



FALKLAND ISLANDS

Finance and Audit Ordinance 1988

(ORDINANCE No. 11 OF 1988)

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FALKLAND ISLANDS

Finance and Audit Ordinance 1988

AN ORDINANCE To make detailed provision relating to the audit of public funds, to provide for the management of public funds of the Islands, the appropriation of funds for the expenditure of the Government, the withdrawal and issue of sums from public funds, the audit of public accounts and matters connected therewith and incidental thereto.

*[DATE OF COMMENCEMENT: 1ST OCTOBER 1988]
(Unless otherwise indicated)*

PART I PRELIMINARY

1 Short title

This Ordinance may be cited as the Finance and Audit Ordinance 1988.

[Revision w.e.f. 31/07/2017]

2 Interpretation

In this Ordinance, unless the context otherwise requires-

"accountable officer" means any public officer, including an accounting officer and a receiver of revenue, concerned in or responsible for the collection, receipt, custody, issue or payment of public moneys, stores, stamps, investments, securities or negotiable instruments whether the same are the property of the Government or on deposit with or entrusted to the Government or to any public officer in his official capacity either alone or jointly with any other public officer or any other person;

"accounting officer" means any public officer appointed under the provisions of this Ordinance and charged with the duty of accounting for any service in respect of which moneys have been appropriated;

"Appropriation Ordinance" means any Ordinance to apply a sum out of the Consolidated Fund to the service of a financial year and includes a Supplementary Appropriation Ordinance;

"Consolidated Fund" means the Consolidated Fund referred to in section 74 of the Constitution;

[Revision w.e.f. 31/07/2017]

"the Constitution" means Schedule 1 to the Falkland Islands Constitution Order 2008;

[Revision w.e.f. 31/07/2017]

"Crown Agents" means the Crown Agents for Oversea Governments and Administrations;

"debt charges" has the meaning given by section 79(2) of the Constitution;

[Revision w.e.f. 31/07/2017]

"Financial Instructions" means the directions and instructions issued by the Financial Secretary as Financial Instructions under section 16(1);

"Financial Secretary" includes any person for the time being acting in the office of Financial Secretary;

"financial year" means the twelve months ending on the thirtieth day of June in any year;

"General Orders" means the General Orders issued from time to time by the Governor defining the conditions of service of public officers;

"Joint Consolidated Fund" means the fund administered by the Crown Agents in the United Kingdom for the investment of funds lodged by overseas governments and territories;

"Legislative Assembly" means the Legislative Assembly of the Falkland Islands;

[Revision w.e.f. 31/07/2017]

"public moneys" includes-

- (a) all revenues or other moneys raised or received for the purpose of the Government of the Islands;
- (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 public officer or not;

"public stores" means all chattels of whatsoever nature the property of or in possession of or under the control of the Government;

"Standing Finance Committee" means the standing Committee of that name of the Legislative Assembly in accordance with the Assembly's standing orders for the time being in force;

[Revision w.e.f. 31/07/2017]

"statutory expenditure" means expenditure charged on the Consolidated Fund by any written law (including this Ordinance) other than an Appropriation Ordinance;

"Supplementary Appropriation Ordinance" means any Ordinance the purposes of which is the appropriation of moneys in supplementation of the appropriation already made by an Appropriation Ordinance;

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

"Treasurer" means the Deputy Financial Secretary;

"Trust Fund" means a fund as defined in section 12.

PART II PUBLIC FINANCE

3 Consolidated Fund

There shall continue to be one revenue fund for the Falkland Islands which shall be styled the Consolidated Fund.

4 All public moneys to be accounted for in the public accounts of the Islands

All public moneys shall be accounted for in the public accounts of the Falkland Islands.

5 Payments into Consolidated Fund

Except as otherwise provided in this Ordinance, all revenues and other moneys raised or received for the purposes of the Government of the Falkland Islands (not being revenues or other moneys which are payable by or under any law, including this Ordinance, into some other fund) shall be paid into and form part of the Consolidated Fund.

6 Payments from Consolidated Fund

(1) No moneys shall be paid out of the Consolidated Fund except-

- (a) to meet expenditure which is chargeable upon the Consolidated Fund by any law, including this Ordinance;
- (b) where the payment of those moneys has been authorized by an Appropriation Ordinance or by a warrant under the hand of the Governor given in accordance with the provisions of this Ordinance;
- (c) for the purpose of repaying any moneys received in error by the Consolidated Fund; or
- (d) for the purpose of paying such sums as may be required for any refund, rebate or drawback where the payment of such refund, rebate or drawback is provided for in any Ordinance.

(2) No moneys shall be paid out of the Consolidated Fund except in the manner prescribed by this Ordinance.

(3) Any moneys forming part of the Consolidated Fund which are-

- (a) deposited with a bank or with the Crown Agents; or
- (b) invested in a manner authorized for the investment of property in the hands of trustees by any law for the time being in force in the United Kingdom,

shall not, for the purpose of this section, be deemed to have been issued from the Consolidated Fund.

7 Annual estimates

(1) The Financial Secretary shall cause to be prepared and laid before the Legislative Assembly, before or not later than thirty days after the commencement of each financial year, estimates of revenue and expenditure of the Government for the next following year.

[Revision w.e.f. 31/07/2017]

(2) The estimates of revenue and expenditure laid before the Legislative Assembly shall be in such form as the Financial Secretary may from time to time direct:

[Revision w.e.f. 31/07/2017]

Provided that-

- (a) the estimates of statutory expenditure shall show the sums to be issued from the Consolidated Fund to meet the expenditure on each service and shall contain a reference to the law authorizing expenditure on such service to be charged on the Consolidated Fund;
- (b) the estimates of each expenditure vote shall-
 - (i) describe the ambit of the vote;
 - (ii) show the sum required to be supplied for such vote by appropriation; and
 - (iii) contain a reference to the accounting officer appointed in respect of each vote.

8 Appropriation

(1) The expenditure votes contained in the estimates for a financial year shall be included in a Bill which shall be introduced for debate in the Legislative Assembly to provide for the issue from the Consolidated Fund of the sums necessary to supply those votes and for the appropriation of those sums for the purposes specified in the Bill.

[Revision w.e.f. 31/07/2017]

(2) Subject to section 26, if in the course of any financial year it is found that the sum appropriated for that financial year for any purpose by an Appropriation Ordinance is insufficient or that a need has arisen for which no sum has been appropriated, a supplementary estimate of the sum required to meet such deficiency or such need, as the case may be, shall be laid before the Legislative Assembly and shall be included in a Supplementary Appropriation Bill for appropriation.

[Revision w.e.f. 31/07/2017]

9 Authorization of expenditure in advance of appropriation

(1) If the Appropriation Ordinance has not come into operation at the commencement of any financial year the Governor shall authorize by warrant under his hand to the Financial Secretary in respect of supply votes the issue of moneys from the Consolidated Fund for the purpose of meeting the expenditure necessary to carry on the service of the Government until the expiration of four months from the beginning of that financial year or the coming into force of the Appropriation Ordinance whichever is the earlier:

Provided that the sum so authorized shall not exceed one third of the aggregate of the sums provided for such services in the Appropriation Ordinance of the previous financial year.

(2) On receipt of any warrant issued in accordance with subsection (1), the Financial Secretary may permit expenditure of moneys to the extent and in accordance with the tenor of that warrant.

(3) Any sums so expended shall be set off against the amounts respectively provided in the Appropriation Ordinance upon the same coming into operation.

10 Authorization of expenditure in excess

(1) If at the close of account for any financial year it is found that moneys have been expended-

- (a) on any expenditure vote in excess of the sum appropriated therefor by an Appropriation Ordinance;
- (b) for a purpose for which no moneys have been voted and appropriated; or
- (c) on any subhead of an expenditure vote in excess of the sum assigned thereto in the estimates of expenditure for the financial year and for which no further sum has been applied pursuant to section 37,

the amount so expended shall be included in a Statement of Expenditure in Excess which shall be laid before the Legislative Assembly and the sum required to meet such excess or such amount as shall be allowed shall be included in a Supplementary Appropriation Bill for appropriation:

[Revision w.e.f. 31/07/2017]

Provided that in the case of expenditure in excess on any subhead the Financial Secretary may direct, pursuant to section 37, that the sum required to meet such excess shall be provided out of any surplus arising on any sum assigned to any other subhead within the same vote.

11 Special Funds

See section 4 of the Finance Ordinance 2004 for the creation of the Capital Equalisation Fund as a Special Fund]

(1) The Legislative Assembly, with the prior concurrence of the Secretary of State, may-

[Revision w.e.f. 31/07/2017]

- (a) make provision in any Appropriation Ordinance for the establishment of a Special Fund; and
- (b) by resolution hypothecate revenue for any Special Fund so established.

(2) A Special Fund shall not form part of the Consolidated Fund and shall be administered, and the expenditure therefrom shall be regulated, in accordance with the provisions of this Ordinance.

12 Trust Funds

(1) For the purpose of this Ordinance "Trust Fund" means-

- (a) any fund established by an Ordinance other than an Appropriation Ordinance; or
- (b) any fund of moneys held by or deposited with or entrusted to the Government pursuant to the terms of a deed or trust, trust instrument, agreement whether expressed or implied or any arrangement governing the use of the moneys so held.

(3) A Trust Fund shall not form part of the Consolidated Fund and, subject to section 13, shall be administered in accordance with the provisions of this Ordinance.

13 Trusts

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

(2) No public officer shall accept appointment as a trustee of a Trust Fund without the prior written authority of the Governor and any appointment contrary to this subsection shall be void.

14 Power to issue directions

The Governor may issue to the Financial Secretary such directions not inconsistent with the provisions of this Ordinance as may appear to him to be necessary and expedient for the proper carrying out of the intent and purpose of this Ordinance:

Provided that such directions as are in force for like purposes at the coming into operation of this Ordinance shall continue in force in so far as they are applicable until superseded by directions issued under this section.

PART III CONTROL AND MANAGEMENT OF PUBLIC FINANCES

15 Duties of Financial Secretary

The Financial Secretary shall so supervise the finances of the Government as to ensure that a full account is made to the Legislative Assembly and for such purposes shall, subject to this Ordinance, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of the Government.

[Revision w.e.f. 31/07/2017]

16 Powers of Financial Secretary

(1) The Financial Secretary-

- (a) may give such directions and instructions as may appear to him to be necessary and expedient for the advantage, economy and safety of public moneys and public property and shall give special accounting instructions to be known as Financial Instructions;
- (b) shall take all proper steps to ensure that any directions issued under section 14 and any directions and instructions given pursuant to the provisions of this section are brought to the notice of all persons directly affected thereby; and
- (c) shall be entitled to inspect all offices and shall be given access at all times thereto and shall be given all available information he may require with regard to the moneys and property to which this Ordinance applies and to all documents and records in respect thereof; and
- (d) shall be entitled to inspect the moneys and property specified in section 18 so far as may be necessary for the purpose of ensuring compliance with any directions issued under section 14 and any directions or instruction given pursuant to paragraph (a).

(2) The Financial Secretary may delegate by writing under his hand all or any of the powers conferred upon him by subsection (1)(c) and (d).

(3) Without prejudice to the generality of subsection (1) and this subsection Financial Instructions shall provide for-

- (a) the collection, custody, issue, expenditure, due accounting for, care and management of all public funds and the guidance for all persons concerned therewith;
- (b) the effectual recording, examination, inspection and departmental checking of all receipts, payments and expenditure and the keeping of all necessary books and accounts;
- (c) the forms for all accounts, books, returns and documents whatsoever required for the proper accounting for public moneys and public stores;
- (d) the purchase, safe custody, issue, sale or other disposal or writing-off of stores and other property of the Government and the proper accounting for and stocktaking of such stores and property;
- (e) the custody, handling and the proper accounting for stamps, investments, securities or negotiable instruments whether the property of Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or any other person;
- (f) the reporting of losses, by whatever means, of public money, stamps, accountable documents of whatever kind and public stores and the reporting of the damage to or destruction of any property of the Government; and
- (g) the issue of public tenders and the powers and duties of tender boards;

Provided that such directions and instructions as are in force for like purposes at the coming into operation of this Ordinance shall continue in force insofar as they are applicable until superseded by directions or instructions issued under this section.

17 Powers and duties of Treasurer

(1) The Treasurer, in the discharge of his duties as the officer charged with the compilation and management of the accounts of the Government and with the conduct of the Treasury, may, with the prior written approval of the Financial Secretary, give general instructions not inconsistent with this Ordinance and Regulations made thereunder, and may in his discretion give special accounting instructions:

Provided always that such special accounting instructions shall not conflict with or extend to abridge or amend Financial Instructions or any other direction or instruction given by the Financial Secretary under the provisions of section 16.

(2) Without prejudice to the generality of the duties imposed on the Treasurer by subsection (1) and to the powers conferred on the Financial Secretary by section 16, the Treasurer shall-

- (a) ensure that all moneys received and paid by the Government are brought promptly and properly to account;
- (b) refuse payment on any vouchers wrong or insufficient in content or that contravene Financial Instructions or any other regulations, directions or instructions properly made or given under the provisions of this Ordinance for the management of public moneys, or that are in his opinion in any other way unacceptable in support of a charge on public funds;
- (c) report to the Financial Secretary in writing any apparent defect in departmental control of revenue, expenditure, cash, stamps, stores and other property of the Government and any breach or non-observance of Financial Instructions that may come or be brought to his notice; and
- (d) ensure, in so far as is practicable, that adequate provisions exist for the safe custody of public moneys, stamps, securities and other accountable documents.

18 Accounting officer and accountable officers to obey Financial Instructions, regulations and directions

Every accounting officer and every accountable officer shall comply with Financial Instructions, shall obey all regulations made and directions or instructions given by the Financial Secretary under section 16 or under powers delegated by him under that section and all instructions that may from time to time be given by the Treasurer under section 17 or in respect of the custody and handling of and the accounting for public moneys, public stores, stamps, investments, securities or negotiable instruments whether the property of the Government or on deposit with or entrusted to the Government or to any public officer in his official capacity or to any other person.

19 Consolidated Fund moneys to be kept with specified banks

All sums accounted for in the Consolidated Fund shall be kept with such bank or banks as the Financial Secretary shall from time to time determine:

Provided that this section shall not apply to moneys invested under the provisions of section 24.

20 Bank accounts

No public or official account shall be opened at any bank without the prior written authority of the Financial Secretary.

21 Revenues and other moneys to be paid into the Consolidated Fund

(1) Except as is otherwise provided in this Ordinance, all revenues and other moneys received for the purposes of the Government shall be paid into the Consolidated Fund in accordance with Financial Instructions or any other instructions of the Financial Secretary and of the Treasurer relating thereto.

(2) For the avoidance of doubt it is hereby declared that the reference to moneys raised or received for the purposes of the Government does not include moneys received on deposit or held in trust.

22 Statutory payments

The Financial Secretary shall authorize the Treasurer from time to time on his requisition, if satisfied as to the correctness thereof, to pay out of the Consolidated Fund the sums falling due during the financial year for statutory expenditure.

23 Authorization of voted expenditure

(1) Subject to subsection (2) and any directions issued under section 14, on the coming into operation of the Appropriation Ordinances and any Supplementary Appropriation Ordinance, the Governor shall authorize the Treasurer by General Warrant under his hand to pay out of the Consolidated Fund such sums as may be required for the supply votes.

(2) Notwithstanding the issue of a General Warrant it shall be within the discretion of the Governor to limit or suspend at any time expenditure (not being statutory expenditure) with or without cancellation of the Warrant if, in his opinion, financial exigencies or the public interest so require.

24 Investment of moneys

(1) The Financial Secretary may authorize the investment of moneys forming part of the Consolidated Fund with a bank, either at call or subject to notice not exceeding twelve months or with the Joint Consolidated Fund or in any manner authorized in writing by the Governor acting in his discretion after having consulted the Secretary of State.

[S. 2/Ord. 4/94/w.e.f. 17/6/94.]

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

25 Advances

(1) Subject to the provisions of this section, the Governor may by advance Warrant under his hand authorize the Treasurer to make disbursements of moneys forming part of the Consolidated Fund or of other public moneys for the purpose of making advances-

- (a) on behalf of, and recoverable from, other governments and administrations;
- (b) to, or on account of, trusts and other funds administered by the Government;
- (c) to, or on behalf of public bodies, institutions or individuals where such advances are, in the opinion of the Governor, 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; or
- (d) to public officers for such purposes and on such terms as may be prescribed from time to time by General Orders.

(2) The total of the sums issued and disbursed for the purpose of making advances under (b), (c) and (d) of subsection (1) shall not exceed in aggregate at any time, after deducting repayments, an amount of £1,000,000.

26 Contingencies Fund

(1) In order to defray unforeseen and urgent expenditures for which no other provision exists, the Financial Secretary may establish a Contingencies Fund by issue from the Consolidated Fund of sums not exceeding in the aggregate the amount of five per cent of the total sums appropriated by the appropriation legislation enacted in relation to the preceding financial year.

[S. 13/Ord. 7/13/w.e.f. 1/7/13.]

(2) The Financial Secretary, if he is satisfied that, due to exceptional circumstances which could not have been foreseen, an urgent need for expenditure has arisen-

- (a) for which no moneys have been appropriated or for which the sum appropriated is insufficient;
- (b) for which funds cannot be provided under the provisions of section 37; and
- (c) which cannot be deferred without serious detriment to the public service,

may, by Contingencies Warrant under his hand, and in anticipation of the grant of an appropriation by the Legislative Assembly, authorize an advance from the Contingencies Fund to meet that need and shall forthwith report his action to the Executive Council.

[Revision w.e.f. 31/07/2017]

(3) Where any advance is made from the Contingencies Fund under the provisions of this section a supplementary estimate of the sum required for the service for which such advance was made shall be presented to the Legislative Assembly at its meeting next following the date on

which the Contingencies Warrant was issued and shall be included in a Supplementary Appropriation Bill for appropriation.

[Revision w.e.f. 31/07/2017]

(4) Upon the grant of an appropriation to meet the expenditure in respect of which an advance was made under the provisions of this section, the Contingencies Warrant authorizing such advance shall lapse and shall cease to have effect and the advance shall be deemed to have been made for the purpose of the grant and shall be accounted for accordingly.

(5) Nothing in this section shall be construed as permitting the avoidance of the terms and conditions attached to the grant of moneys to the Government by the Government of the United Kingdom or by any other government, institution or authority or of any instruction which may for the time being be in force regulating the issue of moneys from United Kingdom funds.

27 Imprests

(1) The Financial Secretary may, by Imprest Warrant under his hand, authorize the Treasurer to issue imprests from the Consolidated Fund to public officers for any purpose for which moneys have been appropriated therefrom.

(2) Except as otherwise provided in subsection (4) any public officer to whom an imprest has been issued pursuant to subsection (1) shall retire such imprest before the end of the financial year in which the imprest was issued or, if some earlier date is specified in the Imprest Warrant, on or before such earlier date.

(3) Where any public officer to whom subsection (2) applies fails to retire an imprest in accordance with the provisions of that subsection, the Treasurer shall forthwith recover the amount of the imprest by deduction from the salary or other emoluments of such public officer.

(4) A public officer to whom an imprest has been issued pursuant to subsection (1) for the purpose of his travelling on duty outside the Falkland Islands shall retire such imprest in such manner and at such time as the Financial Secretary shall, by directions given under section 16, require, and where any public officer to whom this subsection applies fails to comply with such directions the Treasurer shall forthwith redeem the amount of the imprest by deduction from the salary or other emoluments of such public officer in such manner as the Financial Secretary may direct.

(5) Notwithstanding the provisions of this Ordinance, or of any other law, an elected member of the Legislative Assembly shall, for the purpose of this section, be deemed to be a public officer.

[Revision w.e.f. 31/07/2017]

28 Appropriations and warrants to lapse at the end of financial year

Except as otherwise provided in this Ordinance, every appropriation by the Legislative Assembly of public moneys for the service of any financial year and every warrant issued under this Ordinance shall lapse and cease to have effect at the close of that financial year.

[Revision w.e.f. 31/07/2017]

29 Administration of Special Funds

[See section 4 of the Finance Ordinance 2004 for the creation of the Capital Equalisation Fund as a Special Fund]

(1) An accounting officer shall be appointed in respect of each Special Fund to administer such Fund and to control and account for the payment of moneys therefrom and shall be personally accountable therefor.

(2) Without prejudice to the generality of section 16, the Financial Secretary shall, in respect of each Special Fund, give directions for the administration and control thereof and for regulating the payment of moneys thereto and the expenditure of moneys therefrom.

(3) A Special Fund shall be kept in a separate account by the Treasurer or, where by virtue of the directions given by the Financial Secretary in relation to that Fund pursuant to subsection (2) some other public officer is appointed the accounting officer for the Fund, by that accounting officer:

Provided that it shall be lawful for the Treasurer to keep the account on behalf of such accounting officer.

(4) Notwithstanding sections 21 and 22 neither the receipts or accruals of a Special Fund nor any balance of moneys standing to the credit of a Special Fund at the close of a financial year shall be paid into the Consolidated Fund but shall be retained for the purpose of that Special Fund.

(5) The Financial Secretary may authorize the investment of moneys standing to the credit of a Special Fund in like manner to that provided by section 24 in respect of the Consolidated Fund.

30 Dissolution of Special Funds

[See section 4 of the Finance Ordinance 2004 for the creation of the Capital Equalisation Fund as a Special Fund]

(1) If-

- (a) the moneys in a Special Fund are exhausted and no legal provisions exist whereby further moneys may be paid into that Special Fund; or
- (b) the objects for which a Special Fund was established are fulfilled or cease to exist and in the opinion of the Financial Secretary there is no likelihood that any objects for which that Special Fund could lawfully be used will arise in future,

the Governor may, by Order published in the Gazette, dissolve such Special Fund.

(2) The moneys remaining in any Special Fund dissolved by virtue of an Order under subsection (1) made pursuant to paragraph (b) thereof shall thereupon be paid into and shall form part of the Consolidated Fund.

31 Administration of Trust Funds

(1) A Trust Fund shall be administered and the payment of moneys therefrom shall be governed by the terms of the law, deed of trust, trust instrument or agreement as the case may be creating such Trust Fund.

(2) If in relation to any Trust Fund no such law, deed of trust, trust instrument or agreement exists, or exists but the Financial Secretary considers that inadequate provision is made therein for the administration of such Trust Fund or for the control of payments thereto or expenditure therefrom or for the proper accounting therefor, he shall, subject to section 13-

(a) appoint a public officer to be the accounting officer for such Trust Fund; and

(b) give directions in respect of such matters in relation to that Trust Fund.

(3) The accounting officer for a Trust Fund shall be personally accountable for all moneys received by or disbursed from and held in such a Fund.

(4) Subject to section 13 and this section the Financial Secretary may authorize the investment of moneys standing to the credit of a Trust Fund in like manner to that provided by section 24 in respect of the Consolidated Fund.

32 Accounting officers

(1) An accounting officer shall be appointed by relation to office by the Governor in respect of each expenditure vote to control and account for the expenditure of moneys applied to that vote by an Appropriation Ordinance.

(2) An accounting officer shall be personally accountable for all public moneys received, collected or disbursed and for all public moneys received, held or disposed of by or on account of the department or service for which the vote for which he is accounting officer is provided.

(3) An accounting officer may, with the prior written approval of the Financial Secretary, appoint a public officer under his control to be the receiver of revenue for the collection of any item of revenue for which he is accountable to the Legislative Assembly and shall define in writing to the satisfaction of the Financial Secretary the extent to which the powers and duties conferred and imposed on him in respect of the receipt and collection of public moneys for which he is accounting officer shall be exercised or performed on his behalf by such receiver of revenue.

[Revision w.e.f. 31/07/2017]

(4) The appointment of a receiver of revenue under subsection (3) for the collection of any item of revenue shall not abate or abridge the personal accountability of the accounting officer making the appointment for that item of revenue.

(5) Without prejudice to subsection (3), the accounting officer may, and shall if so required by the Financial Secretary, define in writing the extent to which the powers and duties conferred and imposed upon him may be exercised or performed on his behalf by any public officer under his control and give such directions as may be necessary to ensure the proper exercise or performance of such powers and duties.

33 Disbursement of and accounting for expenditure on Consolidated Fund services

(1) In this section the expression "Consolidated Fund Services" means the services of Government, the expense of which is charged on or payable from the Consolidated Fund under or by virtue of any law other than an Appropriation Ordinance, but including this Ordinance.

(2) Subject to section 22, the disbursement of moneys provided in any financial year to meet expenditure on the Consolidated Fund Services shall be controlled and accounted for by the Treasurer.

34 Existing investments

All investments held by or on behalf of the Government on the date of the coming into operation of this Ordinance shall be deemed to have been made out of moneys issued from the Consolidated Fund and shall be deemed to form part of that Fund and, notwithstanding that such investments are not such as may be made under section 24, may be retained.

35 Restrictions on borrowing

(1) The Government shall not borrow money except in accordance with this Ordinance and with the prior approval of the Secretary of State:

Provided that if the Secretary of State has not, within thirty days after an application for approval of a borrowing detailing the intended amount, intended purposes and intended terms and conditions of that borrowing is received by him, notified that he will not approve the same, he shall, for the purpose of this Ordinance, be deemed to have approved that borrowing.

(2) The powers conferred by a general or any specific Loans Ordinance or by an Appropriation Ordinance to borrow money by means of advances from a bank or from the Crown Agents may be exercised by means of a fluctuating overdraft.

(3) Debt charges upon any money borrowed by the Government in the manner provided for in subsection (2) shall be charged upon and paid out of the Consolidated Fund without further appropriation than this Ordinance.

36 Guarantees

No guarantee involving any financial liability shall be binding upon the Government unless such guarantee is given in accordance with any other Ordinance or unless it has been approved by the Secretary of State and ratified by resolution of the Standing Finance Committee.

37 Re-allocation within supply votes

(1) If, in the opinion of the Financial Secretary, the exigencies of the public service render it necessary or expedient to vary the sum assigned to any purpose within a supply vote shown in the estimates of expenditure for any financial year or to make provisions for a new purpose within such vote, he may direct by means of a Virement Warrant that there shall be applied in aid of any purpose for which the sum assigned may be deficient or in aid of any new purpose a further sum out of any surplus arising on any sum assigned to any other purpose within the same supply vote:

Provided that-

- (a) the sum appropriated for any supply vote by the Appropriation Ordinance and by any Supplementary Appropriation is not thereby exceeded; and
- (b) any new purpose to which any sum is assigned shall be within the ambit of the vote.

(2) Any Virement Warrant issued under subsection (1) shall be laid before the Standing Finance Committee at its meeting next following the date on which such Virement Warrant was signed.

(3) Nothing in this section shall be construed as permitting the avoidance of the terms and conditions attached to the grant of moneys to the Government by the Government of the United Kingdom or by any other government, institution or authority or of any instructions which may for the time being be in force regulating the issue of moneys from United Kingdom funds.

PART IV DEPOSITS

38 Deposits

Any moneys, not being raised or received for the purposes of the Government, which may be deposited with the Treasurer or with any other public officer authorized by the Treasurer or by regulations made under this Ordinance to receive the same (such moneys hereinafter referred to as deposits) shall not form part of the Consolidated Fund and, except as provided in this Part, shall not be applied in any way for the purposes of the Government.

39 Investment of deposits

(1) The Financial Secretary may authorize the investment of deposits in like manner to that provided by section 24(1) in respect of the Consolidated Fund.

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

40 Deposits may be used to finance advances

The Financial Secretary may authorize the Treasurer to use deposits for the purposes of making advances for all or any of the purposes specified in section 25(1):

Provided that deposits shall not be used where the advance in question is repayable or recoverable as the case may be after close of the financial year in which the advance is made.

41 Unclaimed deposits

Any deposit which is unclaimed for five years may, with the approval of the Treasurer, be paid into the Consolidated Fund for the public purposes of the Government:

Provided that if any person entitled thereto shall subsequently prove to the satisfaction of the Treasurer his claim to any such deposit the Treasurer shall thereupon refund to such person his deposit.

42 Treasurer to administer deposits and make refunds

Subject to the provisions of this Part, the Treasurer is hereby authorized to administer and, in appropriate cases, to refund deposits to the persons entitled to them.

PART V PRINCIPAL AUDITOR

43 Appointment of Principal Auditor

(1) In accordance with section 84 of the Constitution and Regulation 19 of Colonial Regulations the Governor in his discretion and with the prior approval of the Secretary of State shall appoint in writing an officer, to be styled the Principal Auditor, who shall not be capable, while holding the office of Principal Auditor, of holding any other office of profit under the Government.

(2) On any vacancy occurring in the office of Principal Auditor from death, retirement, resignation or other cause, the Governor in his discretion and with the prior approval of the Secretary of State shall appoint in writing a person in his place.

44 Remuneration of Principal Auditor

(1) Subject to subsection (2) the remuneration of the Principal Auditor shall be at such rate and on such terms as the Governor acting in his discretion shall, from time to time, determine:

Provided that such remuneration shall not be reduced during the tenure of his office without the consent of the Principal Auditor.

(2) The remuneration payable to the Principal Auditor by virtue of this section shall be charged on and issued out of the Consolidated Fund.

45 Tenure of office

(1) The Principal Auditor shall hold office during Her Majesty's pleasure and may be removed from office only by the Governor in his discretion with the prior approval of the Secretary of State and in any such case a full statement of the circumstances shall, at the first opportunity, be made to the Legislative Assembly.

[S. 2/Ord. 16/01/w.e.f. 11/10/01 and Revision w.e.f. 31/07/2017.]

(2) The office of Principal Auditor shall be deemed to be an office in the public service and, save as otherwise provided in subsection (1), as agreed by the Governor the provisions of the law and regulations relating to the public service shall apply to him.

Without prejudice to and subject to subsection (1), the terms and conditions of office applicable to the Principal Auditor upon his appointment shall not be made less favourable to him during the currency of his appointment.

[S. 2/Ord. 16/01/w.e.f. 11/10/01.]

46 Vacancy in office of Principal Auditor

In the event of the office of Principal Auditor becoming vacant the Governor in his discretion and with the prior approval of the Secretary of State, may appoint in writing another person to act as Principal Auditor in accordance with section 43.

47 Acting Principal Auditor

(1) If, in the opinion of the Governor, the Principal Auditor is likely to be unable to exercise his powers or perform the duties of his office during any period by reason of absence or inability to act from illness or any other cause, the Governor in his discretion and with the prior approval of the Secretary of State, may appoint in writing a public officer to act as Principal Auditor during such period.

(2) Every person appointed to act as Principal Auditor pursuant to section 46 or subsection (1) shall have and may exercise all the powers and authority and shall perform all the duties conferred and imposed upon the Principal Auditor by this Ordinance and section 43(1) shall apply accordingly.

(3) Notwithstanding section 45(2) every public officer appointed to act as Principal Auditor under section 46 or subsection (1) of this section shall, for the period for which such public officer acts as Principal Auditor, be paid such allowance at such annual rate as the Governor acting in his discretion shall determine.

48 Duties of Principal Auditor

The Principal Auditor shall enquire into and audit the accounts of the Treasurer and of accounting officers and of all accountable officers and in his audit he shall make such examination as he may deem necessary to satisfy himself-

- (a) that all reasonable precautions have been taken to safeguard the collection and custody of revenue and that the Ordinance, directions and instructions relating thereto have been duly observed;
- (b) that moneys which have been appropriated and disbursed have been expended to the purposes for which they were appropriated and that the expenditure conforms to the authority which governs it;
- (c) that public moneys other than those which have been appropriated have been dealt with in accordance with proper authority;
- (d) that all reasonable precautions have been taken to safeguard the receipt, custody, issue and proper use of cash, stamps, securities and stores and that the regulations, directions and instructions relating thereto have been duly observed; and
- (e) that adequate regulations, directions or instructions exist for the guidance of accounting officers and accountable officers.

49 Powers of Principal Auditor

(1) In the exercise of the duties imposed upon him by this Ordinance the Principal Auditor may-

- (a) call upon any officer for any explanations and information which the Principal Auditor may require in order to enable him to discharge his duties;
- (b) authorize any person publicly carrying on the profession of accountant or any public officer to conduct on his behalf an inquiry, examination or audit and such person or officer shall report thereon to the Principal Auditor;
- (c) without payment of any fee cause search to be made in and extracts to be taken from any public office; and
- (d) lay before the Attorney General a case in writing as to any question regarding the interpretation of any Ordinance or regulation concerning the powers of the Principal Auditor or the discharge of his duties, and the Attorney General shall give a written opinion upon such matter.

(2) In the exercise of his duties the Principal Auditor or any person duly authorized by him in writing shall have access to all records, books, vouchers, documents and to all cash, stamps, securities, stores or other Government property of any kind whatsoever in the possession of any public officer.

50 Powers of Principal Auditor not subject to directions

In the exercise of his powers of audit and reporting on accounts the Principal Auditor shall not be subject to the direction or control of any person or authority.

51 Financial Secretary may authorize Principal Auditor to dispense with examination of vouchers

Notwithstanding sections 48 and 49, in the examination of any account it shall be lawful for the Financial Secretary, in cases where it shall appear to him to be reasonable and expedient for the public service and after satisfying himself that the vouchers relating to the account in question have been examined and certified as correct by the appropriate accounting officer, to authorize the Principal Auditor to admit and allow without further examination the sums so certified in support of the charges to which they relate.

52 Vouchers which are lost or inadvertently destroyed

In the event that any voucher has been lost or inadvertently destroyed the Financial Secretary may, if upon due enquiry he is satisfied as to the circumstances of such loss or destruction, authorize the payment to stand charged in the accounts.

53 Principal Auditor not to be required to undertake pre-audit or any duties incompatible with his office

(1) The Principal Auditor shall not be required to undertake any examination of accounts partaking of the nature of a pre-audit which involves the acceptance by him of responsibility which would preclude him from full criticism of any accounting transaction after such transaction has been duly recorded.

(2) The Principal Auditor shall not be required to undertake any duties outside those pertaining to his office if, in his opinion, such duties are incompatible with the responsibilities and duties of that office.

54 Staff and delegation of functions

(1) The staff required to assist the Principal Auditor in the performance of his duties shall be composed of such officers as the Governor, after consultation with the Principal Auditor, may from time to time determine.

(2) Anything which, under the authority of this Ordinance or of any other law, is directed to be done by the Principal Auditor, other than the certifying of and reporting on accounts, may be done by an officer of his staff so authorized by him in writing.

PART VI THE AUDIT AND EXAMINATION OF PUBLIC ACCOUNTS

55 Annual Accounts

(1) Within a period of six months after the end of each financial year there shall be transmitted to the Principal Auditor by the Treasurer accounts showing fully the financial position of the Islands at the end of the year, which shall include-

- (a) a Statement of Assets and Liabilities;
- (b) an Annual Abstract Account of revenue and expenditure by heads and votes respectively;
- (c) a comparative statement of estimated and actual revenue by subheads;
- (d) a comparative statement of estimated and actual expenditure by subheads;
- (e) a statement of expenditure in excess;
- (f) a statement of balances on advance accounts from the Consolidated Fund analysed under the various categories set out in section 25;
- (g) a statement of outstanding loans made from the Consolidated Fund by annual and aggregate receipts and payments;
- (h) a statement of investments showing the Funds on behalf of which such investments have been made;
- (i) a statement of contingent liabilities;
- (j) a statement of arrears of revenue by subheads;
- (k) a statement of Contingencies Fund, Special Fund and Trust Fund balances by annual and aggregate receipts and payments and showing in respect of each such Fund the investments or other assets relating thereto;
- (l) a statement of losses of cash and stores and abandoned claims;

- (m) a statement of ex gratia payments;
- (n) a statement of unretired imprests;
- (o) tabular summaries of unallotted stores;
- (p) such other statements as the Legislative Assembly may from time to time by resolution require.

[Revision w.e.f. 31/07/2017]

(2) Within a period of six months after the close of the financial year or the close of such period of account as may be provided in any law or trust instrument relating thereto or, in the absence of any such provision, the close of such period of account as may be prescribed by directions given by the Financial Secretary pursuant to section 29(2) or section 31(2) as the case may be-

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

shall prepare, sign and transmit to the Principal Auditor on account of such fund or account relating to the period of account in such form as the Treasurer may from time to time require.

56 Report on accounts and special reports

(1) On receipt of the accounts prescribed by section 55 the Principal Auditor shall cause them to be examined and audited and shall, within a period of six months after their receipt, prepare, sign and transmit to the Financial Secretary a report on the examination and audit of all such accounts.

(2) The Principal Auditor may at any time, if it appears to him desirable, transmit to the Governor a special report on any matter incidental to his powers and duties under this Ordinance.

57 Financial Secretary to lay documents transmitted

A copy of every document transmitted under section 56 to be laid before the Legislative Assembly at its next meeting following the date on which such documents were received by the Financial Secretary or the Governor, as the case may be.

[Revision w.e.f. 31/07/2017]

58 Documents laid to be dealt with in manner prescribed

Every document laid before the Legislative Assembly in accordance with section 57 shall be dealt with in the manner prescribed by the Legislative Assembly Standing Orders.

[Revision w.e.f. 31/07/2017]

59 Notification of irregularities

If at any time it appears to the Principal Auditor that substantial irregularities have occurred in the receipt, custody, issue or expenditure of public moneys or in the receipt, custody, issue, sale, transfer or delivery of any stamps, securities, stores or other Government property, or in the

accounting for the same, he shall immediately bring the matter, in writing, to the notice of the Governor.

PART VII
EXAMINATION AND AUDIT OF THE ACCOUNTS OF STATUTORY
CORPORATIONS, BOARDS, BODIES AND COMMISSIONS

60 Examination and audit of accounts of statutory corporations and similar bodies

(1) Notwithstanding anything to the contrary contained in any Ordinance in force on the coming into operation of this Ordinance, the accounts of any statutory corporation, board, body or commission to which this section applies shall be examined and audited by the Principal Auditor.

(2) In the exercise of the duty imposed upon him by subsection (1) the Principal Auditor-

- (a) shall have, in relation to such statutory corporation, board, body or commission and its members, officers and employees, the same powers and discretion as are conferred upon him by sections 48 and 49 in relation to public officers, public moneys, stamps, securities, stores or other Government property;
- (b) may authorize any person publicly carrying on the profession of accountant or any public officer to inspect, examine or audit the books and accounts of any corporation, board, body or commission which the Principal Auditor may be required to examine and audit pursuant to this section and such person or public officer shall report thereon to the Principal Auditor in such manner as the Principal Auditor may direct;

(3) The Principal Auditor shall prepare a report on the examination and audit of the accounts referred to in this section and shall transmit such report to the Governor for presentation to the Legislative Assembly.

[Revision w.e.f. 31/07/2017]

(4) This section shall apply to any corporate body established by Ordinance and to any statutory board, body or commission which is not incorporated-

- (a) which is in receipt of a contribution from the public funds of the Falkland Islands; or
- (b) the operations of which may, under the Ordinance establishing the same or under any Ordinance relating thereto, impose or create a liability upon such public funds.

61 Financial Secretary to obtain observations on report of Principal Auditor

On receipt of any account and the report of the Principal Auditor thereon as required by section 60(3), the Governor shall obtain the observations of the corporation, board, body or commission concerned on any matter to which attention has been called by the Principal Auditor in such report and such observations shall be presented to the Legislative Assembly with the said account and report.

[Revision w.e.f. 31/07/2017]

62 Audit fees be charged

Any statutory corporation and board, body or commission the accounts of which are audited by the Principal Auditor under section 60 shall, in respect of such audit, pay such fee as may be determined by the Governor acting in his discretion after consultation with the Principal Auditor.

PART VIII ABANDONMENT OF CLAIMS AND WRITE OFF OF PUBLIC MONEYS AND STORES

63 Abandonment of claims, etc. and write-off of public moneys and stores

The Governor may authorize the Financial Secretary to abandon or remit any claim by or on behalf of the Government or any service thereof and to write off losses of public moneys, stores or other movable property belonging to the Government or provided for the public service.

64 Disposal of serviceable stores or property to certain organizations

The Financial Secretary may authorize the gift of serviceable stores or property not required for Government purposes to institutions or organizations in the Falkland Islands established solely or principally for education, scientific, cultural or charitable purpose:

Provided that where the value of such stores or property exceeds £5,000 the prior approval of the Governor shall be required.

PART IX SURCHARGE BY THE FINANCIAL SECRETARY

65 Power to surcharge

If, at any time, it appears to the Financial Secretary that any person who is or was employed as a public officer-

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

and if, within a period specified by the Financial Secretary, an explanation satisfactory to him is not furnished with regard to such failure to collect, improper payment, unauthorized expenditure in excess, payment not duly vouched, deficiency, loss, destruction or damage as the case may be, the Financial Secretary may surcharge the said person such sum as he may determine:

Provided that-

- (i) the Financial Secretary in determining the sum to be surcharged shall take due account of the ability of the said person to pay the surcharge without undue financial hardship; and
- (ii) the sum to be surcharged shall not in any case exceed the amount of any such moneys not collected or the amount of such improper payment, unauthorized expenditure in excess, payment not duly vouched, deficiency or the value of such loss, destruction, damage as the case may be, or twenty-five per cent of the gross annual salary or pension, as may be applicable, of the said person whichever is the lesser amount.

66 Notification of surcharge

The Financial Secretary shall cause the person surcharged and the Treasurer and the Principal Auditor to be notified in writing of any surcharge made under the immediately preceding section.

67 Appeal against surcharge

(1) Any person who is aggrieved by any surcharge made against him under section 65 shall have the right of appeal to the Governor within a period of one month (or such longer period as the Governor, after consultation with the Financial Secretary, may allow) from the date on which he is notified of the surcharge.

(2) The Governor, acting in his discretion after making or causing to be made such investigations as he may deem to be necessary, may confirm the surcharge or direct that the person surcharged be released wholly or in part from the surcharge as may appear to him to be just and reasonable.

68 Recovery of surcharge

(1) The Treasurer, on being notified of a surcharge made under section 65 shall cause the amount of the surcharge to be recovered from the person surcharged in such manner as the Financial Secretary may by directions given under subsection (2), authorize:

Provided that no recoveries shall be made until after the expiration of the period allowed under section 67 for the lodging of an appeal:

And provided that where the person surcharged appeals under section 67 no recoveries shall be made until and unless the amount of the surcharged has been confirmed or otherwise determined in accordance with that section.

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

Provided that-

- (a) no one such deduction shall exceed twenty-five per cent of the gross monthly salary or pension, as the case may be of the person surcharged;
- (b) the number of instalments shall not exceed twelve; and

(c) where the person surcharged is due to be paid any moneys of whatsoever description by the Government, other than by way of salary or pension, the Financial Secretary may require the amount of any surcharge imposed on that person to be deducted from such moneys in whole or in part as he considers just and reasonable.

(3) The provisions of subsections (1) and 2) shall be without prejudice to the right, which is hereby declared, of the Attorney General, to sue for and recover the amount of any surcharge as a civil debt due to the Government.