CHAPTER 174

FINANCIAL ADMINISTRATION AND AUDIT ACT*

To regulate the receipt, control and disbursement of public moneys, to provide for the audit of accounts in relation thereto, and to provide for other matters connected with or incidental to the purposes aforesaid.

29th May, 1962

ACT I of 1962, as amended by Act VI of 1962; Legal Notice 47 of 1962; Act XII of 1965; Legal Notices: 17 and 46 of 1965; Acts: XXIV of 1967, XXXI of 1968, XXXII of 1969; Legal Notices: 48 of 1970, 24 and 93 of 1971, 48 of 1973, 50 of 1974; Act LVIII of 1974; Legal Notices: 56 of 1975, 63 of 1976; Acts: XXII and XXXIX of 1976; Legal Notices: 48 of 1977, 4 and 42 of 1978, 33 of 1979; Acts: III and XXIX of 1979; Legal Notices: 26 of 1980, 4 of 1981, 3 of 1982; Acts: XIII of 1983, XVI of 1997, I of 2004 and XIII of 2005; Legal Notice 410 of 2007; Act IV of 2011 , XXII of 2017 , VII of 2018.

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SCHEDULE

*Repealed by Act XXI of 2019.See Cap.601.

PART I

PRELIMINARY

Short title.

1. The short title of this Act is the Financial Administration and Audit Act.

Interpretation.
Amended by: L.N. 46 of 1965; III. 1979.2; I. 2004.2.

2. In this Act, unless the context otherwise requires -

"accounting officer" means a person holding or acting in the office of permanent head of a government department and includes every person who is charged with the duty of collecting, receiving or accounting for, or who in fact collects, receives or accounts for, any public moneys, or who is charged with the duty of disbursing, or who does in fact disburse, any public moneys, and every person who is charged with the receipt, custody or disposal of, or the accounting for, public stores, or who in fact receives, holds or disposes of public stores:

Provided that where there is in force a direction in writing by the Minister that the duties, functions and responsibilities of an accounting officer specified in the direction shall vest exclusively in one or more public officers as is so specified, "accounting officer", in respect of the said duties, functions and responsibilities and to the extent specified in the said direction, means and includes only the public officer or public officers specified as aforesaid;

"bank" means any bank which for the time being is entrusted with the keeping of public moneys of the Government of Malta;

"Consolidated Fund" means the Consolidated Fund established by article 102 of the Constitution of Malta;

"Constitution" means the Constitution of Malta;

"estimates" means the estimates, presented to the House of Representatives in respect of any financial year, of the expenditure for the service of that financial year and includes any supplementary estimates of expenditure for which it may be necessary to provide after the estimates have been presented to the House of Representatives;

"financial year" has the meaning as it has for the purposes of the Constitution;

"internal audit" shall have the same meaning assigned to it by article 2 of the Internal Audit and Financial Investigations Act; Cap. 461.

"irregularity" means an act or omission by any person in breach of a contractual agreement with the Government or in breach of any relevant provision of law or of any act the binding force of which derives from any treaty or international agreement entered into by Malta;

"Malta" has the same meaning as is assigned to it by article 124 of the Constitution of Malta;

"Minister" means the Minister responsible for finance;

"public moneys" means all revenue, loan, trust and other funds received or managed or held by, for or on account of the Government, including moneys which the Government pays out or

disburses from funds received from any international or supranational organization or body or from any of its institutions or bodies;

"revenue" means all taxes, imposts, rates, and duties and all other moneys collected or received for or on account of the Consolidated Fund;

"vote" means a separate head of the estimates or a main division of the appropriation by the House of Representatives for the service of a financial year.

PART II

GENERAL PROVISIONS

Administration of Act.

3. (1) The Minister is charged with the administration of this Act.

(2) Subject to the provisions of this Act and of any regulations made thereunder, accounting officers shall follow the directions which may, from time to time, be given by the Minister concerning public moneys and the rendering of accounts thereof.

(3) The Minister, or any officer of his Ministry authorised by him in that behalf, shall be entitled to inspect such offices and to have such access to official books, documents and other records as may be necessary for the purpose of the Minister's exercise of his powers and his performance of his duties under this Act.

Regulations. *Amended by: L.N. 46 of 1965; I. 2004.3.*

4. (1) The Minister may make regulations not inconsistent with the provisions of this Act for carrying the provisions of this Act into effect, and without prejudice to the generality of the foregoing, such regulations may provide -

(*a*) for the collection, receipt, custody, issue, expenditure, due accounting for, care and management of all public moneys and the guidance of all persons concerned therein;

(*b*) for the more effectual record, examination, inspection and departmental check of all receipts and expenditure and the keeping of all necessary books and accounts;

(*c*) for the books which are to be kept and the accounts which are to be rendered for the purposes of this Act and the form in which such books and accounts are to be kept and rendered;

(*d*) for the purchase, safe custody, issue, sale or other disposal or writing off of public stores and other government property, and the proper accounting for, and stock-taking of, such stores and property;

(*e*) for prescribing anything required to be prescribed under this Act;

(*f*) for the co-funding of economic and social development programmes and initiatives from public

moneys;

(*g*) for effecting adjustments, set-offs in and payments from any account relating to public moneys as may be required in connection with the co-financing referred to in the previous paragraph and funding from any international or supranational organization or body or from any of its institutions or bodies;

(*h*) for the preparation, codification and publication of such sets of accounting standards, methodologies, policies and procedures as may from time to time be deemed necessary or expedient for the better carrying the provisions of this Act into effect;

(*i*) for any other matter incidental or supplementary to any of the foregoing matters.

(2) All regulations made under this article shall be published in the Government Gazette and shall be laid on the Table of the House of Representatives within ten days of such publication:

Provided that in reckoning such period no account shall be taken of any time during which the House of Representatives is dissolved or prorogued, or during which it is adjourned for more than ten days.

PART III

DIRECTOR OF AUDIT

Director of Audit.
Amended by:
L.N. 46 of 1965.

5. *Repealed by: XVI.1997.7.*

Salary.
Amended by:
XII.1965.4;
L.N. 46 of 1965;
XIII.1983.5;
L.N. 25 of 1990;
L.N. 26 of 1991;
L.N. 13 of 1992;
L.N. 32 of 1993;
L.N. 11 of 1994;
L.N. 10 of 1995;
L.N. 23 of 1995;
L.N. 75 of 1995;
L.N. 32 of 1996;
L.N. 67 of 1998.

6. *Repealed by: XVI.1997.7.*

Audit of accounts.
Amended by:
L.N. 46 of 1965.

7. *Repealed by: XVI.1997.7.*

Production of books, etc., to Director of Audit.

8. *Repealed by: XVI.1997.7.*

Information to Director of Audit.
Amended by:
L.N. 46 of 1965.

9. *Repealed by: XVI.1997.7.*

10. *Repealed by: XVI.1997.7.*

Report of irregularities.

11. *Repealed by: XVI.1997.7.*

Disputes.
Amended by: L.N. 46 of 1965; LVIII. 1974.68.

PART IV

ACCOUNTING OFFICERS

12. Every accounting officer shall be subject to the provisions of this Act and any regulations made thereunder and shall perform such duties, keep such books and render such accounts as may be prescribed by or under this Act or by instructions issued by the Minister.

Duties of accounting officers.

13. (1) No accounting officer shall open any public or official account in any bank, except as authorised by this Act or by any regulations made thereunder, without the authority in writing of the Minister, and the Government shall not be held liable for any overdraft on any such account unless it be authorised by the Minister as provided in article 21.

Bank account not to be opened by accounting officers without Minister's authority.
Amended by: IV. 2011.26.

(2) The Minister may delegate his authority to authorise an accounting officer to open any public or official account in any bank in accordance with subarticle (1) to any public officer not below the rank of Director General.

PART V

BANKING ARRANGEMENTS AND COLLECTION OF MONEYS

14. The Minister may from time to time make arrangements with any bank or banks upon such terms and conditions as he thinks fit for the receipt, custody and payment of public moneys and their transmission from and to Malta, and for any advances which may be made under the authority of this Act or of any other law, for the charges in respect thereof, and for the interest payable by or to the bank or banks upon balances or advances respectively and generally for the conduct of the banking business of the Government.

Arrangement with bank.

15. All public moneys shall be kept in the bank under an account to be known as "the Public Account" to which shall be carried and paid all moneys forming the Consolidated Fund, and all other moneys whatsoever, except -

The Public Account and the Malta Government Savings Bank Account.
Amended by: L.N. 46 of 1965.

(*a*) moneys belonging to the Malta Government Savings Bank*, which shall be kept under a separate account to be known as "the Malta Government Savings Bank Account"; and

(*b*) any other moneys which the Minister may specifically

* *Vide* Malta Government Savings Bank (Winding Up) Act (Cap. 307).

authorise to be kept in separate accounts.

All moneys in the bank to be public moneys.

16. All moneys paid into the bank to the credit of the accounts mentioned in the last preceding article shall be deemed to be public moneys, and may not be removed from the bank except as provided by this Act.

Deposits.

17. (1) Moneys received by or on behalf of the Government by way of deposit on account of customs duties or otherwise on public account, moneys deposited in court under any law or authority whatever, moneys deposited in the Malta Government Savings Bank*, moneys received in trust, and all moneys deposited by any person pending the completion of any work or transaction whereby the same or any portion thereof may become payable to the Government or repayable to the depositor or other person, shall be deemed to be public moneys within the meaning and for the purposes of this Act.

(2) Such moneys shall be either paid into the bank to the credit of the proper account or otherwise dealt with and accounted for by the person having custody thereof as the Minister, subject to this Act and any regulations made thereunder, may from time to time direct.

Unclaimed deposits.
Amended by: L.N. 46 of 1965; XIII. 1983.5; L.N. 410 of 2007.

18. (1) Unless otherwise expressly provided, every sum so deposited, with the exception of moneys deposited in the Malta Government Savings Bank*, which is unclaimed for a period of thirty years shall be transferred to a special account to be known as "the Deposits Fund Account" and the Minister may, without further appropriation than this Act, authorise the Accountant General to pay the same out of the said account at any time to any claimant who establishes his claim thereto.

(2) At the end of each financial year any balance in excess of twenty-three thousand and three hundred euro (23,300) of the said Deposits Fund Account may, if the Minister so decides, be passed to the Consolidated Fund. Should at any time the said account not be sufficient to meet such claims, these will be met out of the Consolidated Fund without any further appropriation than this Act.

Payment of all moneys into bank.
Amended by: XIII. 1983.5; L.N. 410 of 2007.

19. The Accountant General shall, from day to day, cause to be paid into the bank to the credit of the proper account, all public moneys collected or received at the Treasury, including Savings Bank deposits:

Provided that the Accountant General may retain in hand such amount as may be deemed necessary to meet daily requirements, which amount shall not, however, except with the written authority of the Minister, exceed seventy thousand euro (70,000) in respect of moneys payable to the credit of the Public Account exclusive of any moneys temporarily held by the Accountant General pending withdrawal from circulation and destruction, and forty-seven thousand euro (47,000) in respect of moneys payable to the credit of the Malta Government Savings Bank Account.

Collection of public moneys to be paid into bank.

20. Every accounting officer collecting or receiving public moneys shall pay into the bank to the credit of the proper account, the gross amount of his collections on such days and in such manner and form as the Accountant General may direct:

Provided that, where the Minister so directs, accounting officers may deduct from the gross amount of their collections such sums as may be required to enable them to effect payments of drawback, repayments or refunds.

Borrowing of money. *Amended by: L.N. 46 of 1965.*

21. *Repealed by Act XXII of 2017.*

PART VI

APPROPRIATION OF PUBLIC MONEYS

Lapsing of Appropriation Act. *Amended by: L.N. 46 of 1965.*

22. Any Act appropriating moneys out of the Consolidated Fund shall not be construed as authorising the expenditure of such moneys in any financial year other than the financial year to which it is expressed to relate, and any moneys so appropriated which may remain unexpended at the close of any financial year shall cease to be a liability on the Consolidated Fund for that year.

Authorisation of expenditure before appropriation. *Amended by: L.N. 46 of 1965.*

23. (1) If the Appropriation Act has not come into operation at the commencement of any financial year, the Minister may authorise the issue of moneys from the Consolidated Fund for the purpose of meeting such expenditure as he may consider necessary for carrying on the Government of Malta:

Provided that moneys so authorised to be issued for any service which is of a recurrent nature shall not exceed one-third of the amount voted for that service in the Appropriation law for the preceding financial year.

(2) Any moneys authorised to be issued as provided in subarticle (1) shall not exceed the sum specified for that service in the estimates presented for the current financial year and shall be set off against the amounts respectively provided in the Appropriation Act on its coming into operation.

(3) The powers conferred on the Minister by this article shall not extend beyond the period of the first four months of any financial year or beyond the day on which the Appropriation Act for that year comes into operation, whichever is the earlier.

Application of savings on subheads.

24. (1) If the exigencies of the public service render it necessary to alter the proportions assigned to the subheads under a head of expenditure shown in the estimates the Minister may by minute authorise the transfer of a further sum out of any surplus arising on any other subhead of the same head in aid of any subhead which may be deficient.

(2) The Minister may in his discretion and subject to such conditions as he may deem proper delegate to an officer of his Ministry the power vested in him under subarticle (1):

Provided that whenever any such delegation has been made the officer so delegated shall submit to the Minister at the end of each quarter a statement showing particulars of all the cases where he has exercised the powers so delegated.

Supplementary provision. *Amended by: L.N. 46 of 1965; I. 2004.4.*

25. If in respect of any financial year it is found that the amount appropriated by the Appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act, or that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the Appropriation Act, or for a purpose for which no amount has been appropriated by the Act, supplementary estimates showing the sums required or spent shall be laid before the House of Representatives and the Appropriation Bill shall contain such expenditure under appropriate heads:

Provided that the Minister may for such purposes from time to time authorise the issue of such sums out of the Consolidated Fund (not exceeding ten per cent of the sum appropriated for the financial year, or such other percentage as the House may by resolution from time to time approve) as he may consider necessary for the purpose without the need of any further appropriation other than this Act, and he shall make a report thereon to the House within one month of such appropriation, and where the House is not sitting at the time not later than the third sitting after the House reconvenes.

PART VII

PAYMENT OF MONEYS

Authority for the issue of moneys. *Amended by: L.N. 46 of 1965.*

26. No moneys shall be issued out of the Consolidated Fund, except as provided in the Constitution, nor out of other funds or accounts except for the purpose of such funds or accounts and under such authority as may be applicable to their constitution.

All disbursements to be made by Accountant General. *Amended by: XVI.1997.8.*

27. (1) Subject to the provisions of this Act and of any regulations made thereunder, all disbursements of public moneys shall be made by the Accountant General in such manner as may be prescribed by the Minister by regulations made under the provisions of this Act.

(2) The Accountant General shall not make any payments (notwithstanding that the services to which they relate may be duly provided for in the Appropriation Act) unless authorised so to do by warrant under the Minister's hand and directed to him.

(3) Such warrant shall be signed in triplicate by the Minister. One copy of the warrant shall be filed in the Minister's office, one in the Accountant General's office and one in the National Audit Office.

(4) No warrant under this article shall continue in force except during the financial year for which it is issued.

Payment on vouchers.

28. Every claim for the payment of public moneys shall be set out in a voucher in such form as the Accountant General may direct, and shall be charged against the proper vote or account and certified by the officers who are recognised by the Accountant General as the proper officers for the purpose.

Payment of accounts by accounting officers.

29. No accounting officer shall pay any account unless he has ascertained that the provisions of this Act and of any regulations made thereunder relating to the payment of accounts have been complied with and that the payment of the account is in accordance with proper authority.

Contingencies Fund.
Amended by: VI. 1962.2; L.N. 46 of 1965; XIII. 1983.5; L.N. 410 of 2007.

30. (1) There shall be established a fund (to be known as "the Contingencies Fund") of one million, one hundred and sixty-five thousand euro (1,165,000) which amount shall be provided, within a period of five years, by appropriation made from time to time out of the Consolidated Fund to the said fund.

(2) The Minister may, if he is satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists or for which funds cannot be provided under article 24, make advances from the Contingencies Fund to meet that need, until a Supplementary Appropriation Bill providing for such expenditure can be passed into law.

(3) The Contingencies Fund shall be operated in accordance with the rules set out in the Schedule. The provisions of this Schedule may be amended by further rules to be made by the Minister, which shall be published in the Government Gazette and shall be laid on the Table of the House of Representatives at the next meeting thereafter.

Imprest.
Amended by: XXII. 1976.4.

31. (1) Whenever it becomes necessary for any accounting officer to have at his disposal, for disbursement on the public service, moneys for which vouchers cannot be presented direct to the Accountant General for payment, an imprest may be issued to him for such amount as the Minister may authorise.

(2) The Secretary for Gozo Affairs may receive a floating imprest for such amount as the Minister may authorise to enable him to carry out the service of all the departments in Gozo in accordance with this Act and with any regulations made thereunder.

(3) The authority mentioned in the two last preceding subarticles shall be conveyed to the Accountant General by an imprest warrant under the Minister's hand.

Treasury Clearance Fund.
Amended by: L.N. 46 of 1965.

32. There shall be established a fund to be known as "the Treasury Clearance Fund" to provide for the receipt and repayment of court and other deposits and of moneys raised by the issue of Treasury Bills, and for payments of money orders and other postal transactions, for payments on behalf of other administrations, for payments on account of pensions awaiting sanction, for purchase of wheat and unallocated stores, and for the purpose of meeting any other expense temporarily defrayable out of public funds and repayable gradually or otherwise into this fund out of the Consolidated Fund or from other sources.

Disbursements from Treasury Clearance Fund for advances or loans to the Dockyard. *Added by: XXIV. 1967.2. Amended by: XIII. 1983.5; L.N. 410 of 2007.*

33. (1) If, at any time during the period of six months from the lst August, 1967, circumstances exist which in the opinion of the Minister are deemed to be of sufficient gravity as to warrant in the national interest the making of advances or loans in respect of the Dockyard, the Minister may, during the period aforesaid, make such advances or loans under such terms of repayment and servicing as he may deem appropriate and may, for such purpose and in the manner specified in this Act, utilise moneys raised by Treasury Bills up to an amount at any one time outstanding not exceeding in the aggregate the sum of one million, one hundred and sixty-five thousand euro (1,165,000).

(2) In this article "Dockyard" has the same meaning as it has in the Malta Dockyard (Temporary Provision) Act.

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Disbursements from Treasury Clearance Fund for advances, loans or deposits in aid of exports. *Added by: XXXI. 1968.2. Amended by: XXXII. 1969.2; XIII. 1983.5; L.N. 410 of 2007.*

34. The Minister may during the period of two years to be reckoned from the 27th November, 1968, make such advances, loans or deposits in aid of exports made during the said period under such terms as he may deem appropriate and may, for such purpose and in the manner specified in this Act, utilise moneys raised by Treasury Bills up to an amount at any one time outstanding not exceeding in the aggregate two million, three hundred and twenty-nine thousand and three hundred and seventy-three euro and forty cents (2,329,373.40).

Transfer of moneys.

35. (1) The debit and credit balances existing on the lst April, 1962, of those accounts the receipts and payments whereof would have been accounted for in the Treasury Clearance Fund had that fund been established on that date shall be deemed as from that date to have been transferred to that fund, which shall be deemed to have been established on that date as a fund of the Government of Malta for the specific purpose referred to in article 32.

(2) All receipts and payments of the accounts referred to in subarticle (1) which, as from the 1st April, 1962, would have been accounted for in the Treasury Clearance Fund had that fund been established on that date shall be deemed as from that date to have been so accounted for.

Accrual of interest and investment fluctuation. *Amended by: L.N. 46 of 1965; XXXIX.1976.8.*

36. Subject to the provisions of this article, interest and other income accruing to the Treasury Clearance Fund shall be credited to the Consolidated Fund and any appreciation or depreciation in the value of any investments of the Treasury Clearance Fund shall, together with any profits or losses arising from the sale or redemption of securities, be credited or debited as the case may be to the Consolidated Fund:

Provided that in the case of deposits on account of foundations or trusts, the *Il-Monti* and the Custodian of Enemy Property such interest and other income, appreciation or depreciation in the value of investments and the profits or losses on the sale or redemption of securities shall be credited or debited as the case may be to the proper account.

Disbursements out of Treasury Clearance Fund.

37. The Minister may without further appropriation than this Act cause the Accountant General to effect disbursements from the

Treasury Clearance Fund by warrant under the Minister's hand, which in the case of all payment of moneys repayable into the fund shall specify the manner and terms of such repayment.

Power to transfer temporarily from one account to another.

38. The Accountant General may from time to time transfer any balances of the public account, or any part thereof, from one fund or account to another fund or account, within the public account for such periods and on such terms as the Minister may authorise.

PART VIII

INVESTMENTS

Investment of balances.

39. The Minister may, from time to time, cause any of the balances of the public account or any other account, or any part thereof, to be invested, on behalf of the proper fund or account, for such periods and on such terms as he thinks fit, in the purchase of such securities as he may from time to time declare to be securities in which public moneys may be invested.

Accounting of interest on investments.

40. The interest received on securities purchased under this Part of this Act shall unless otherwise provided in this or any other law be paid to the public account or any other account to the credit of the proper fund or account to which the securities belong.

Sale or exchange of securities.

41. Whensoever it shall seem to the Minister to be expedient in the interest of the public service, he may from time to time cause such securities, or any part thereof, to be sold and converted into money and the proceeds either paid to the credit of the proper fund or account to which they belong or re-invested, on behalf of the proper fund or account in the purchase of any other securities authorised by this Part.

Purchase and custody of securities. *Amended by: XXII. 1976.4.*

42. (1) The investments in securities shall, in the case of securities held in Malta, be made in the name of three or more persons jointly, who shall be appointed from time to time by the Minister, and, in the case of securities held abroad, in the name of such person or persons as may be appointed from time to time by the Minister.

(2) Such persons shall only have the custody of such securities on behalf of the Government of Malta and it shall not be lawful for them severally or jointly to take any measures in respect of such securities save as provided by this Act.

Provisions for ensuring safe custody. *Amended by: XXII. 1976.4.*

43. In order to ensure the safe custody of all securities, the following provisions shall apply:

(*a*) all securities in Malta shall be held under two or more keys by the persons vested with their custody, or deposited by them in the bank, and such of the securities as are kept abroad shall be held in the custody of such person or persons as may be appointed from time to time by the Minister;

(*b*) securities held in respect of each fund or account shall be kept separate and apart from those of any other fund or account;

(*c*) securities held in respect of each fund or account shall be kept and used solely for the purposes of that fund or account.

Manner in which securities may be sold, converted or exchanged.

44. In order to facilitate the sale, conversion, exchange or other disposition of such securities, as occasion requires, the persons vested with the custody thereof shall, at the written request of the Minister or of any other officer duly authorised by him in writing in that behalf, part with the possession of the securities and sign without delay such documents as may be necessary for the sale, conversion, exchange or other disposition thereof. The request shall specify the purpose for which the securities named therein are required.

Certified returns of securities held abroad.
Amended by: XXII. 1976.4; XVI. 1997.7.

45. At least once in every year in respect of securities held abroad on behalf of the Government of Malta, the Accountant General shall obtain from the persons vested with their custody a certified statement of all such securities, showing separately the fund or account for which they are respectively held.

Return of securities to be submitted to Auditor General.
Amended by: XXII. 1976.4; XVI. 1997.7.

46. An annual return of all securities held in Malta and abroad under the provisions of this Part of this Act shall be prepared by the Accountant General and forwarded to the Auditor General as provided in article 67.

PART IX

MONEYS OUTSIDE MALTA

Arrangements regarding moneys outside Malta.

47. Notwithstanding anything in this Act, the Minister may make arrangements on such terms and conditions as he considers necessary for the collection, receipt, custody, deposit in banks, issue, expenditure, advances, due accounting for, care and management outside Malta of any public moneys and for the keeping of accounts, and furnishing of statements, returns and vouchers relating to such collection, receipt, custody, deposit, issue, expenditure, advances and for the examination of such accounts, statements, returns and vouchers.

PART X

AUDIT AND INSPECTION

Duties of the bank.
Amended by: XVI.1997.7.

48. The bank into which public moneys are paid, shall, at such times as the Accountant General may fix, transmit to him a statement showing, in order of date, every sum received and paid under each account kept at the bank, and shall furnish him with a monthly certificate, in duplicate, of the public moneys in the hands

of the bank at the end of each month and at such other dates as may be fixed by him. One copy of the certificate shall, after the balance therein shown has been found to agree with that shown in the Treasury books, be forwarded by the Accountant General to the Auditor General.

Measures against fraud and irregularities. *Added by: I. 2004.5.* Cap. 396. Cap. 461.

49. (1) Where, on the detection of any irregularity or fraud against public moneys, a report made in terms of the provisions of the Auditor General and National Audit Office Act or the Internal Audit and Financial Investigations Act is sent or referred to a Head of Department he shall thereupon take all necessary measures for the protection of such public moneys, including the levying of administrative penalties in accordance with regulations made under article 52 and legal action for the recovery of the amount of any deficiency, loss, improper payment caused or made as a result or in the course of any such irregularity or fraud and the provisions of article 466 of the Code of Organization and Civil Procedure shall apply to any amount recoverable as aforesaid.

Cap. 12.

(2) Notwithstanding any stipulation to the contrary any bond, bank guarantee or other security given for the proper performance of any contract payable out of public moneys shall also extend to guarantee the recovery of any moneys or administrative penalties in connection with the contract and for which the person supplying the bond, bank guarantee or other security may be liable.

(3) Where the deficiency, loss, or improper payment as a result of the irregularity or fraud involves funds received by the Government from any international or supranational organization or body or from any of its institutions or bodies or under the terms of any treaty or other agreement between States any proceedings under this article shall take place in consultation with the person in Malta, if any, specifically charged with authorising the payment or release of such funds by the Head of Department:

Provided that the lack of such consultation shall not in any way whatsoever affect the validity of any proceedings taken under this article.

(4) Where two or more persons are responsible for the irregularity or fraud which resulted in the deficiency, loss, or improper payment those persons shall be held jointly and severally liable therefor together with any other person who, although in duty bound to do so, failed to take reasonable precautions and to exercise due diligence to prevent the irregularity or fraud.

(5) Nothing in this article or in this Part shall be construed as precluding any other person interested from taking action, whether jointly with the Head of Department or otherwise, for the recovery of any sum recoverable under the provisions of this article.

(6) For the purposes of this article and the other articles under this Part, "Head of Department" includes any director, manager, secretary or other principal officer of a body, whether vested with legal personality or not, which is responsible for administering, holding or using public moneys or which is a recipient or beneficiary of public moneys, or who is a person having a power of representation of such a body or having an authority to take

decisions on behalf of that body or having authority to exercise control within that body.

Interest to be charged. *Added by: I. 2004.5.*

50. On any amount recoverable under article 49 there shall be charged interest equivalent to the average weighted rate applicable on the due date on the local money market for short-term public finance operations for the period during which the amount remains unpaid from the date on which it becomes payable.

Information. *Added by: I. 2004.5.*

51. For the purpose of recovering any moneys that may be recoverable under the provisions of article 49 any Head of Department who receives or to whom is referred a report as provided in that article may, without prejudice to the constraints imposed by professional secrecy according to law, require any person managing public moneys to provide any information in his possession relevant for the said purpose.

Administrative penalties. *Added by: I. 2004.5. Amended by: L.N. 410 of 2007.*

52. The Minister may by regulations provide for administrative penalties which may be imposed for any irregularity, for the procedure to be followed for the imposition of such penalties and for any other matter incidental or supplementary to any of the foregoing matters:

Provided that an administrative penalty may not be greater than one hundred and sixteen thousand and four hundred and sixty-eight euroeuro and sixty-seven cents (116,468.67).

Production of vouchers. *Added by: VI. 1962.3.*

53. *Repealed by: XVI.1997.7.*

Receipts for wages, social service allowances, etc. *Amended by: VI. 1962.4.*

54. *Repealed by: XVI.1997.7.*

Power of surcharge by Director of Audit.

55. *Repealed by: XVI.1997.7.*

Person surcharged and Minister to be notified of surcharges.

56. *Repealed by: XVI.1997.7.*

Manner of recovering surcharges.

57. *Repealed by: XVI.1997.7.*

Surcharge may be withdrawn.

58. *Repealed by: XVI.1997.7.*

Appeal to Minister.

59. *Repealed by: XVI.1997.7.*

Prosecution of defaulters.

60. *Repealed by: XVI.1997.7.*

Extent of audit.

61. *Repealed by: XVI.1997.7.*

PART XI

ACCOUNTS AND STATEMENTS

Accountant General's books of account.

62. The Accountant General shall cause to be kept at the Treasury the following books of account: a cash book, a journal, a ledger and a monthly abstract, together with such subsidiary and other books as he may consider necessary.

Accounting officers' books of account.

63. Subject to the provisions of any regulations made under this Act, every accounting officer collecting, receiving or paying public moneys shall keep such books and accounts in such manner and form as the Accountant General may, from time to time, by circular or minute, direct.

Quarterly statement of Consolidated Fund Account to be published in the Government Gazette.
Amended by: L.N. 46 of 1965.

64. The Accountant General shall, as soon as conveniently possible after the end of each quarter, submit to the Minister for publication in the Government Gazette, a statement of the Consolidated Fund Account as compared with the corresponding quarter of the immediately preceding financial year.

Annual statements.
Amended by: L.N. 46 of 1965; XVI. 1997.7.

65. (1) As soon as possible after the close of each financial year, and in every case not later than three months after the close of such year, the Accountant General shall prepare and forward to the Auditor General the following returns:

(*a*) a statement of the Consolidated Fund Account as compared with that of the last preceding financial year;

(*b*) a statement of the receipts and expenditure of any fund or account created by this or any other law.

(2) As soon as the Auditor General returns such statements to the Accountant General, the Minister shall cause such statements to be published in the Government Gazette, and shall lay them on the Table of the House of Representatives within ten days of such publication:

Provided that in reckoning such period, no account shall be taken of any time during which the House of Representatives is dissolved or prorogued, or during which it is adjourned for more than ten days.

Certificate by Director of Audit.
Amended by: L.N. 46 of 1965.

66. *Repealed by: XVI.1997.7.*

Preparation of annual financial accounts.
Amended by: L.N. 46 of 1965; XVI. 1997.7.

67. The Accountant General shall, as soon as possible after the close of the accounts of every financial year, and in any case not later than six months after the close of such year, prepare and send to the Auditor General the following statements and accounts:

(*a*) an abstract of the receipts and payments of the Public Account as compared with the receipts and payments of the last preceding financial year;

(*b*) an abstract of the Consolidated Fund Account as

compared with that of the last preceding financial year;

(*c*) a detailed statement of revenue, as compared with the estimates, showing variations in respect of each item;

(*d*) a detailed statement of expenditure showing the several sums appropriated under each head distributed according to subheads as detailed in the estimates, the expenditure made during the financial year, and the amount over-expended or under-expended thereon;

(*e*) a statement of the receipts and payments in respect of loans made by the Government;

(*f*) a statement of the public debt and the annual charge thereon showing also the amount repaid during the financial year;

(*g*) a statement of the receipts and expenditure of trust funds and of any other fund or account of the Government;

(*h*) a statement of all investments held by the Government at the end of the financial year on behalf of each fund or account as required by article 46 hereof, showing the cost price and the current market value in London on that date;

(*i*) a statement of the revenue and expenditure of the Malta Government Savings Bank* and of deposits received and repaid and interest credited to depositors together with a statement of assets and liabilities;

(*j*) a statement of assets and liabilities of the Government at the end of the financial year;

(*k*) a statement of balances (excluding special funds) at the end of the financial year;

(*l*) a statement of special funds deposited in the Treasury;

(*m*) a detailed statement of advances made out of the Treasury Clearance Fund;

(*n*) a tabular summary of unallocated stores financed out of the Treasury Clearance Fund; and

(*o*) a statement of claims abandoned, of losses of cash and of stores written off.

Annual report on accounts and finances.

68. The Accountant General shall, as soon as possible after the closing of the accounts of every financial year and in any case not later than six months after the close of such year submit to the Minister for publication a report on the accounts and finances of the Government.

Contents of report by Director of Audit.

69. *Repealed by: XVI.1997.7.*

**Vide* Malta Government Savings Bank (Winding Up) Act (Cap.307).

70. *Repealed by: XVI.1997.7.*

Recommendations by Director of Audit.

PART XII

MISCELLANEOUS

Loss of titles to goods or deposits.

71. (1) On the loss of any receipt or document, entitling the holder thereof or the person named therein to withdraw from any government department any sum of money or any article deposited therein, the Accountant General may, on receiving proof of such loss through the permanent head of the department concerned, authorise the issue of a duplicated receipt or document so lost, provided a written indemnity is given to his satisfaction against all claims that may be made against him by reason of the issue of such duplicate receipt or document.

(2) The Accountant General may in his discretion and on his own responsibility delegate in writing, on such conditions as he may deem proper, any of his powers under this article to any public officer not below the administrative officer class suitable in his opinion for the purpose.

(3) The Minister may prescribe for the levying of a fee on the issue of such duplicate receipts or documents.

Directives. *Added by: XIII. 2005.21.*

72. (1) The Minister responsible for finance, or any person, body or unit delegated on his behalf, may, notwithstanding any other law, issue directives as provided in subarticle (2) to any authority, board, foundation, corporation, institute, agency, commission, company or any other entity 51 per cent or more of which is held in ownership by the Government or over which the Government has effective control, or where 51 per cent of its income comes from public monies or from monies it receives by virtue of any law.

(2) The directives referred to in subarticle (1) may regulate:

(*a*) the recruitment of employees and, or their remuneration;

(b) the procurement of fixed assets, services, consultancies, contracts of whatever type or nature relating to operational and, or administrative expenses, and, where such directives are issued, the Board of Directors or other Board responsible for the affairs of the entity shall ensure that the decisions taken at Board and at management level respect such directives.

Amended by: L.N. 46 of 1965.

SCHEDULE

[ARTICLE 30]

RULES FOR THE OPERATION OF THE CONTINGENCIES FUND

1. Advances from the Contingencies Fund shall be made on the authority of a warrant under the hand of the Minister.

2. The amount for which any warrant is issued shall be withdrawn from the Contingencies Fund and shall be paid into the Consolidated Fund to meet the expenditure specified on the warrant and the moneys remaining available in the fund shall be reduced accordingly. Any amounts withdrawn and remaining unspent at the end of the year shall accrue to the Consolidated Fund.

3. Each warrant authorising the issue of a sum from the fund shall specify under which head or heads of the estimates the expenditure of the sum issued shall be recorded and such expenditure shall be accounted for in the same manner as if it had been authorised by a supplementary Appropriation Act.

4. All withdrawals from the fund shall be included in a supplementary estimate and an Appropriation Bill shall be introduced in the House of Representatives as soon as possible for the purpose of appropriating from the Consolidated Fund to the Contingencies Fund a sum equal to the total of the sums withdrawn and not already made good by previous appropriations from the Consolidated Fund so that the Contingencies Fund shall be restored to the amount appropriate under article 30.

5. No moneys shall accrue to the fund other than moneys appropriated by an Act and any interest or other accruals which might otherwise be received by the fund shall accrue to the Consolidated Fund.