unqualified professionally or has been persistently negligent in the management of public funds;
- (f) to prohibit any person from participating as a bidder in any government procurement or contract where the person has a record of defrauding the State.

Enforcement of the orders of the Tribunal

68. The Orders of the Tribunal shall be enforced in the same manner as an order of the High Court.

Compensation and reparation

69. (1) A person adversely affected by an audit report may accept liability and offer to pay compensation or make restitution.

(2) Unless there is objection to the offer of compensation or restitution from the Attorney-General, the Tribunal shall accept the offer if it considers the offer satisfactory and may make such orders as it considers appropriate.

(3) An order made under subsection (2) shall not be taken as a conviction.

(4) Where a person ordered to pay compensation or make restitution under this section fails or defaults in the payment of any money ordered by the Tribunal, the Tribunal shall

- (a) make an order for the confiscation to the state and sale of assets owned by the person sufficient to satisfy the debt and
- (b) ban the person from participation on any government contract, procurement or any transaction funded from public funds.

(5) For the purpose of identifying the assets owned by any person under subsection (4) (a), the Tribunal shall, where it is of the opinion that the assets of the person has been deliberately vested in any other person for the benefit of the first mentioned person or that first mentioned person's family, order the tracing of the assets to satisfy the debt owed to the State.

(6) An order requiring the refund of any money to the State may include payment of interest.

Appeal

70. An appeal from an order or a decision of the Tribunal lies to the Court of Appeal and then to the Supreme Court.

Right of the Attorney-General to Order Prosecution

71. Nothing in this Part shall preclude the Attorney-General from instituting criminal prosecution even where monies lost to the state have been recovered.

PART IX—MISCELLANEOUS

Government appointee reporting obligations

72. (1) Directors of companies appointed by the Government shall submit a report on the operations of the company to the Minister and the sector Minister at the end of June and December each year.

(2) The Directors appointed by the Government in any company shall forward to the sector Minister a copy of the audited financial statement of the company within a period of one month after the publication of the audited financial statement of the company.

(3) Subject to any other provision on the removal of Directors from a Board, where the Directors fail to comply with subsection (1), the Directors shall be removed from the Board.

(4) The Minister shall determine the form and content of the report required under subsection (1).

Regulations

73. The Minister may, subject to the provisions of this Act by legislative instrument make Regulations on

- (a) the collection, management and administration of, and the accounting for public moneys and moneys held in trust for the Government;
- (b) payments and procedure for payment out of the Consolidated Fund;
- (c) loans from the Consolidated Fund;
- (d) appropriation of public money;
- (e) the maintenance of records of the property of Government;
- (f) any purpose necessary for the efficient administration of public finance subject to the provisions of any enactment; and
- (g) anything which is required or authorised to be made by Regulations under this Act.

Interpretation

74. In this Act, unless the context otherwise requires, “accountable” means the requirement to record, report, explain and

justify actions to a superior officer, to the Government, to Parliament, the Public Accounts Committee of Parliament or to the public;

“agency of Government” means a Ministry, Department, non-Profit making statutory body or any other agency of Government;

“Auditor-General” means the person appointed as such under the Constitution of the Republic of Ghana;

“appropriation” means any moneys charged on the Consolidated Fund or any other public fund;

“Chief Director” means the Chief Director of the Ministry of Finance;

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

“Consolidated Fund” means the Consolidated Fund of the Republic of Ghana;

“Controller and Accountant-General” means the person appointed by the President by or under the authority of this enactment or any officer acting on the authority of the Controller and Accountant-General;

“department” includes Ministries or other agencies of Government;

“generally accepted accounting principles” means accounting principles, practices and procedures recognized by the Institute of Chartered Accountants of Ghana as appropriate for reporting financial information relating to government, a ministry or department, fund, agency or other reporting unit being principles, practices and procedures that are consistent with this Act and any relevant Appropriation Act;

“Government” means the Government of the Republic of Ghana;

“Government Accounts” means all documents on records pertaining to the collection of revenue, the control of expenditure, the administration of trust fund, the management of government stores, and such other financial duties as may be made the responsibility of Government departments.

“head of department” has the same meaning assigned to it by or under the Civil Service Law, 1993 (P.N.D.C.L. 327) or other public institution;

- “internally generated funds” means revenue generated from the activities of a government agency from its operations other than taxes collected by the Revenue Agencies and includes non-tax revenues;
- “Minister” means the Minister responsible for Finance or any person designated to act on behalf of the Minister;
- “money” means any coin, note or negotiable instrument;
- “money received by or on behalf of the Government for a special purpose” includes moneys that are paid to a public officer under or pursuant to an enactment, trust, undertaking or contract and which are to be disbursed for a purpose specified in or pursuant to the enactment, trust, treaty, undertaking or contract;
- “negotiable instrument” includes cheque, draft, traveler’s cheques, bill of exchange, money order, postal remittance and any other similar instrument;
- “non-tax revenue” means revenue accruing to an agency of government other than revenue generated by the agency from its operations which are not taxes collected by the Revenue Agencies;
- “Principal Account Holder” means the sector Minister or political head of Ministry, Department or Agency governed by this law;
- “public accounts” means all documents and records pertaining to public and trust moneys received into, held in and paid from the Consolidated fund”;
- “public institution” includes a corporation and “statutory corporation”;
- “Principal Spending Officer” means the Chief Director, Chief Executive or the most senior Administrative Head of a Ministry, department or agency responsible for producing outputs;
- “public service” includes service in any civil capacity of the Government, the emoluments attached to which are paid directly out of moneys provided by Government and service with any statutory corporation established entirely out of public funds or moneys provided by Government;
- “securities” include securities of the Government or of any other country approved by the Minister and bonds, notes, deposits, certificates, debentures, treasury bills; and
- “tax” includes any tax, import and export duty or toll payable to the Government, imposed or authorised to be imposed by an enactment.

Act 654*Financial Administration Act, 2003***Repeals, savings and modifications**

75. (1) The Financial Administration Decree, 1979 (S.M.C.D. 221) is hereby repealed.

(2) Regulations, orders, rules and instructions relating to the administration of public finance, government stores and public corporations other than those set up for commercial purposes in operation at the time of the commencement of this Act and not inconsistent with this Act shall continue in operation until the regulations, orders, rules or instructions are amended, revoked or replaced by regulations or orders or other instrument under this Act.

(3) Any enactment in force at the commencement of this Act shall have effect, with such modification as may be necessary, to give effect to the provisions of this Act.

(4) The Minister may issue written instructions with respect to transitional measures related to the implementation of this Act.

Commencement

76. This Act shall come into force for the financial year commencing 1st January, 2004.

Date of *Gazette* notification: 31st October, 2003.

Act 654

Act 654

Financial Administration Act, 2003

This printed impression has been carefully compared by me with the Bill which has been passed by Parliament, and found by me to be a true copy of that Bill.

Clerk to Parliament

Date of authentication:

I hereby signify assent to this Bill.

President

Date of Assent:

MEMORANDUM

This Bill regulates the financial management of the public sector, prescribes the responsibilities of persons entrusted with financial management in the government and seeks to ensure the effective and efficient management of revenue, expenditure, assets, liabilities and the resources of government.

The Financial Administration Decree was enacted in 1979 as S.M.C.D. 221. It has not been amended since and with the on going review of public sector financial management, its shortcomings have become apparent.

The Bill seeks to rationalise provisions on public sector finance with the Constitution. It is divided into eight Parts which deal with the control and management of public funds; public funds; revenue and expenditure and government stores. The other Parts provide for account and audit; accounting matters of statutory corporations and other public institutions; liability, offences, penalties and miscellaneous matters.

The definition of public office in the Constitution forms the basis of the Bill. Public office includes an office the emoluments attached to which are paid directly from the Consolidated Fund or directly out of moneys provided by Parliament and includes an office in a corporation established entirely out of public funds or moneys provided by Parliament. The Bill encompasses fiscal management within the context of public office.

The Bill fully governs the financial management activities of public sector institutions except public corporations set up as commercial ventures, companies owned by the state and public corporations converted to limited liability companies under the Statutory Corporations (Conversion to Companies) Act 1993 (Act 461) all of which are regulated under the Companies Code 1963 (Act 179).

The key roles of the Minister for Finance and the Chief Director of that Ministry are stated in clauses 1 – 4. The Chief Director has monitoring duties and a supervisory function in relation to the Principal Spending Officer who is defined to be the Chief Director, Chief Executive or the most senior administrative head of a Ministry, department or agency.

Clauses 5 and 6 provide for the appointment of the Controller and Accountant-General and his or her deputies who will be responsible to the Minister for the custody, safety and integrity of the Consolidated Fund and other public funds under their care. As the Chief Accounting Officer of the

Government, the Controller and Accountant-General is the chief adviser to the Minister and Government on accountancy matters and receives, disburses and provides secure custody for money payable into the Consolidated Fund and other public funds.

Part II of the Bill on Public Funds, mainly restates the provisions on Finance in Chapter 13 of the Constitution. These include the definition of public funds in article 175; provisions on the Consolidated Fund, in article 176; and provisions on the Contingency Fund, in article 177 (clauses 7,8,9). Clause 11 on custody of public and trust money requires every person who collects or receives public or trust money to keep records of receipts and deposits. These moneys are to be immediately paid into the Consolidated Fund.

Matters on payment out of the Consolidated Fund and appropriation of public money reflecting, articles 178 and 179 of the Constitution are provided for in clauses 15 and 16 of the Bill. Other issues such as payment for contracts and government contracts are dealt with in clauses 19 and 20.

The Minister may cause public money to be invested in securities, (clause 24) but government securities are exempted. Advances and loans from the Consolidated Fund are subject to article 181 of the Constitution (clauses 24 and 25).

Part III on Revenue and Expenditure, details the preparation of estimates of expenditure in advance of appropriation and the duration of appropriations and warrants. It also provides for tax revenue and non-tax revenue.

The Bill excludes most of the provisions relating to procurement found in SMCD 221 because of the comprehensive legislation on procurement being dealt with concurrently with the attached Bill. Certain provisions relating to government stores have however been retained in Part IV of the Bill. These are complimentary to those in the Procurement Bill and relate to the acquisition, disposal, receipt, issue, custody and control of the stores. Clause 32 further stipulates that government stores are to be procured from only VAT registered persons in the public interest. Discharge and accountability for government stores is provided for in clause 37.

Part V on Accounts and Audit, stipulates the basis of accounts, classification and provides for monthly and annual statements amongst others.

Part VI on Statutory Corporations and other Public Institutions applies the financial management provisions for the Civil Service to statutory corporations and other public institutions. It however excludes those corporations and public institutions set up for commercial purposes before or after the commencement of the Act. Issues such as bank accounts, special accounts with Government and investments of moneys are provided for. Other matters relate to the award of contracts, account and audit and ancillary matters.

Part VII of the Bill includes liability provisions such as the responsibility of accounting officers to examine and certify public accounts and the liability to keep public money with a tracing element which extends to the personal representative of a deceased person. It is an offence to receive compensation or a reward for official duties, to make false entries and to collect gifts amongst others. It is also an offence to promise or offer a gift as reward for official duties (clause 67). Government property is defined in clause 68 and a person indebted to the Government may have money due or payable to the person deducted or set-off (clause 69). Clause 70 prohibits the transfer, lease or loan of government property except in accordance with the appropriate law.

As part of improved revenue management measures, government appointee reporting obligations have been detailed in clause 71 in the Miscellaneous Part VIII of the Bill. The conversion of some statutory corporations into companies has meant that government's interest enables directors to be appointed by the Government. Although the companies are regulated under the Companies Code, 1963 (Act 179), it is important that the sector Minister be kept aware of company matters hence the reporting obligations. Standard provisions on interpretation, repeals and savings and Regulations are also included in this Part. Commencement of the Act in clause 75 is to be from 1st January 2004.

HON. YAW OSAFO-MAAFO
Minister for Finance

Date: *5th December, 2002.*